

## **Philadelphia District Attorney's Office**

### **Executive Summary**

A young Assistant District Attorney was assigned to prosecute a years-old shooting case but discovered, on the eve of trial, that the victim had attempted to rob the defendant during an illegal gun transaction, suggesting the defendant may have acted in self-defense. The ADA faced a dilemma between pursuing aggravated assault charges under office pressure, addressing the ethical concerns raised by the new facts, and responding to a judge pressing for the case to move forward quickly.

### **Background**

In 2014, a young Assistant District Attorney (ADA) was assigned to prosecute a shooting that occurred in 2009. According to the original complaint, the defendant—a convicted felon—shot the victim during a robbery. The case had been delayed for years because the victim could not be located and had been “in the wind.”

On the eve of trial, the ADA finally located the victim and spoke with him. During the conversation, the victim revealed a very different version of events. The victim had arranged to meet the defendant to buy a gun illegally. During the meeting, the victim attempted to rob the defendant, and the defendant shot him.

Both the victim and the defendant were convicted felons and legally prohibited from possessing firearms.

For the victim to testify truthfully, the ADA would need to grant the victim immunity because the victim's testimony would expose him to criminal liability for attempted robbery and illegal firearm possession. After evaluating the situation, the ADA believed the aggravated assault charge was questionable because the defendant may have acted in self-defense. However, the ADA believed the defendant was clearly guilty of illegally possessing a firearm. Based on the victim's own account, he had attempted to illegally purchase a firearm. However, the only evidence would be his own statement, and he retained the right against self-incrimination. Therefore, charging the victim with a crime would be inappropriate.

The ADA proposed resolving the case through a negotiated plea with a sentence of 11.5–23 months in jail followed by probation, even though this would be significantly below the standard sentencing guidelines for the offense.

At the time, the District Attorney's Office was closely tracking outcomes in gun cases and emphasizing strong enforcement. The ADA's supervisor rejected the proposed plea and instructed the ADA to “just try the case.”

Meanwhile, the judge was pressing the ADA to move the case forward. With a jury already selected and a case that had been pending for years, the judge was pushing the ADA to either proceed to trial or resolve the case quickly.

## Case

How should the ADA proceed?