

Torts §1
Prof. Eric E. Johnson
Fall 2021

IN-CLASS EXAM WRITING EXERCISE
Paavo v. Darielle

FACTS: Darielle employed Paavo as a production assistant for her small video production company in San Frangeles. One day, Darielle was very angry at Paavo for showing up to work an hour late. To teach him a lesson, she told him he would have to stay late after work. He resisted, saying he had to drive home to his sick wife, and that if he didn't leave within 10 minutes to beat the traffic, it would take him an hour and a half to drive home instead of 45 minutes. Darielle responded by taking Paavo's car keys and locking them inside a safe in her office. "Now you can't go anywhere," Darielle snarled. Paavo cried quietly. Then, after only five minutes had passed, Darielle took the keys out of the safe and gave them to Paavo. "I'm going to let you off easy this time," Darielle said, "But don't ever be late again."

QUESTION: Evaluate whether Paavo has a claim for false imprisonment.

LAW*: A plaintiff can establish a prima facie case of false imprisonment by showing the defendant (1) intentionally (2) confined the plaintiff, and that the plaintiff (3) was aware of the confinement.

The intent required for false imprisonment is the intent to confine.

To be confined for the purpose of false imprisonment, the plaintiff must be restricted to some closed, bounded area for some appreciable amount of time. There is no minimum amount of time for a valid confinement. Typically, courts will say that the confinement need only be for an "appreciable time."

In a false imprisonment case, the confinement can be accomplished by a number of means. The most straightforward is by physical barriers, such as with walls or fences.

The barriers, force, or threat need not be directed at persons, but can also be aimed at the plaintiff's property. A plaintiff who is "free" to walk away only by surrendering chattels is not free at all under the eyes of false-imprisonment law.

* This text has been copied from the casebook.

RESPONSE: (done in class)

There is a good claim for false imprisonment because intent is established because she said he couldn't go. There is a confinement because Paavo had no access to keys, so he wasn't free to go unless he surrendered his car. We know Paavo was aware because he saw her lock the keys away.

SAME RESPONSE MARKED UP IN COLOR (red+blue=purple):

There is a good claim for false imprisonment **because** intent is established **because** she said he couldn't go. There is a confinement **because** Paavo had no access to keys, so he **wasn't free to go unless he surrendered his car**. We know Paavo was aware **because** he saw her lock the keys away.

SOME ADDITIONAL RESPONSES (evaluated in class):

Sam Pulle

Paavo has a good claim for false imprisonment. Darielle intended to take Paavo's keys away. Paavo would have had to surrender his keys to leave, so he wasn't free to go. His crying proves he was aware of the confinement.

Our critique in class:

- No because. Add them.
- Some sentences are just facts.

Improving in class:

Paavo has a good claim for false imprisonment. There's an intent to confine because Darielle intended to take Paavo's keys away. Paavo would have had to surrender his keys to leave, so there was a confinement because he wasn't free to go. His crying proves he was aware of the confinement.

Vor Heckzampool

Paavo has a strong case for false imprisonment. Darielle intentionally locked his car keys in a safe. Darielle said he couldn't leave. Paavo cried because he was not able to leave with his car. After five minutes passed, Darielle returned the keys to Paavo.

Our critique in class:

- It's 100% facts, not law.
- No because.

Fahrin Stanz

Paavo has a solid claim for false imprisonment against Darielle. We know that Darielle had intent because she said that she was punishing him for being late. Paavo was confined in the eyes of the law because he would have had to surrender his chattels – in this case his cars keys and thereby his car – in order to be able to leave. We know that Paavo was aware of his confinement because he cried while Darielle had his keys in the safe.

Our critique in class:

- *This sounds pretty good.*
- *There are lots of becauses.*

X.M. Paul

Paavo has a claim for false imprisonment against Darielle if she intended to confine Paavo and if he was confined in all directions and was aware of that confinement. Darielle said she was holding his keys to punish Paavo, and so you could say he really wasn't free to leave unless he left his car at work -- which he could have done if he took an Uber. He did seem very upset by what Darielle was doing to him, and this could be seen as "being messed with," which is what the intentional torts are designed to protect people against. I think Paavo should be able to recover, but it depends on the law of the particular jurisdiction and it depends on what a jury thinks.

Our critique in class:

- *"If" is a problem. Where they are using if, they are dodging analysis instead of taking responsibility for doing the analysis themselves and saying what comes of it.*
- *And in that portion of the response, it's just statement of law – without facts. So that's not probative of understanding.*
- *It's also got he second if problem – making up facts. In particular, this thing about the Uber.*
- *It doesn't do a good job of going through the elements.*
- *Instead of explicitly using the doctrine, it's grabbing words and phrases from the course and plugging them in. It's got something of an information dump or regurgitation style to it. (And that's not probative of actual understanding.)*
- *It spends time on personal opinion – what the exam taker thinks "should" happen under the law. What we care about on the exam is what the exam taker knows about the current existing law.*