**Legal Memo Assignment**

Name Affiliation

Course

Instructor

Date

**MEMO**

**To:** Steve

**From:**

**Date:**

**Subject:** Trevor (Fingers) Aitkens' Evidence Analysis

**Executive Summary**

In Murdoch University's law examination copy theft case, there is a 50-50 chance that the prosecution will find our client guilty. On a positive note, the client's wife is a law student conversant with the prosecution procedures. She could have therefore framed the client to serve her purpose. Conversely, the client is an IT expert with a history of burglary which can be used against him by the opponent. As an IT expert, the prosecution may doubt the legibility of the electronic evidence the client presents as it could be altered to suit his claims. To help the client win the case, you should get ready to counter the opponent's claims by getting sufficient information from the client, his wife, and the student whom a witness claims to have bought a copy of the assignment. Irrespective of the client's guilt or innocence, the information collected will help you come up with a concrete defense that can help the client win the case.

**Discussion**

I have critically gone through Finger's claims and the evidence that Murdoch University will use against him, and come up with a few insights on this case. Firstly, the video footage of a white Holden Commodore whose license plate matches the client's cars, entering the University Car park the evening before the exam paper was stolen and leaving again about an hour later can easily lead the prosecution as it ascertains that Trevor Adkeens is indeed involved in this case. With this evidence, our client will be required to prove that it was not him in the car by providing adequate evidence on his whereabouts during the exact time the footage was captured. If the client testifies that he was captured entering the university and leaving an hour later, the prosecution will require him to share his movement and activities from the point he is seen entering Murdoc University's premises to the time he left. Based on how the client responds and the prosecution's decision, further evidence from the university's CCTV camera can be retrieved to ascertain the legibility of the client's claims.

As an individual with a history of multiple burglary cases, our client is at higher risk of being investigated more than a person without any history would. In most cases, people with a history of criminal offenses are highly likely to commit the same crimes again or fresh ones. This investigation may involve third-party specialists who can easily detect how the defendant spent his time during the day the examination paper was stolen. Otherwise, the evidence from the three student witnesses who will each testify that they purchased a copy of the paper from a mature student who told them that Fingers had managed to get into the lecturer’s computer, and a university cleaner who will testify that he saw Fingers in the corridor where the evidence lecturer’s office is at about 5 pm on the night of the theft will be affirmed to be true.

In case there is no CCTV footage showing Fingers in the university at 5 pm when the paper was stolen, his claims that on the night in question, he went to the university to find his wife, whom he suspected of having an affair with a law student, searched everywhere for her but was unable to find her will favor his side. Besides, the belief that his wife and the law student stole the paper together to frame him can salvage him from prosecuting. In issues related to infidelity, framing other parties is a common issue. Consequently, the prosecution may opt to investigate Fingers' wife and his lover (if indeed he exists). For this to be in favor of our client, the prosecution must affirm that, indeed, the client's wife is having an affair with another law student, and he was in contact with the defendant's car during the day the crime was committed. In case the prosecution establishes some connections between the activities of the client's wife with the theft of the examination material, the prosecution will be required to assess the legibility of the evidence presented by the witnesses [Sanda v PTTEP Australasia (Ashmore Cartier) Pty Ltd (No 7) [2021]]. Cases of people paying other people directly involved in the crime scene are common. Consequently, if there is an interlink between the activities undertaken by the client's wife and the crime, the possibilities of the three witnesses being paid to do so are high.

Generally, the evidence provided by the witnesses is vague considering that it may require further investigation to be ascertained. For instance, the claim by the senior law student who will testify that he was approached by Fingers and offered the exam paper for the sum of $500.00 is a claim that a paid witness can make considering that there is no tangible evidence to ascertain it. Besides, the claim by the senior student that he refused to purchase the paper but later found that another student had purchased it is shallow. For this testimony to be used as evidence to sentence Fingers, the prosecution must confirm whether the claims are valid or cooked up. One way they can ascertain this is by requiring the senior student to name or give information that may lead to the all ages student.

Irrespective of the outcomes of the above investigations and testimonies, the client can quickly be sentenced using the client's electronic drive that has a copy of the examination paper. Contrary to the other evidence and testimonies, possession of a copy of the examination essentially means that the client was in contact with the examination. Thus, considering that he is a primary suspect in the crime, the examination copy in his hard drive and the other evidence will be enough to sentence him. Nevertheless, there are a few exceptions that the prosecution may consider and make a differing judgment. The first exemption is sufficient evidence that the client did not know that the copy was in his drive. In a case where the defendant claims possibilities of getting framed, the prosecution considers the evidence from all perspectives [DRJ & Ors v Commissioner of Victims Rights & Anor [2021]]. In this case, the examination copy could have been sent by the client's wife or any other person directly involved in the case to make it easier for the prosecution to ascertain that the defendant was directly involved in the crime. In the contemporary highly technological society, there are diverse ways through which the source of electronic data can be easily detected. Consequently, if the client is framed as he purports, the prosecution can use the available technology to get the data sources.

Overall, there is a 50-50 chance of the client getting sentenced. The evidence and testimonies presented to the prosecution by both the defendant and the university could be valid or not. As an IT expert, there is a possibility that the client could have altered the computer systems in the school and his hard drive to act in his favor. Although there is adequate technology to detect the source of data, an IT expert can easily modify the data or the systems it is contained in to show that it was received from a distinct source even if it wasn't. For instance, considering that the client is accusing his wife of infidelity, it could be possible that he rather than the wife is the one who wants to take revenge. Considering that both are close, the client could have accessed his wife's details, such as IP address, and planted them in the examination copy found in his hard drive. Secondly, the client's wife is a law student. As a law student, the client's wife must be well versed with the details of what a prosecution entails. Consequently, the claims by the client that his wife could have framed him can be valid.

**Recommendation**

To increase the chances of the client winning the case, you should consult the client on the sources of the examination copy found in his hard drive. After ascertaining the source, you will be well-positioned to handle the evidence. If the document source were from the lecturer's computer, you could defend the client from the point of getting framed by his wife. Additionally, you should look for the student the senior law student claims to have bought the examination copy. From this student, you will get tangible information on whether the claims are valid or were coaxed to say so. In case of the latter stands, you should incorporate your persuasion skills to get the students on the client's side. He could claim that he was lying that he bought the examination copy. By this student testifying against the opponent's claims, you will make one evidence invalid, increasing possibilities of the client winning the case. The

Additionally, you can contact the client's wife to determine her stand in the case. Although her reaction is unpredictable, it is essential that you ensure that you get more information on her relationship with the client in the recent past, her whereabouts during the fateful day, and her perception of this case. Although this may be considered unethical, it is necessary. From this conversation, you will determine her confidence level on her claims and attitude towards the client. A positive attitude towards the clients can help water down the defendant's claims unless substantiated by additional information. Additional information you can collect include recent conversations between the client and his wife through messages or recorded calls. However, you must ensure that the information you get can be substantiated. For instance, if you find out that the client and his wife have recently been arguing through text message conversations, you should request that the client shares screenshots. Besides, considering that the client has a history of burglary, you should ask the client for more information on his charges in the past, and determine cases that the opponents may use against the client. With this information, you will be well equipped to defend the client and give him a positive outcome.

**References**

DRJ & Ors v Commissioner of Victims Rights & Anor [2021] HCASL 53; [2020] NSWCA. <https://www.hrlc.org.au/human-rights-case-summaries>

Sanda v PTTEP Australasia (Ashmore Cartier) Pty Ltd (No 7) [2021] FCA 237 <https://www.hrlc.org.au/human-rights-case-summaries>