

Judicial Judgment Task

Background: *Case of Charles Young*, accused of murder in the death of Yoshuyuki Ono. On December 10, 1966, the defendant, Charles Young, entered the shop kept by the father of the victim at 502 West 4th Ave., Vancouver, for the purpose of robbery. The victim, 24 years old, Yoshuyuki Ono, lived in the rear of the shop with his father and mother and 22-year-old brother. The living area consisted of a sitting room, kitchen, and bedrooms. The sitting room was separated from the rest of the shop by what is called a half-door with curtains on the store side extending to the floor. A bell would ring in the living area when the street door of the shop was opened.

On the occasion of the incident, Mr. and Mrs. Ono were sitting in the sitting room with the deceased son and his brother. The store bell having rung, the father left the room for some reason and the mother entered the shop. She saw that Young was carrying a revolver and uttered some expression which gave a warning to the others in the sitting room that a holdup was in progress. They had formerly gone through a similar experience, and the expression was understood. At about this point, a customer, Steve Wilson, entered the store. He quickly saw that a robbery was in progress and dove for a counter on the opposite side of the store. From this point on, the events and sequence of events are unclear. A struggle ensued between Young and the victim, Yoshuyuki Ono. Three shots were fired from Young's revolver. One bullet entered Yoshuyuki's hand, another entered his arm, and the third entered his head, causing a fatal wound. Young fled the shop but was apprehended a short time later. In the murder trial the question of the attempted robbery is undisputed. However, the trial testimonies of Young, Mrs. Ono, Yoshuyuki's brother, and the customer, Steve Wilson, differ.

Testimony of victim's brother. The brother states that he and Yoshuyuki were sitting in the sitting room when they heard their mother's warning. Both men immediately jumped up and started toward the door to the shop. Yoshuyuki was nearer to the door when two shots rang out, wounding him in the hand and arm. Yoshuyuki continued his rush into the store and began to struggle with Young in order to get

the gun away from him. In the struggle, Yoshiyuki "had Young's wrist, raising it up in the air." Young managed to break away from Yoshiyuki and rushed toward the street door. Just as he was opening the door, "he turned toward my brother who was just standing there. He aimed the gun and shot my brother in the head." Young then rushed out into the street.

Testimony of victim's mother. Mrs. Ono says that as soon as she signaled her family about the robbery, Young went immediately toward the curtains of the door leading into the sitting room, and, as he approached, he fired a shot which passed through the wooden partition at the side of the doorway. When he got to the curtains, he fired another shot through the curtains. The first shot wounded Yoshiyuki in the hand and the second in the arm. Yoshiyuki immediately came into the store and grappled with Young in an effort to disarm him. Mrs. Ono says that in the struggle Yoshiyuki was attempting to take the pistol from Young "but could not reach because he was quite high [tall]." She added: "Young was holding the gun, and my son grabbed his wrist." Defense question: "Does she mean that Young was holding the gun in his hand?" Answer: "Yes, and my son was doing his best, and trying to bring it down, but he quite weak because he injured already." She continues that while they were struggling, she heard a shot and afterwards did not hear anything. After the shot, her son fell down, and Young ran off.

Testimony of Steve Wilson, customer. Wilson testified that just as soon as he had gotten inside the store, Mrs. Ono cried out, and he then saw the robber's gun. Since he had not been noticed by the gunman, Wilson quickly decided to take cover. While he was scrambling to hide behind a wooden counter, he heard two shots but did not see anything. When he looked out from the side of the counter, Young and Yoshiyuki "were struggling." Question: "What were the positions of the two men relative to the door?" Answer: "Mr. Ono (Yoshiyuki) was between Young and the door." Question: "Would you say that Ono was attempting to stop Young's escape?" Answer: "I don't know." Wilson said that the struggling men moved out of his field of vision. He heard a third shot. After "a few moments," he looked up and saw Yoshiyuki on the floor.

Testimony of Defendant Young. Young maintains that when he entered the store the revolver was in his pocket. Mrs. Ono entered the shop from the rear area and asked if she could help him. When he pulled the revolver from his pocket "the old lady started screaming." Young asserts that the commotion unnerved him, he hesitated, and then decided to run. But before he could make his move, Yoshiyuki appeared from nowhere and began to struggle with him. Young managed to push Yoshiyuki away from him but in the process was off balance, and, as he fell against a counter, a combination of the impact and the panic caused him to fire the revolver twice. Yoshiyuki then reengaged in the struggle, grabbing at Young's wrist when the gun went off accidentally, inflicting the fatal wound. Young then ran off. Under defense cross-examination, the arresting officer corroborated the fact that this was what Young told him when first arrested: "He told me he was in a jam." Question: "What kind of a jam?" "He told me he took some store and said that 'the Jap came for me, and the gun went off.'"

Task: After all group members are done looking at the evidence, decide on a sentencing for Charles Young and a justification. There are four options in bringing forth your verdict about the defendant, (a) He is guilty of first-degree murder (sentence required by law is 25 years to life imprisonment). (b) He is guilty of second-degree murder (sentence required by law is 5-20 years imprisonment), (c) He is guilty of manslaughter (sentence required by law is 1-5 years imprisonment), (d) He is not guilty.