



Prosecuting Animal Crimes

Tactical Use of the Link

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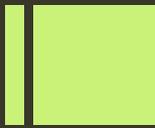
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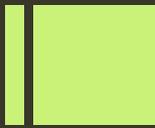
Case Study 1:

People v. Christopher Cruz
2014NA009744L, *et al.*
Nassau Co. Dist. Ct. 2014



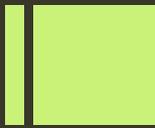
Facts

Defendant cohabitated with pregnant girlfriend and girlfriend's toddler child in an apartment building in the City of Long Beach, New York. Defendant constantly threatened his girlfriend with violence, including **violence against her pet cat.**



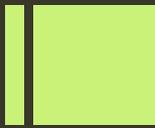
Facts

Defendant would send girlfriend text messages of the cat being thrown around the apartment, hanging from shower curtains, and accompany these texts with threatening messages.



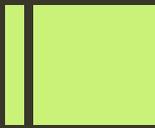
Facts

The girlfriend, later on, noticed that she had not seen her cat for a couple days. She also noticed a smell in the apartment, but could not source it. She eventually found a plastic bag which had been secreted **under her toddler child's bed.**



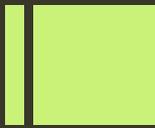
Facts

Opening the bag, she discovered the corpse of her pet cat sealed inside the bag with obvious head trauma. Panicked, she called 911. Upon police response, she would give a written statement implicating her boyfriend in the animal's death, by detailing his prior threats – however, acknowledging that she did not witness anything personally...



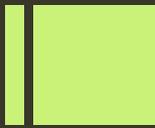
Facts

The defendant was taken into custody and provided a written statement of admission that **he was playing with cat** by throwing it up into the air but one time missed his catch and the cat landed hard on its head. The defendant stated that, thinking he had **accidentally killed the cat**, he then panicked and placed the cat in a bag and hid it.



Facts

Within 24 hours, **girlfriend strongly recanted** and conformed her statement to her boyfriend's statement that the death was accidental while he was playing with the animal. She **refused further cooperation**. She refused to give access to her phone for the text messages and photographs. As the animal's owner, she requested that the charges be dropped...

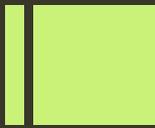


Facts

The necropsy of the deceased cat revealed broken bones in the front legs of the cat and blunt force trauma to its skull. Even with broken bones, the forensic pathologist **could not rule out a hard, accidental fall.**

PAUSE

- No witnesses to the defendant's identification of the defendant comes from self-admission.
- The same self-admission is exculpatory as to intentional conduct.
- The one main witness will not supply any motive and will testify in support of the defendant's exculpatory version of events.



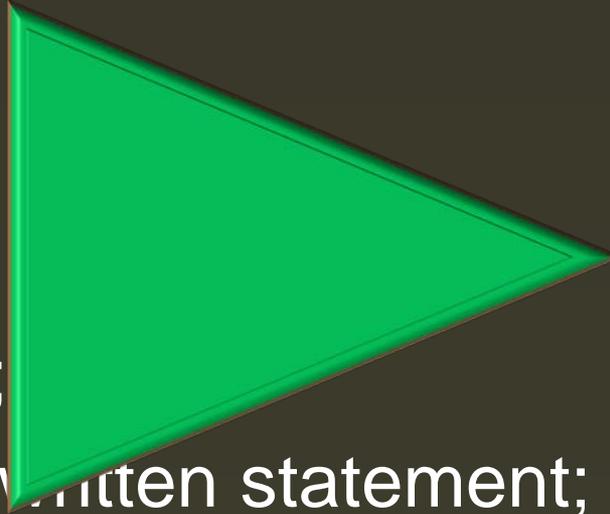
PAUSE

- The neutral forensic pathologist is unable to give a definitive answer on intentional vs. accidental conduct.

PLAY

Assets:

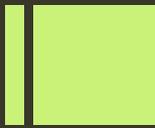
- the 911 call;
- the original written statement;
- the link.





Question:

Can prior acts of domestic abuse be used as Molineux evidence as absence of mistake, common scheme or plan, motive, and/or identity?



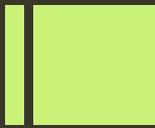
Result

The NCDA reached out to Child Protective Services (CPS) as there was some implication of the toddler being involved in this scenario.



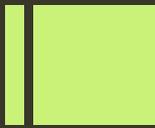
Result

Sure enough, there was an independent report to CPS regarding the **toddler having hand-print bruise marks** on him at school and both the girlfriend and the defendant were implicated – but they had hit a similar brick wall. The additional allegations and the sworn original statement of the girlfriend were enough to paint a pattern so that CPS could file a neglect petition. CPS subsequently removed the child from the home.



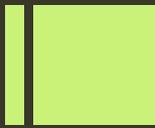
Result

Meanwhile, the 911 call and neighbor interviews supplied further evidence of domestic violence.



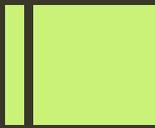
Result

At the neglect proceeding, in the hallway of the court, the **defendant choked his girlfriend** and slammed her phone to the ground (captured on video and witnessed by court officers). For this, he was again arrested for strangulation and criminal mischief. An order of protection issued (over the girlfriend's objections) in court.



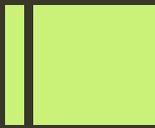
Result

Subsequently, the defendant went to his drug dealer's apartment and, with the drug dealer's girlfriend present, **robbed the drug dealer** of pills and money, using a coffee pot as a make-shift weapon. The drug dealer's girlfriend called 911 and the defendant fled the apartment.



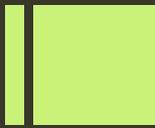
Result

He was found by responding officers in a stairwell, which happened to be on the same floor as his girlfriend. Accordingly, he was again arrested for felony assault (on his drug dealer) and **criminal contempt** (for not staying away from his girlfriend's residence).



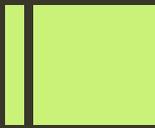
Result

During processing for the assault and contempt charges, the defendant called his girlfriend on her cell phone, asked her to three-way call his drug dealer's girlfriend, and proceeded to make various **threats against her and the drug dealer.**



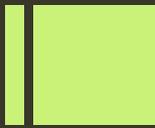
Result

The police, who had been told that he was contacting his attorney, noticed that the conversation was heated and checked the number he had called, recalled it, and discovered it was his girlfriend. The defendant was re-arrested at the stationhouse for an **additional count of contempt.**



Disposition

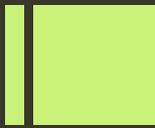
Defendant convicted of all counts (by global plea) in November 2014.



Hypothetical 1:

The prosecution was acting under information that the cat was the girlfriend's pet.

- What if it were the “family pet,” including the defendant's?
- Would the necropsy have been suppressed without a search warrant for the search of the defendant's property?
- What gives the defendant a “reasonable expectation of privacy” in the contents of an animal in his home?



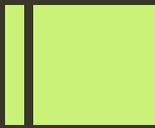
Hypothetical 2:

What if the girlfriend refused the necropsy of her pet cat?



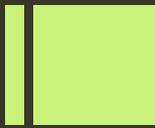
Case Study 2

People v. Sha-ron Hicks
Indictment No. 839N11
Nassau Co. Ct. 2011



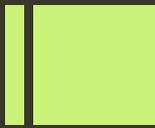
Facts

Defendant and friend Robert Stockdale were minor league dogfighters. Both had criminal histories, but Sha-ron's was more geared towards violent acts (Robert's more geared towards not paying for things).



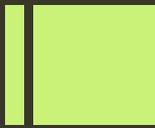
Facts

Sha-ron lived with his girlfriend (Lyla) in her apartment. Lyla was moderately successful in that she was a college graduate who had a steady desk job. Lyla also had a rescued pit-bull pet since before Sha-ron moved in.



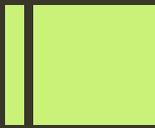
Facts

One day, Sha-ron and Robert were discovered by officers on patrol conducting amateur training of three pit-bulls to attack each other. They rotated two free dogs against a third dog tied to a fence.



Facts

The defense at scene and throughout the prosecution was that **the dogs were all just play-fighting** and the men were just socializing with their dogs. In support of this defense, Sha-ron noted that the dog in his custody didn't even belong to him – **it was his girlfriend Lyla's** and he was just taking it out to play.



Facts

The animals were all impounded. Shortly thereafter, the DA's office was contacted by Lyla, 100% supporting Sha-ron's claims and version of events, and requesting her dog back. She further stated that Sha-ron missed her dog too, as it slept in their bed every night. She said it was not a fighting dog – that she had it long before Sha-ron moved in.

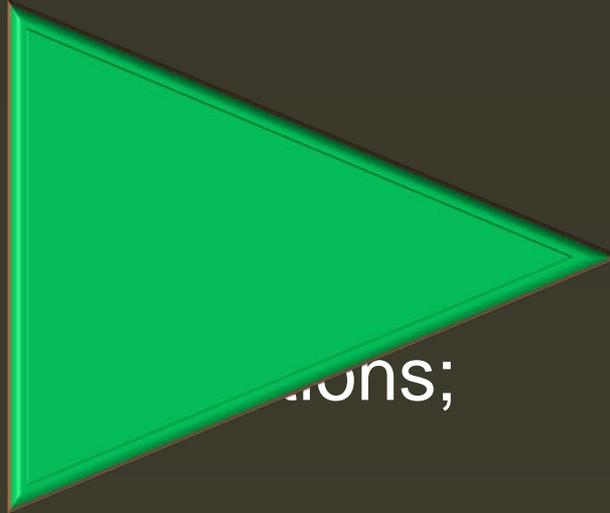
PAUSE

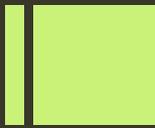
- What grounds exist to send Lyla's dog further?
- In a case where D will have to delineate between dogs "playfighting" and dogs "fighting," do Lyla's claims severely undercut the prosecution?

PLAY

Assets:

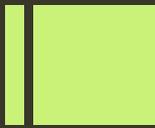
- the officers' relations;
- the dog;
- the link.





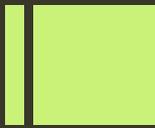
Question:

In a cruelty case, where do the property rights of the individual end and the property rights of the state begin?



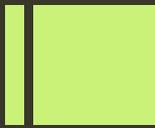
Result

Lyla is asked to present proof of ownership of the impounded animal (vet records, photos, licensing, etc.), in person, to the DA's office. Though she is not a witness to the case in a traditional sense, the ADA takes the opportunity to conduct a thorough interview.



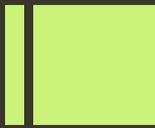
Result

During interview, bruises/grip-marks are observed on Lyla's arms and she is extremely nervous. Lyla, however, **denies any violence within the home**. The ADA then goes beyond RAP sheet to request any and all Domestic Incident Reports (DIRs) with either party's name on it. Several are noted.



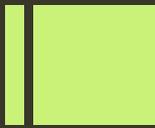
Result

The ADA informs Lyla that the NCDA will draw up an **evidence release** but it will have several conditions, the most important of which is complete non-contact with the defendant (in essence a classic “your boyfriend or the dog” choice). The relief-valve would be second-party placement.



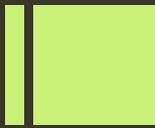
Result

To this end, Lyla brings in her parents as “guarantors” of the evidence release. The ADA took the opportunity to interview the parents about the nature of the relationship as well and received valuable insight.



Result

In the end, the dog was released to the custody of Lyla's parents, subject to all terms in the executed evidence release form. The DIRs and accompanying corresponding 911s were secured. Neighbors and other parties noted on the DIRs were interviewed and helped with case development.



Disposition

The defendant was convicted by plea to felony dogfighting and banned from contact with any animals for a period of years.

Approximately a year later, **the defendant was re-arrested for misdemeanor assault on Lyla**. The case file, investigation file, and conviction became Molineux evidence of that prosecution.



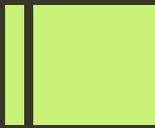
Disposition

It is notable that, while this case had domestic undertones, no corresponding DIR or record of Lyla would exist in any case paperwork.



Hypothetical 1:

Suppose the officers did not impound the animal at scene, but released Lyla's dog to her (such as subsequently releasing a car from a DWI stop or suspended license stop to a sober or licensed driver). What legal recourse would there be to subsequently remove the dog from Lyla's and Sha-ron's joint home?



Hypothetical 2:

Suppose Lyla had a second pit-bull dog that was not taken out that day to “playfight” by Sha-ron...

What can be legally and ethically done there?



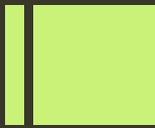
Case Study 3

People v. Shomari Ferguson
Indictment No. 1626N10
Nassau Co. Ct. 2010



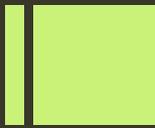
Facts

Shomari and his girlfriend are in an **abusive relationship**, but living together. Friends and family all know that Shomari is using violence or threats of violence constantly and fear for the girlfriend's safety.



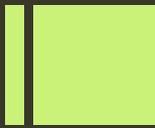
Facts

One day, girlfriend sends a text to her close friend (Sasha), stating “**He’s doing it to my cat again** – can you please go over there right now?” Sasha was in the car with her mother at the time and showed her mother the text. They drive over together and arrive at Shomari’s house.



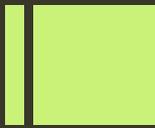
Facts

The landlord (who is also the first-floor resident) is already outside looking up at the second floor and looking upset. He says that he's been hearing strange sounds from above. Sasha goes upstairs and goes in without knocking.



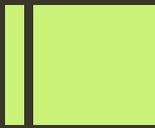
Facts

She observes Shomari holding the girlfriend's cat in a towel, apparently rubbing something on it. She smells bleach and sees blood on the cat. She asks Shomari what he did, to which Shomari responds “It looked at me funny.”



Facts

With that, he drops the cat, and it scampers (with a noticeable leg injury) into a small space. Sasha takes the cat and departs in her mother's car for the closest vet's office.

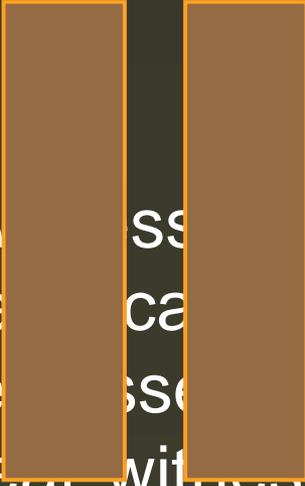


Facts

Ultimately the cat is found to have **old wounds**, multiple fractures on its leg, a wound to the face, and soaked in a mysterious substance that gave chemical burns to its eyes. The girlfriend adamantly refuses to cooperate or even verify her text to her friend.



PAUSE

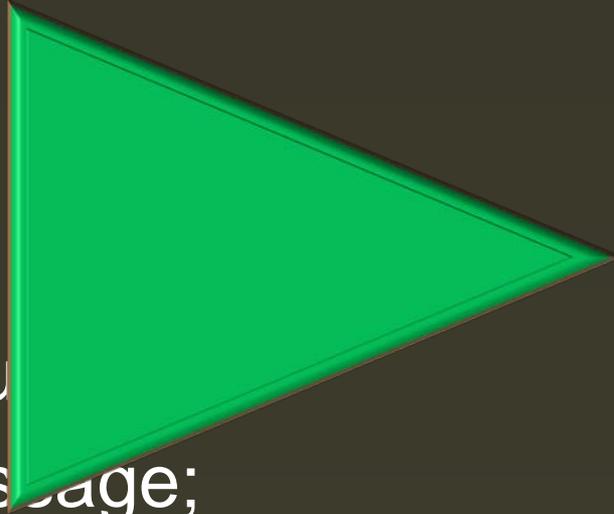


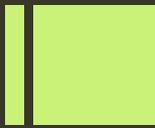
There are no eye-witnesses to what exactly happened. The identification of the defendant is by recent/exclusive possession (coupled with landlord's garbled ear-witnessing) and a slightly revealing statement to Sasha. Shomari and his girlfriend refuse entry back into their apartment to evaluate the scene any further. Is there any way to enhance the case?

PLAY

Assets:

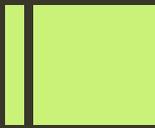
- The old wou
- the text message;
- the vet bills;
- the link.





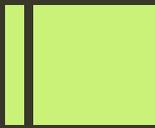
Questions:

- ❖ Is a case appropriate against the girlfriend herself?
- ❖ How about threatening prosecution?
- ❖ How about a non-prosecution agreement?



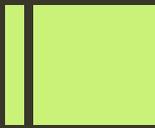
Result

Tough one.



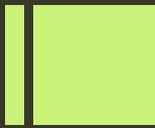
Result

It is first important to note that the girlfriend did admit that she was the cat's OWNER. While she did not confirm this for prosecution purposes, Sasha (her friend) personally knew that she was asked for help with the cat and brought the cat to a vet for treatment.



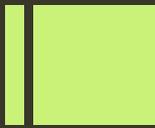
Result

The vet was now owed money for the treatment. This persuaded the girlfriend to forfeit the animal permanently – therefore, regardless of outcome, the animal was safe.



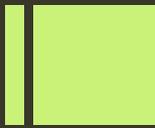
Result

Second, there was enough evidence – absent the girlfriend – to secure an indictment for felony cruelty.



Result

Third, the circumstance was somewhat saved when the defendant was involved in a **subsequent multi-party felony assault** and was rearrested and held on high bail. This gave the girlfriend a safe chance to move out. At that point, she became more loquacious about the case.



Disposition

The defendant was convicted by plea to felony cruelty as part of a global disposition with the unrelated charge.



Case Study 4

People v. N.O.

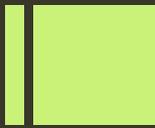
2011NAXXXX, et al.

Nassau Co. Dist. Ct. 2011



Facts

Girlfriend – a heroin addict – was constantly abusive to boyfriend – also a heroin addict - over his depression, lack of work, and age. Girlfriend was significantly younger than boyfriend, felt that she could do a lot better, and constantly reminded boyfriend of that fact.



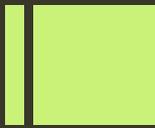
Facts

She also lashed out at other things that he spent time on or gave attention to. One of which was his dog. One night, after a door-slammng argument, she locked herself in his bedroom with the dog, placed hair-ties around its snout, and **smothered it** repeatedly with a blanket until it suffocated.



Facts

The boyfriend, upon discovering what she had done, contacted the police who came and took the girlfriend into custody. The girlfriend subsequently would blame the behavior on the heroin addiction not the domestic dispute – that she does “crazy things while high.”



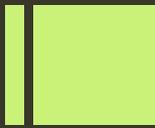
Facts

The boyfriend signed a very vague statement – sufficient for felony complaint purposes but not much else – and was willing to sign the consent to search form for a necropsy to be conducted. However, the loss of his dog and his girlfriend in one evening left him even more depressed.



Facts

The necropsy revealed a cause of death that matched the boyfriend's account. Attempts to inform the boyfriend of this were unsuccessful, as were attempts to contact him in general. Multiple visits to his home went unanswered.



Facts

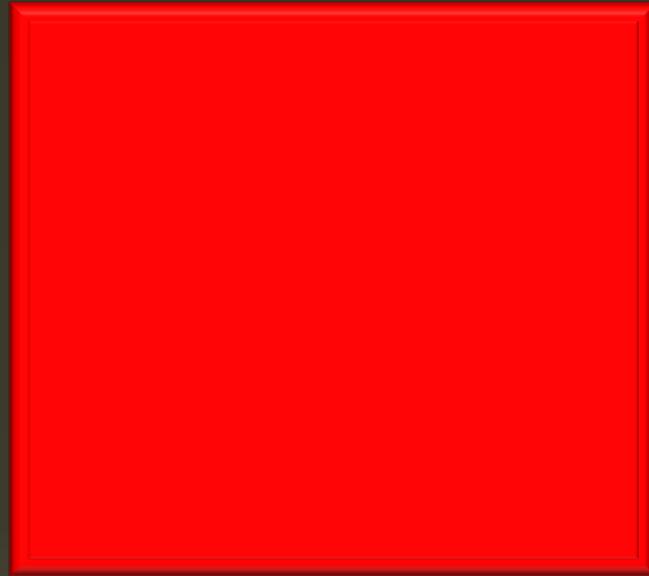
The time to indict the case was running and the case was on the verge of dismissal.

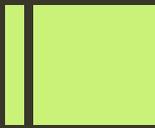


PAUSE

The responding officers could not see anything – by the time they arrived, the couple was arguing in the living room. Most of the police complaint was based on their observations in the living room, what they overheard from the argument (which was mostly accusation and silence), and a very brief statement about a prior fight. The necropsy will say what happened but not who did it. Boyfriend is now unreachable. Defense counsel is pressing for plea.

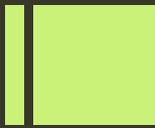
STOP





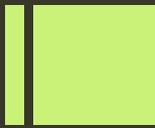
Result

As this was unfolding, police were called to the house after a neighbor noticed a funny smell. Upon emergency entry, the police discovered the boyfriend's body. He had apparently suffocated himself by placing a bag over his head and cuffing his hands behind his back. A subsequent, thorough inspection of the premises revealed copious amounts of **pipe-bomb making equipment**. The girlfriend was given a plea offer in exchange for a debriefing on that gear.



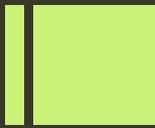
Result

Long after the case was over, the NCDA received a letter from the Office of the Public Administrator. While the defendant did not leave any suicide note of substance, he did leave a note requesting that he be buried with his dog's remains. Accordingly, the remains were delivered as it was his final wish.



Hypothetical 1:

Suppose, instead of killing his dog, the defendant started smashing heirloom plates from the boyfriend's grandmother?



Hypothetical 2:

Suppose the defendant humanely slaughtered the boyfriend's dog and cooked it for their dinner?

Hypothetical 2:

- Section 96-h of the Agriculture and Markets Law prohibits the **selling or bartering** of dog and cat meat.
- Section 379 of the Agriculture and Markets Law prohibits the **importation, manufacturing, distribution, transportation, or trading** of fur, hair, skin, or flesh of dog or cat.