



Application Task

The Difference between Criminal Law and Civil Law

Nick D'Arcy Case Study Solution



Article 1: Criminal law terms to highlight

Nick D'Arcy given suspended sentence

Nick D'Arcy will be handed a **suspended sentence** of 14 months and 12 days for attacking retired swimmer Simon Cowley.

The **sentence** means D'Arcy has cleared the biggest hurdle in his bid to represent Australia in the World Championships in Rome in July but he may face further **sanction** when Swimming Australia's judiciary panel meets next week.

D'Arcy pleaded **guilty** to recklessly inflicting **grievous bodily harm** on Simon Cowley while celebrating his inclusion into the Beijing Olympics team a year ago.

The pair, who had not met before that night, got into an argument outside the Loft Bar on King Street Wharf which culminated in D'Arcy punching Mr Cowley in the face, knocking him to the floor and breaking his nose and jaw.

It had been an agonising wait for D'Arcy, who qualified to represent Australia in the 200 metre butterfly at the World Championships in record time last Tuesday.

Outside the court, D'Arcy said he was sorry about what he had done to Cowley and hoped that the breaststroker would one day be able to forgive him.

"And while I'm on the topic of apologies I would also like to apologise to the Australian public as I'm aware that this had a detrimental affect on them as well," D'Arcy said.

"I'd just like to say that today's **sentence** of a 14-month **suspended sentence** is very serious and I will be complying with all the directions that were given to me by the courts.

"And I'd just like to say to others of my age that this is a situation that none of us need to find ourselves in and we just need to watch our drinking and we obviously need to watch our behaviour when we are out and about.

"I now have a job to do and that is to return to my study, return to my swimming and comply with all the magistrate's requests."

Prosecution called for jail time

The prosecution had called for the 21-year-old science student to be **jailed** to learn his lesson, pointing to a second incident that occurred shortly before his **sentencing** hearing last month at the Eastern Hotel in Bondi Junction.

In that incident, security guards had asked D'Arcy to leave the premises because he was intoxicated, prompting the swimmer to ask, "Do you know who I am?" and later, "One hit is all it takes."

But D'Arcy's defence argued that he had already been **punished** enough by missing out on the Olympics and constant harassment by the media.

His comments to the security guard were not meant to be arrogant, but rather a query about whether he was being targeted because of the reputation he had earned over the Cowley assault.

Cowley then stepped in and told D'Arcy to settle down, slapping him across the face with an open hand. He then went to shake D'Arcy's hand, but the younger swimmer was incensed and punched him in the face.

D'Arcy publicly apologised to Cowley and asked the court to spare him a **jail** sentence, saying that his bad behaviour always occurred when he was under the influence of alcohol.

He had sought counselling and would consider abstaining from alcohol altogether, he said.

It was an argument over alcohol that led to D'Arcy's assault on Cowley on March 30 last year.

The swimmers had been celebrating at a private party at the Cargo Bar and then went to the Loft Bar, where D'Arcy scolded swimmer Eamonn Sullivan for refusing a drink.

"What's happened to yourself? You used to be the champ," D'Arcy said to Sullivan.

Article 2: Civil Law Terms to Highlight

July 18th 2011

(Civil Case) SWIMMING champion Simon Cowley says he can finally put his attacker, Nick D'Arcy, out of his mind after being awarded **damages of at least \$180,000.**

Cowley, 30, successfully **sued Olympic hopeful D'Arcy in the NSW District Court after D'Arcy smashed his jaw and face with one punch at The Loft bar in Sydney's CBD early on March 30, 2009.**

The Commonwealth Games gold medallist said he could now move on with his life.

"The judge found that Nick was not acting in self-defence and that's what we were looking for," Cowley said outside the court.

"This whole issue of the **civil** case was never about the money.

"This was the first time I've had my opportunity to put forward the version of events that actually took place. I can finally put Nick D'Arcy to bed in my mind."

Cowley had corrective surgery to his jaw, cheekbones and nose.

D'Arcy, 23, was not present for the decision. He received a 14-month suspended jail sentence after pleading guilty in 2009 to recklessly causing grievous bodily harm and lost his place in the Olympic swimming team.

The pair, who had never met previously, were celebrating after the Beijing Olympic trials.

In the **civil proceedings**, Cowley argued he was king hit without reason, while D'Arcy claimed to have acted in self-defence when he "lashed out" in a "wild, defensive swing".

The court heard Cowley had tapped or slapped D'Arcy on the face after he chided fellow swimmer Eamon Sullivan about not having another drink.

D'Arcy said he "reeled back" and had wanted to question Cowley but noticed his stature.

He said he became scared because Cowley started to get up and moved his hand outwards.

Cowley says the last thing he remembers is standing up to introduce himself, but he could not recall if he was standing or had simply motioned to do so.

Judge Anthony Puckeridge found "it was the **plaintiff** who was in a more vulnerable position," and rejected D'Arcy's claims of self-defence.

In **awarding** Cowley \$180,942 plus interest, the judge said the effects of the injuries were of "significance". But he found the attack was not premeditated.

Differences between civil and criminal law.

Features	Criminal Law R v D'Arcy	Civil law Cowley v D'Arcy
Use legal terminology whenever you can		
Who are the parties involved? (Names and legal terms)	Prosecution / Crown Accused – Nick D'Arcy	Plaintiff – Simon Cowley Defendant – Nick D'Arcy
Who initiated legal action?	Prosecution	Plaintiff
What is the purpose of the legal action?	Punish	Remedy/Restore to previous position before infringement of rights
Who has the burden of proof?	Prosecution	Plaintiff
What is the standard of proof required?	Beyond reasonable doubt	On the balance of probabilities
What was the verdict/outcome?	Guilty	Liable
What was the action taken by the court?	Suspended jail sentence	Damages /Financial compensation