

ROUND 2 ADVOCACY

Attached you will find a copy of the bail application that you made at the first round interview. Using the facts set out below and the material from the bail application you are required to make a plea in mitigation on Mr Garribaldi's behalf.

You have no more than five minutes to make your plea.

In the Boxtree Crown Court

Between:

Regina

-v-

Michael Garribaldi

History of the proceedings

In court at the first appearance you adjourned the case for both parties to view the CCTV. Mr Garribaldi appeared in custody, having been refused bail at the Police Station. He was granted bail subject to conditions of residence and daily reporting at Babylon Police Station.

At the second hearing of the case, the Prosecution still had not served the CCTV. The magistrates refused your application to adjourn and Mr Garribaldi therefore entered his not guilty plea. A trial date was set and he was bailed to that date.

At the trial all prosecution witnesses attended, as did Mr Garribaldi albeit a little late. The Prosecutor served you with a copy of the CCTV and you viewed it with your client at Court. The footage clearly showed your client looking cautiously around before taking the bottle of shampoo and removing the security tag and then placing it in his pocket. He then continues to look around him whilst walking up and down the aisles and eventually after a couple of minutes moves off to the exit and indeed makes no attempt to pay when passing the large brightly lit till point. He is seen being stopped by the security guards just outside the main doors to the shop.

You advised Mr Garribaldi appropriately and he changed his plea to guilty. The matter was adjourned for pre-sentence reports and Mr Garribaldi was committed for sentence to the Boxtree Crown Court due to the potential 12 months remaining on the un-expired period of his last custodial sentence. He was granted bail on the same conditions as before.

At Court the pre-sentence report confirms the personal circumstances of Mr Garribaldi as outlined in the bail application exercise. He has now lived with Susan Ivanova for 9 months and she is 6 months pregnant. She has managed to curtail her drug use through the community based 'Dib-Action' course. This is a voluntary scheme that she attends five times a week and has to provide one sample of urine for testing once a week. So far she has managed to remain 'clean'.

The report's author, Mr Sheridan - Probation Officer, believes that Mr Garribaldi is keen to rid himself of the influence of drugs. He links your client's previous convictions with the need to acquire money to fund his drug habit. He acknowledges the fact that the Court is likely to impose a custodial sentence particularly due to the fact that the sentence imposed (on 24-12-2003) by Boxtree Crown Court is due to expire on 15th October 2005. But suggests two other possible sentencing options:

- Drug Treatment and Testing Order – funding is available for Mr Garribaldi to attend a 6 month residential treatment programme where he would be tested twice weekly, be required to move out of the area and live within a large house used by the programme.
- Rehabilitation Order – Mr Sheridan recommends a CRO for 12 months with a condition that Mr

Garribaldi attend the 'Dib-Action' community-based course.

Instructions:

Mr Garribaldi displays some amount of remorse for committing this offence, particularly now that he has been free of drugs since the commencement of these proceedings. He has sporadically been attending Susan's community programme. He is excited at becoming a father and wishes to remain with Susan at their present address, whilst she is pregnant. He accepts that if the Judge sends him to prison today he will face no personal difficulties in serving the term of a custodial sentence, but he desperately wants to be with Susan for the birth of their child and so wishes to avoid yet another stint in prison. To that end he will abide by any order of the court financial or otherwise, including as a last resort a DTTO away from Susan.