

# **UK EVIDENCE LAW**

## **CASE NOTES**



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Sample

## ***Woolmington v DPP [1935] UKHL 1***

**Source:** Hard copy via your law library or electronically via a subscription service

**Court details:** House of Lords

**Facts:**

- Reginald Woolmington was a 21-year-old farm labourer from Castleton, Dorset.
- On November 22, 1934, three months after his marriage to 17-year-old Violet Kathleen Woolmington, his wife left him and went to live with her mother.
- On December 10 Woolmington stole a double-barrelled shotgun and cartridges from his employer, sawed off the barrel, throwing it into a brook, and then bicycled over to his mother-in-law's house where he shot and killed Violet.
- He was arrested on January 23 the following year and charged with the wilful murder of his wife.
- Woolmington claimed he did not intend to kill her.
- He wanted to win her back so he planned to scare her by threatening to kill himself if she did not come back.
- While questioning her about returning, he attempted to show her the gun that he was to use to kill himself.
- By accident, the gun went off shooting Violet in the heart.

**Procedural history:**

- At the Bristol Assizes, Swift J ruled that the case was so strong against Woolmington that the burden of proof was on him to show that the shooting was accidental.
- At trial the jury deliberated for 69 minutes.
- On February 14, 1935 Woolmington was convicted and sentenced to death.
- On appeal to the Court of Criminal Appeal, Woolmington argued that the trial judge misdirected the jury.
- Lord Justice Avory refused leave to appeal, relying on a passage of Foster's Crown Law (1762):

"In every charge of murder, the fact of killing being first proved, all the circumstances of accident, necessity, or infirmity are to be satisfactorily proved by the prisoner, unless they arise out of the evidence produced against him; for the law presumeth the fact to have been founded in malice, until the contrary appeareth. And very right it is, that the law should so presume. The defendant in this instance standeth upon just the same foot that every other defendant doth: the matters tending to justify, excuse, or alleviate, must appear in evidence before he can avail himself of them."

- The Attorney-General (Sir Thomas Inskip) then gave his fiat allowing the case to be appealed to the House of Lords.

**Issue:**

- The issue brought to the House of Lords was whether the statement of law in Foster's Crown Law was correct when it said that if a death occurred, it is presumed to be murder unless proved otherwise.

**Reasoning / Decision (Commentary):**

- Viscount Sankey spent much time contrasting the position under the criminal law at the time when the decisions relied upon in Foster's Crown Law were handed down, and the present period in time.
- Previously a person accused of a crime was not even entitled to be represented in court unless they were charged with a felony.
- Moreover it was not until 1898 that the accused was even permitted to give evidence on their own behalf in a criminal trial.

**Ratio:**

- Delivering the judgment for a unanimous Court, Viscount Sankey made his famous "Golden thread" speech:

"Throughout the web of the English Criminal Law one golden thread is always to be seen that it is the duty of the prosecution to prove the prisoner's guilt subject to... the defence of insanity and subject also to any statutory exception. If, at the end of and on the whole of the case, there is a reasonable doubt, created by the evidence given by either the prosecution or the prisoner... the prosecution has not made out the case and the prisoner is entitled to an acquittal. No matter what the charge or where the trial, the principle that the prosecution must prove the guilt of the prisoner is part of the common law of England and no attempt to whittle it down can be entertained."
- This was the first time where the presumption of innocence had been articulated in the Commonwealth.

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