



### Criminal Law 2020 Autumn Bail Application Assessment – Problem 2

Jennifer Nancy is a 67 year old pensioner who lives alone in a unit which she owns in St Mary's. She has two children who live in the area, and five grandchildren who she babysits regularly.

She is a volunteer at her local food drive where she assists in the kitchen making meals for the less fortunate. She has been volunteering for 6 years, which has been the entire duration of her retirement. As a volunteer she sometimes packs meals for the families who cannot attend the kitchen and she collects toys for the children through donations which she brings with her when she attends their homes. She sometimes stays for a while and reads to the children and assists the families to feel like people are there to support them. She usually attends around two families a week for about four hours per week. Ms. Nancy is a popular lady and most people knew of her and her helping hand in the community. Ms. Nancy worked with Ms. Jane Roderick who was the manager of the food drive and is responsible for the running of the kitchen and organised Ms. Nancy's visits to the homes on a weekly basis. Ms. Rosa Frazzi recently retired and approached Ms. Roderick about getting herself involved in the kitchen and about visiting the homes of the families. Since her husband passed away recently, she has felt the need to keep herself busy. She explained that she had a lot of toys and clothes that would be beneficial to the families. Ms. Roderick explained to Ms. Frazzi that they were fortunate to have a great number of volunteers and that in order to get her involved she would need to assign her one of Ms. Nancy's family visits per week until they were able to accommodate her with her own designated families.

Ms. Roderick had informed Ms. Nancy that they were planning on assigning one of her families to Ms. Frazzi, Ms. Roderick has asked Ms. Nancy and Ms. Frazzi to come into their head office so that Ms. Nancy could her a brief rundown of the family's needs. They both agreed. On the day of the meeting Ms. Nancy and Ms. Frazzi were waiting in the foyer of the head office and Ms. Roderick asked them to join her upstairs. As they were walking upstairs to the library, Ms. Nancy pushed Ms. Frazzi against the wall, causing her to lose balance and fall down the stairs. Ms. Frazzi had previously had two hip replacements and as a consequence suffered with brittle bones, and broke both legs in the fall.

After the incident, Ms. Nancy was very apologetic to Ms. Frazzi and visited her in hospital on several occasions. She also began counselling.

Last week she was charged with an offence under s33(1) of the *Crimes Act 1900* (NSW). In her statement to the police she said she didn't know Ms. Frazzi's bones were so brittle, and that she only meant to push Ms. Frazzi into the way so that she would understand what pain feels like. She said that the thought of giving up her family visits which she had been doing for so long caused her severe emotional pain as she became very fond of the children.

Ms. Nancy tells you that the counselling has given her an insight into her own behaviour, and she realises she was bottling up a lot of anger about Ms. Frazzi taking the family session away from her, and she just exploded with anger when she saw her in the foyer before the meeting. She wishes to



continue to attend her individual counselling sessions. Ms. Terry Martha a good friend is willing to provide a character acknowledgement for Ms. Nancy and \$1000 surety if required.

Ten years ago, when she was working as a teaching aid to Ms. Marnie Jones, a food technology teacher at a local high school, she was charged and convicted under s59 of the *Crimes Act 1990 NSW* for stabbing Ms. Jones. When on bail for that offence, she continually telephoned Ms. Jones, which was in breach of her bail conditions. She tells you that she was only trying to contact Ms. Jones about work and not the charge against her. She was sentenced to community service, which she attended without fail.

You are a solicitor for First One Legal and have been instructed to make a release application for Ms. Jennifer Nancy.



**Criminal Law 2020 Autumn Bail Application Assessment – Problem 3**

Mr. Mitchell Chambers is 29 years old and has been charged with an offence under s35(1) of the *Crimes Act 1900* (NSW). The offence occurred while he was at a local RSL watching footy and he was involved in a fight with Mr. Niz James. When questioned by the police Mr. Chambers admitted that he was responsible for throwing the punch that broke Mr. Niz James' cheek bone in three places. The injury will require the insertion of metal plates in his face and cause some permanent disfiguring of his face. Mr. Chambers argues that he was acting in self-defence at the time, and that Mr. Niz James had come up to him and said 'You dirty scum bag, why aren't you in jail? You got my son selling drugs and stealing property. If the law won't deal with you, I will.' Mr Chambers evidence is that Mr James' then punched him in the stomach, and tried to put him in a headlock. In an interview with the police, Mr James admitted saying those things to Mr. Chambers, but denied punching him or acting in a physically aggressive way towards him.

Mr Chambers is on bail for the supply of a commercial quantity of heroin. He says that he was a regular user of heroin and sold the drug to help to support his habit. When he was arrested for the heroin charge he attended a detoxification clinic, and has not used since his arrest. He says that he has now turned his life around. He attends Narcotics Anonymous every week, and believes that this is essential for him to abstain from using heroin. He has also participated in the Salvation Army Support program. As a condition of his bail, he is required to report to his local police station in Parramatta once a week. He has been on bail for three months and has complied with this condition every week, with the exception of one week two months ago when he attended a job interview on the day he was meant to report to the police. He was successful at the job interview, and now has a job washing dishes on a full-time basis. He earns \$500 a week.

Prior to his arrest, Mr Chambers was living with friends who were also drug users. He is now living with his partner and their son who is 6 years old. He is the coach of his nephew's tennis team. The manager of his soccer team, Nancy Small is willing to provide him with a character acknowledgment in support of his bail. He volunteers at an animal shelter walking and feeding the dogs and attends once a week for an hour with some old school friends, and he believes this helps them from getting into trouble.

Mr Chambers has no assets. His mother Jacqueline Chambers is willing to provide \$8000 in security if required.

You are employed by Chase and Kathy Solicitors and have been instructed to make a release application for Mr. Mitchell Chambers.



#### Criminal Law 2020 Autumn Bail Application Assessment – Problem 4

Mrs Jody Jones is a 36-year-old woman. She has been charged with an offence under s35(3) of the *Crimes Act 1900* (NSW) for permanently causing the loss of sight in the left eye of her business partner Mrs Cynthia Hans. Mrs Jones and Mrs Hans run a beauty therapy business injecting Botox and fillers under the surface of people's skin to remove the signs of aging such as wrinkles. They are both registered nurses, and regularly inject each other when they are in need of a treatment.

The business is very successful. Mrs Hans wants to keep growing the business and open a new treatment studio in a nearby suburb. Mrs Jones has two children under five years old and does not want the extra financial and other stresses involved in expanding the business at this stage. Mrs Jones and Mrs Hans have had several heated arguments about the future of their business. They could not see eye to eye on anything and it was almost impossible for them to speak to each other without arguing.

Last week when Mrs Jones was preparing to treat Mrs Hans' under eyes by injecting them with filler, they were again discussing the future of the business.

During the procedure, Mrs Jones injected the filler under Mrs Hans' left eye. Both women knew that this treatment must be carefully administered as there are several arteries around the eye which, if damaged can cause blindness. Mrs Jones was very experienced and had never injured a client. After a few injections to her left eye Mrs Hans said that her eye was hurting. Mrs Jones assured her it was fine and that she was so experienced at her job that she was probably just tired. Her eye began to bleed, and she was in substantial pain, Mrs Jones drove her to emergency and at the hospital she discovered that the filler had gone into one of her arteries around her eye and had caused blindness to her left eye.

Mrs Hans claims that Mrs Jones said to her as she was administering the treatment, "If you can't see my point of view about the business, I'll have to do something to help you." Mrs Jones claims that when she said this, she was referring to getting a mediator in so that they could try to work out their differences. Mrs Hans claims that Mrs Jones deliberately injected filler into her artery so she would have to seek medical treatment to distract her seeking to expand the business.

When Mrs Jones was 26 she was convicted of an offence under s60(3A) of the *Crimes Act 1900* (NSW) for injuries inflicted on a police officer when she was involved in a protest which became violent. Mrs Jones argued self-defence at the trial, but this was not accepted by the jury. She was sentenced to a period of community service and complied with all requirements of that sentence.

Mrs Jones' husband also runs a small business in Sydney. Mrs Jones has a close relationship with her parents and her husband's parents who share the care of her young children when she is at work. Her parents have agreed to provide \$50,000 as security if necessary. Mrs Jones is actively involved in her children's school and



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participates every Friday morning at the school's morning prayer ceremony. She also has a child with special needs, and she often needs to take her to regular doctors' appointments for her condition.

You are employed by Everyday Legal and have been instructed to make a release application for Mrs Jones.