

ASSIGNMENT #7

Randolph has now been indicted by the grand jury. In a five-count indictment, he has been charged with attempted murder in the second degree, assault in the first degree (serious physical injury), assault in the second degree (physical injury) and two counts of criminal possession of a weapon in the second degree (intent to use unlawfully and loaded firearm). Randolph has been unable to make the bail set by the arraignment court (2.5 million dollars).

We now turn to the defense side. (Please understand that the prosecutor needs to anticipate what the defense will do.) Randolph insists that he is innocent. He contends that he was at home on the evening of the crime watching television with his seven-year-old daughter. Randolph insists that he has done nothing wrong since he was released on parole on August 12, 2017. Since that time, Randolph maintains that he has met all the conditions of his parole. His wife states that her husband was home with their daughter on the date in question when she left the house for her 4 to 12 shift at a NYC hospital. She also maintains that Terry and her daughter were at home when she returned from working.

What investigative strategies will you pursue as the defense attorney now that your client has been indicted? What hearings will you request in this case? What potential defenses might you raise?

What do you think is the appropriate bail for your client? Do you consider plea negotiations? Remember that all power in the criminal justice system lies in the hands of the prosecutor.

ASSIGNMENT #8

You are aware that Randolph has a record that began as a teenager. His prior convictions are predominantly theft-related. He has no history of violent crimes. He has four prior felony convictions for grand larceny. Three of those convictions were sentenced together. So, for predicate purposes, he has two prior felony convictions.

Here is a summary of Randolph's record:

- 1997 – Hindering prosecution – 9 months
- 1997 – Attempted grand larceny – Conditional discharge
- 1998 – Petit larceny – 6 months
- 1999 – Petit Larceny – 6 months
- 1999 – Criminal possession of stolen property – Conditional discharge
- 2000 – Petit larceny – 4 months
- 2001 – Petit larceny – Conditional discharge
- 2005 – Grand larceny – 3 years probation (Felony conviction)
- 2010 – Criminal possession of stolen property – Conditional discharge
- 2013 – Grand larceny – 2 to 4 years (Felony conviction)
- 2014 – Grand larceny – 18 months to 3 years (Felony conviction)
- 2016 – Grand larceny – 18 months to 3 years (Felony conviction)

Randolph is a mandatory second non-violent felony offender. As the DA, you could potentially seek discretionary persistent felony offender status in this case.

You are now at the plea bargaining section of the pre-trial process. What plea, if any, do you offer Randolph? What is your proposed sentence? Explain the rationale for your decisions.