

Paavo v. Darielle
EXAM WRITING EXERCISE
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FACTS: Darielle employed Paavo as a production assistant for her small video production company in San Francisco. 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 – that would be unreasonable to leave without – is not free at all under the eyes of false-imprisonment law.

* This text has been copied from *Torts: Cases & Context* by Eric E. Johnson
<https://ericejohnson.com/projects/tcc/>.

One RESPONSE

Paavo will likely succeed in proving a prima facie case for false imprisonment, because he can satisfy all of the elements. Paavo can show intent because D showed an intent to confine when she said “Now you can’t go anywhere.” Paavo must have been aware of his confinement because he cried after D locked his keys in the safe. P was confined because it wouldn’t have been reasonable for him to leave without his car. To leave he would have had to surrender his chattel, his car, and D locked his keys away so he couldn’t drive his car. Even though D gave the keys back this is still a confinement for false imprisonment purposes because there is no minimum time for a valid confinement, and it was long enough for him to appreciate that he was being confined, therefore he was confined.

Our critique in class:

- Last sentence seems needlessly long and wordy. But it’s not worth going back and revising.
- Seems like too much said about confinement, more than was useful.
- Good that they went through the elements.
- Used “because”.
- Didn’t fall into pitfalls like “if” problems.

SOME MORE HYPOTHETICAL RESPONSES:

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.

Critique?

- Didn’t say because.
- Wasn’t making purple – wasn’t applying law to facts. Was only stating facts. Was essentially asking us to read in to what they were thinking about the law. But they shouldn’t IMPLY the legal analysis, they should explicitly state it.

Prior critique in class:

- No because - it didn’t explain any of the points. It never used the word because in any of its analysis.
- There’s some facts, but there’s no combining those with law to make purple.
- It kind of goes in the order of the elements, but it isn’t explicit about the elements.

Improving ...

Paavo has a good claim for false imprisonment. The intent element is satisfied because Darielle intended to take Paavo’s keys away, because that shows intent to confine. Paavo was actually confined because he would have had to surrender his keys to leave, and it wouldn’t be reasonable for him to walk away without his chattel -- his car -- so he wasn’t really free to go. His crying proves he was aware of the confinement, therefore awarness is satisfied.

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.

Critique?

- Not a lot of law.
- They need to add more because. They only use it once and it's not even to explain the element.
- They kind of went through the elements but not explicitly. It's clear they are trying – to go through the elements. But they are really just regurgitating the facts. And as the reader/grader, we already know the facts.
- It's a terrible idea to be *implicit* in your reasoning!! Be EXPLICIT!!!!
- It's not applying law to facts.

Prior critique in class:

- There's no law. It's all facts.
- They did slip a "because" in there, but it's just a factual because. It's not a legal-analysis because.
- They used the word "intent" in the second sentence, but they are talking about the intent to lock the keys in the safe -- not the intent to confine, which is what is crucial for the prima facie case.

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.

Critique?

- This is better. It applies law to facts. It makes purple.
- It has some because. We like that.
- Could have been more explicit. Such as that the confinement was *by* Darielle.
- Could have been a little more explicit about the elements. But you know, this is better.

Prior critique in class:

- It's better.
- The intent analysis is not ideal. They are talking about the intent to punish, which is not relevant. What's relevant is intent to confine. If this student were to stick the words "to confine" after "intent" in the second sentence, that would make that portion of the analysis much better.
- They wrote it very nicely. There are lots of because!
- The last sentence is particularly good.
- Don't love the wording, it's a little wordy. But the analysis is there.

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.

Critique:

- It's got an if problem -- actually it's got both of the if problems. It is going outside the scope of the exam facts and it is using if to avoid doing the actual work of applying law to facts, i.e., the legal analysis.

Prior critique in class:

- This is really problematic.
- There's a lack of analysis.
- There's an “if” problem. This student is creating their own facts.
- There's another “if” problem in the first sentence, they are not applying the facts, they are just stating the rule and putting if in front of it. It's like that property example from the exam writing memo -- the one about the rule against perpetuities.
- They go off on a tangent -- saying some true things, but they ignore tying that in to legal analysis. And ultimately they don't take a stance on what will happen, saying it's up to a jury.

Sam Pulle improvement from prior class:

Paavo has a good claim for false imprisonment. Darielle intended to take Paavo's keys away, therefore she showed intent to confine. She did in fact take his keys, and thus- Paavo would have had to surrender his keys to leave, ~~so he wasn't free to go~~ therefore he was confined. His crying proves he ~~was aware~~ he had awareness of the confinement.