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# 2024 UniSQ Secondary Schools Moot Competition

**Teacher Information Session – 24 April 2024**

**Mr Anton La Vin**  
**Dr Katie Murray**

# Acknowledgement of Country

UniSQ acknowledges the First Nations of southern Queensland and their ongoing connection to Country, lands, and waterways. We pay deep respect to Elders past and present.

# Session Overview

- Competition overview
- Mooting format and behavioural rules
- The question
- The relevant law
  - The cases
  - The legislation
- How to prepare
- Coaching tips





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# Competition Overview

Welcome from Mr Anton La Vin and Dr Katie Murray (Competition coordinators)

A team effort:

- Professor Jonathan Crowe
- Mrs Stacey Hennelly
- Ms Kathy Pemberton
- Mrs Katie Cosh
- Mr David Fawcett
- Mentors
- Judges



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# Competition Overview

## **Registrations Close**

1 May 2024

## **Preliminary Round 1**

20 and 21 May 2024

## **Preliminary Round 2**

3 and 4 June 2024

## **Semi-Finals**

26 July 2024 (top 4 teams)

## **Grand Final**

18 August 2024 (UniSQ Toowoomba Open Day)

### **Preliminary Rounds**

- Moots will be on a rolling schedule all day.
- All teams are guaranteed two mooting rounds before any elimination occurs.
- We try to ensure that schools do not moot the same side of the argument twice (e.g. as Appellant in PR1 and PR2). However, that is not always possible to avoid.
- Three-team moots/late changes to draw.



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# Competition Overview

- We are accommodating a maximum of 16 teams and a minimum of 8
- Schools are permitted to enter one team on a first in basis
- If your students cannot commit to the competition days, please notify us as soon as possible
- Teams may have up to 5 students
- Competition web site expected to go live on Thursday 2 May
- Recorded video tutorials will be made available for all teams covering:
  - Moot etiquette, procedure and technique
  - The case – law and facts
  - How to prepare and structure an appearance



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# Points system for 2024

Ladder points and bonus ladder points (Preliminary Rounds only).

## **Base Ladder points:**

- Forfeit/fail to appear = 0
- Loss = 1
- Win = 2

## **Bonus Ladder points:**

Team scores from the judge:

- Less than 160 = 0
- 160 to 179 = 1
- 180+ = 2
- Awarded win or loss

Ladder points and bonuses will be calculated and updated after each round. Bonus points have been included to ensure that high-performing teams are not knocked out unnecessarily in the event of a loss.



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# Prizes and Scholarships

## **The Prizes for 2024 are:**

- A \$300 bursary for each member of the Winning Team and Runner Up Team who enrolls to study at the University of Southern Queensland in 2025 or 2026.
- Each barrister and instructing solicitor of the winning team will share the Turner Freeman Lawyers Prize for the Winning Team, worth \$1,500.
- The name of the winning moot team will be inscribed on a perpetual trophy for the Competition.

**Thank you to Turner Freeman Lawyers for supporting the competition in 2024.**



# What is a moot?

- An ancient means of education in the common law tradition.
- A typical moot involves the selection of a judicial decision that raises legal points that are still arguable on both sides - 'moot points'.
- Differs from trial advocacy in that it is limited to legal argument only. There are usually no witnesses or tendering of evidence.
- The moot is based upon a given set of facts.
- The facts are contained in the court judgment from which there is an appeal e.g. this year's case: *R v Smith* [2024] QDC 101
- Moot problems can be self-contained, in that the relevant law to be applied to the facts is also provided to each mooter in a set of cases that can be used as authorities, or it can be open, in that mooters are free to use any relevant cases they can find.
- For this competition, cases are limited to those given (or referred to in the given cases).





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# Scope of the material

- The scope and extent of material to be used in the moot is limited to:
  - The decision on appeal – *R v Smith*
  - The cases cited in the decision
  - The legislation cited in the decision



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# Ethical Duties of Counsel

- Every lawyer appearing in an Australian court has a primary duty to the administration of justice.
- Conduct case honestly, never attempt to mislead the court or suppress relevant information.
- The key thing to remember is that it is counsel's role to assist the judge in deciding the case.
- The moot is a process of informing the judge of the relevant facts, the relevant law and the correct application of the law to the facts in this case.



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# Courtroom Etiquette

Entry of appearance, e.g. -

*May it please the Court, my name is La Vin, initial A, of counsel and I appear with my friend Mr. Smith, initial J, for the Appellant.*

(Not “Good Morning” or “Hello” etc.)



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# Courtroom Etiquette

Handover to co-counsel, e.g. –

*Your Honour, that concludes submissions for the appellant in respect of the first ground of appeal. If Your Honour has no further questions, I will now hand over to my friend Mr. Smith, who will continue with submissions on behalf of the appellant in respect of the second ground of appeal.*



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# Courtroom Etiquette

Closing comments, e.g. –

*Your Honour, that concludes the submissions for the appellant.*



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# The Case to be Appealed

*R v Smith* [2024] QDC 101

Our hypothetical Queensland District Court appeal decision, now being appealed to the Supreme Court of Appeal.

- The argument on appeal is about the correct application of the relevant law to the facts, as established in the trial.
- Argument can only be made on the stated grounds of appeal.



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# The Case to be Appealed

*R v Smith* [2024] QDC 101

Please note: We may have simplified some of the legal concepts and procedures that apply. Students should not add additional grounds to the appeal by suggesting a technical defect in proceedings, based on criminal law procedure, e.g., execution of a search warrant.

We are aware that the case may be dealt with in a slightly different manner if before an actual court.





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# The Case to be Appealed

***R v Smith* [2024] QDC 101**

The defendant was tried in the Magistrates Court on counts of possession of a dangerous drug, namely cannabis sativa and possession of a thing namely a water pipe used in connection with smoking a dangerous drug, under Part 2 of the *Drugs Misuse Act* 1986. Following a summary trial he was convicted of both offences. Convictions were recorded and one fine of \$800, in default seven day's imprisonment, was imposed, with twelve months allowed to pay.

He then appealed to the District Court. That is the decision you have been given. He lost again. He now appeals to the Supreme Court of Appeal. This is the moot appeal.



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# The Case to be Appealed

The key provision is section 129(1)(c) of the *Drugs Misuse Act* 1986 which provides:

“Proof that a dangerous drug was at the material time in or on a place of which that person was the occupier or concerned in the management or control of, is conclusive evidence that the drug was then in the person’s possession, unless the person shows that he or she then neither knew nor had reason to suspect that the drug was in or on that place.”



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# The Case to be Appealed

Your school's team will either be acting for the appellant, Paul Smith, or the respondent, the King (Crown/Prosecution).

The case focuses on the issue of possession under the *Drugs Misuse Act* and the *Criminal Code*.



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# The Case to be Appealed

*R v Smith* [2024] QDC 101

- Students can get a general understanding of the relevant law from this decision.
- Students can identify the relevant statutory provisions and the relevant judicial authorities.
- Students may disagree with the way the judge has applied and interpreted the relevant law. This might be most relevant depending on which side the student is on – appellant or respondent.



# The Grounds of Appeal

1. On the evidence received by the court, it was not open to conclude that the place where the drugs were found, being the motor vehicle, was occupied by or under the management or control of the defendant and therefore s 129(1)(c) of the Drugs Misuse Act 1986 did not apply.
2. The judge erred in finding the defendant guilty of possession of the water pipe on the basis that some of the cannabis was contained in the water pipe. There was no evidence to conclude that the water pipe was in the possession of the defendant.

Order sought: Appeal allowed, convictions quashed, and verdict of acquittal entered on both counts.



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# The Law to be Applied - Legislation

[Drugs Misuse Act 1986](#) s 9, s 10(2), s 129(1)(c)

Note: The act was renumbered some time ago. Older cases refer to s 57(c). This is now section 129(1)(c)



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# The Law to be Applied - Cases

[R v Shipley \[2014\] QSC 299](#): The defendant was a passenger in a vehicle where drugs were found – the defendant denied knowledge of the drugs.

[Lawler v Prideaux \[1995\] 1 Qd R 186](#): Section 57(c) of the Drugs Misuse Act 1986. (Note: s 57(c) is identical to s 129(1)(c)). Issue – was the dangerous drug in or on a place occupied by the appellant.

[Jenvey v Cook \[1997\] QCA 207](#): Section 57(c). Didn't know the drugs were there but did the defendant have reason to suspect?

[Symes v Lawler \[1995\] 1 Qd R 226](#): That s. 57(c) did not create a presumption of possession against an accused person where, although the immediate “place” where a dangerous drug was “in or on” was not occupied, managed or controlled by him, that “place” was itself “in or on” a larger “place” which he did occupy, manage or control.



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# Coaching Tips 1

Preparing your team/s:

- Don't assume the Judge is familiar with the case or the relevant law.
- Don't use the 'machine-gun' approach: A few submissions of high quality, well explained, is best. Each counsel has 10 minutes.
- Students should always try to answer a Judge's question immediately.
- It is OK to disagree: *'In this case, your Honour, the respondent's submission is that s 129(1)(C) was misapplied, because...'*





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# Coaching Tips 2

- We may use a number of Judges. They have different styles and personalities.
- Students should expect a number of questions and will not simply read submissions for all of their allotted time. Questioning will increase in complexity as the rounds progress, so student must be aware that each appearance lays a level of experience to build upon.
- Students are discouraged from having their notes on a laptop or notebook. Paper notes are encouraged.
- Appearance time in the Semi-Finals and or Grand Final may be increased to 15 minutes per counsel.



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# Coaching Tips 3

- Do not allow your students to add or embellish facts.
- Fundamentals of public speaking:
  - Volume
  - Speed – go slow
  - Demeanour and presentation
  - Understanding the facts and argument
- The key to success is to practise in full role play with questions from a judge. Practise ‘thinking on your feet’.



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# The most important thing

- The competition is held purely for the benefit of the students.
- No student will ever be embarrassed or made to feel inadequate or incompetent in a moot.



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