

## **Section 18**

This file includes three section 18 directions;

- 1, Only issue intent
- 2, Did the defendant do it, issues of intent and s20 as an alternative
- 3, Self defence, lack of intent and intoxication

### **1, Wounded with intent to do grievous bodily harm (only issue intent)**

#### Unlawfully and maliciously

This means without any legal excuse.

In this case, it has not been suggested that D\*\* had any legal excuse.

So, you do not have to consider these words.

#### Wounded

It is not disputed that when D\*\* hit C\*\*'s head with a \*\* he caused the injuries that C\*\* suffered, namely \*\*\*\*

So, again this is not something which you need to consider.

As I have said, these points are not in issue.

The defendant has already pleaded guilty to the lesser offence of unlawful wounding.

The issue that you have to consider is his intention.

#### With intent to cause grievous bodily harm

This is disputed by the defendant.

D\*\* denies that he intended to grievous bodily harm.

“Grievous bodily harm” means “really serious harm”.

It is admitted that the injuries which C\*\* suffered, bleeding to the brain and loss of hearing in one ear, were really serious harm or grievous bodily harm.

Before you can find him guilty of causing grievous bodily harm with intent to cause grievous bodily harm you must be sure that when he hit C\*\*, he intended to cause really serious harm to C\*\*.

You can only decide what his intention was by considering all the relevant circumstances.

Offenders very rarely say out loud what they intend when they commit a crime.

So how do you decide what someone intends? The answer is that you can infer someone's intention by looking at all the circumstances.

Look at all the evidence and decide what, if anything, the defendant intended.

If you are sure that at the time when he hit C\*\*, he recognised that really serious harm would be virtually certain to result from what he did, then that is a fact from which you may find it easy to infer that he intended to cause really serious harm even though he might not have had any desire to achieve that result.

Intention is something quite different from motive or desire.

The prosecution say that if someone uses a \*\* to hit someone on the head, \*\*, hard enough to cause him to collapse and suffer bleeding on the brain, it is very likely that

he knew the consequences of that kind of activity. In those circumstances, you can infer that he must have intended some serious bodily harm.

The defence say that D\*\* did not intend to cause the injury. He says \*\*  
If what D\*\* says may be true, he is not guilty.

So, the only question that you have to answer, having regard to all the evidence and the directions which I give you, is

At the time when he hit C\*\* with the \*\*\*, did D\*\* intend to cause really serious harm?

If you are sure that the answer is “yes”, he is guilty.  
If the answer may be “no”, he is not guilty.

## **2. Wounding with intent (did the defendant do it, issues of intent and s20 as an alternative)**

### Unlawfully

That means without any legal excuse.

There is no suggestion that the man who attacked C\*\* had any lawful excuse.

So, in this case, you do not have to consider these words.

### and maliciously

That means that an attacker intended to cause injury. It is enough that a defendant foresaw that some physical harm might result from his action. This is not in issue in this case.

### wounded

That simply means breaking the skin. Any cut is a wound.

It is not disputed that whoever stabbed C\*\* caused the wounds which C\*\* suffered.

We have seen the photos of them and they are described in the Agreed Facts. So, again this is not a word which you need to consider.

The prosecution say that it was D\*\* who wounded C\*\*. D\*\* denies this. He says it must have been someone else.

So, the first question for you to decide is whether or not D\*\* was the man who attacked C\*\*.

[\*\* insert Turnbull direction if identification issues.]

### with intent to do him grievous bodily harm

Grievous bodily harm means “really serious harm”.

For a defendant to be guilty of wounding with intent to do grievous bodily harm you must be sure that he intended to cause really serious harm.

Offenders very rarely say out loud what they intend when they commit a crime.

So how do you decide what someone intends? The answer is that you can infer someone’s intention by looking at all the circumstances and in particular what he did or said.

Look at all the evidence and decide what, if anything, the attacker intended.

If you are sure that it was D\*\* who was the attacker and that at the time when he stabbed C\*\*, he recognised that really serious harm would be virtually certain to result from what he did, then that is a fact from which you may find it easy to infer that he intended to cause really serious harm.

The prosecution say that if someone stabs a man repeatedly with a \*\*\*, it is very likely that he knew the consequences of that kind of activity. In those circumstances, you can infer that he must have intended some serious bodily harm. As I have said, D\*\* simply denies that he was the attacker.

### **Count 2 Unlawful wounding**

This is an alternative to Count 1.

If you are sure that D\*\* unlawfully and maliciously wounded C\*\*, but are not sure that he intended to cause really serious harm, you should find him guilty of the lesser, alternative, offence of unlawful wounding.

That is exactly the same as Count 1, but without the need for the prosecution to prove that intent.

You cannot find him guilty of both counts 1 and 2 because they are alternatives.

So, the key questions for you to answer, having regard to all the evidence and the directions which I give you, are these

Was D\*\* the man who attacked and wounded C\*\*?

If he was, did he intend to cause really serious harm?

If you are sure that the answers to both questions are “yes”, the defendant is guilty of Count 1, wounding with intent.

If you are sure that the answer to first question is “yes”, but the answer to the second question may be “no” the defendant is not guilty of Count 1, but guilty of Count 2, unlawful wounding.

If the answer to the first question may be “no”, the defendant is not guilty of either count.

### **3. Unlawfully caused grievous bodily harm with intent to cause grievous bodily harm (self defence, lack of intent and intoxication)**

Unlawfully and maliciously

This means without any legal excuse. Self defence may amount to a legal excuse. I will direct you about self defence in a minute.

wounded

D\*\* accepts that a \*\* which he was holding wounded C\*\*. So, this is not an issue in this case.

with intent to do him grievous bodily harm

Grievous bodily harm means “really serious harm”.

The defendant denies that he intended to cause really serious harm. Before you can find the defendant guilty of wounding with intent to do grievous bodily harm (Count \*) you must be sure that at the time when C\*\* was wounded, D\*\* intended to cause him really serious harm. You can only decide what the defendant's intention was by considering all the relevant circumstances and in particular what he did and what he said about it. I will return to this in a minute.

### Self defence

What is the law concerning self defence? If someone honestly believes that he is under attack or is in imminent danger of attack from another person, he is entitled to use reasonable force to defend himself. If that is the case he is acting in lawful self-defence, and is entitled to be found 'Not Guilty'. It is for the prosecution to make you sure that the defendant was not acting in lawful self-defence. He does not have to prove anything.

Lawful self defence involves two main elements. The first stage is the defendant's belief. The second stage, if you reach it, is the reasonableness of his actions.

### Stage 1

The defendant says that he feared an immediate attack. In judging whether he honestly believed or may have believed that he was about to be attacked you should consider whether he had any reasonable grounds for that belief. If you are sure there were no such grounds, that conclusion may affect your decision whether the defendant held the belief at all. That is a question of fact for you to resolve. If you conclude that the defendant may have held a genuine but mistaken belief that he was about to be attacked, you will need next to consider the effect of alcohol and drugs upon him. The law does not permit the defendant to rely on the effect of his own voluntary intoxication. If you conclude so that you are sure that if he had been sober and unaffected by drugs, he would not have misunderstood the situation he faced, and would have realised that no force was necessary, then lawful self defence cannot exist. In other words, provided that you are sure that he intended to cause really serious harm, he is guilty of Count \* [s18].

So, you only need to consider Stage 2 if:

- you decide that the defendant may honestly (and rightly) have believed that he was about to be attacked; or
- you decide that the defendant may honestly (but you are sure, mistakenly) have believed he was about to be attacked, and you conclude that he may have made the same mistake if he had been sober.

### Stage 2

Force used in self defence is lawful only if it is reasonable. Reasonable force is force which is proportionate to the threat the defendant believed he faced.

You must judge the reasonableness of the defendant's reaction according to his own understanding of the situation. If he reacted suddenly, honestly and instinctively, and without thinking about the \*\* which he was holding, that would be strong evidence that what he did was proportionate to the attack he feared and was, therefore, reasonable. If, however, you conclude, so that you are sure, that the

defendant knew that he was swinging a \*\*\* towards C\*\*, it is the reasonableness of that action which you must judge. If you are sure it was unreasonable, lawful self defence cannot exist.

Unless you can exclude self defence, so that you are sure, you must find the defendant not guilty of both count \* [s18] and count \*[s20].

If you decide that the defendant may honestly (and rightly) have believed that he was about to be attacked, but you are sure that the amount of force which he used was unreasonable, then the proper verdict is not guilty to Count \* [s18], but guilty to Count \* [s20]

### Intention

If you do exclude self defence, (i.e. you are sure that he was not acting in lawful self defence) you should turn next to the question of intention. You must judge the defendant's intention from the evidence of the surrounding circumstances including the nature of the defendant's actions and, of course, his own evidence.

If you are sure that at the material time D\*\* recognised that really serious harm would be virtually certain to result from his actions, then that is a fact from which you may find it easy to infer that he intended to do serious bodily harm even though he might not have had any desire to achieve that result.

D\*\* said that he had no intention of causing the serious wounds he admits resulted from his actions. When you are judging the defendant's intent the amount of drink and drugs he consumed is still relevant but in a different way. Drink and drugs are not an excuse for unlawful violence. An intention formed when drunk or under the influence of drugs is just as much an intention as an intention formed when sober. Some people become docile when drunk; others become aggressive. Some drugs relax people. Others act as stimulants. You need to consider how drink and drugs affected the defendant. Did it make him aggressive? Did it cloud his judgment? Did it cause him to act without thinking? If the defendant became aggressive in drink and, in the moment he swung the \*\*\*, he intended to cause really serious injury, he is guilty of count \*[s18] . If you are not sure he intended to cause really serious injury, he is not guilty of count \* [s18], but he is guilty of count \* [s20]. The reason is that the defendant accepts that he knew the blow he aimed at C\*\* would cause some harm. The law is that that is sufficient to prove guilt of count \* [s20].

So, the key questions for you to answer, having regard to all the evidence and the directions which I give you, are these

Are you sure that D\*\* was not acting in lawful self defence?

Are you sure that at the time D\*\* intended to cause really serious harm to C\*\*?

If the answer to both questions is "yes", he is guilty of Count \* [s18] If the answer to question 1 is yes, but the answer to question 2 is "no", then he is not guilty of count \* [s18] but guilty of Count \* [s20]. If the answer to both questions is "no", he is not guilty of either count.