

# A legal study on apple and samsung law general essay

Law



Assignment Question: In this essay I will be discussing whether the availability of social media and the internet poses a threat to the jury system. To do this I will look at what the jury system is and its function in the UK legal system. I will also look at how the jury system is governed and its development. Finally I will look at the availability of social media and the internet to the jury and the threat it poses to its integrity. In 1215 it was recognised that a member of society could be trialled before their own peers in the Magna Carta, " A charter of liberty and political rights obtained from King John of England, which came to be seen as the seminal document of English constitutional practice".[1]In the midst of the fifteenth century juries became more commonplace and were famed for their role in deciding the facts of a case, as time went on in many judges began to override or challenge the decisions of juries. To stop this in the case of Bushell 1960 the courts stated that juries were the " sole arbitrators of fact" and a judge could not influence their decision.[2]In the UK legal system members of the electoral register are picked at random to take part in jury service and by law you must attend. If you fail to attend you can be fined up to £1000. In certain cases some people are deemed unsuitable for jury service. Examples of these situations are if you are currently on bail, a member of the armed forces or suffer from a mental health condition.[3]A jury consists of twelve members at a trial as-well as a Judge. Before a trial starts the jury collectively choose one member to act as their spokesperson. It falls to the jury to listen to the facts of the case and by looking at the evidence before them deciding whether they find the defendant to be innocent or guilty of the offence they have been charged with. A judge is present to direct the

jury regarding the legal matters in the case. Members of the jury can make notes during the trial and the representative member can ask the judge on their behalf to explain parts of the case.[4]In the UK juries are present in the Crown Court, the High Court, Civil Cases, County Court and the Coroners Court. In the Crown Court they deal with criminal cases, such as murder, theft and criminal damage. In the High Court they look primarily at cases that include defamation. There are several rules that all Jury members must abide by, firstly they are there to give a verdict on whether the defendant is guilty or not, secondly they must take guidance from the present Judge and must be fair and impartial, " Judges whose actions and decisions are free of bias or prejudice constitute a fair and impartial jury"[5]. The jury members must ensure their actions are not influenced by any third party. It is actually a criminal offence for a non jury member to aim to influence a juror in anyway. If an attempt is made it is the jury member's duty to report it. In December 2012 Samsung made an accusation against Apple that the company had withheld important information after losing a \$1 billion judgment. Apple denied the claims. In the case it was mentioned that due to misconduct on the jury's part regarding impartiality it would be difficult to have the conviction overturned.[6]Brian Love a Law teacher involved with the case was quoted saying " You're looking for material or something else coming in that wasn't introduced at trial, a juror reading reports about the case and they're being influenced by outside forces."[7]The Juries Act 1974 was created to " Consolidate certain enactments relating to juries, jurors and jury service with corrections and improvements made under the Consolidation of Enactments Act 1949".[8]Within it several offences were set

out that if committed the defendant could be fined, the first offences were if you failed to attend jury service without a valid reason. Secondly by making a false representation which is any representation you make with the knowledge that it is not true or could be seen as misleading. An example would be providing false insurance details in the event of a car crash. Another offence is when a member of the jury is aware they are disqualified or not eligible to be picked. If when asked to do jury service they give incorrect information this is also an offence. Finally if you make a false representation with the intent to stop someone else from taking part in jury service you can be fined.[9]The Contempt of Court Act was created in 1981, it was " An Act to amend the law relating to contempt of court and related matters".[10]Section 2 (2) of the act states, " Where any publication creates a substantial risk that the proceedings in question will be seriously impeded or prejudiced contempt of court will be found".[11]The Contempt of Court Act brought into act a strict liability rule; it set out that any behavior that could be considered to interfere with the course of justice can be seen as contempt of court, even if the defendant lacked the intent to interfere.[12]To prove that contempt of court is present three points need to be proved; firstly there must have been publication where information was broadcast to members of the public. Secondly the proceedings must be active. Finally there must be a risk caused by the alleged contempt of court that the legal proceedings will be impaired.[13]A jury must be seen to be impartial, this means they must be able to work together to reach a decision without the existence of bias. Their findings must reflect the evidence that is available to them in the courtroom and anything they have learnt outside this environment should

not reflect on the findings. If a jury member is found to not have been impartial they can be dismissed from jury service and disqualified.[14]In the case of AG V Dallas the defendant was aware of the fact that they should not use the internet to learn more about the defendant at the trial, during the trial evidence was shown of a previous conviction the defendant had, Dallas then researched this previous conviction on the internet. In the latter stages of the trial the defendant let slip she had undertaken the research on the trial's defendant. The matter was reported and the trial had to start afresh. The jury member was found to be guilty of contempt of court to a criminal level and was sentenced to six months in prison.[15]In the case of AG V Frail a jury member contacted the defendant via Facebook; she had been warned against the use of the internet prior to the incident. It was held that both the defendant and the jury member were guilty of contempt of court and were sentenced.[16]In today's society the availability of the social media to members of a jury poses a threat to their impartiality and integrity. For example if a jury is sitting on a murder trial how easy is it for a member of the jury to go home and research the defendant? They may find the defendant has previous offences and this could affect their final judgment thereby breaking the strict liability rule as they have been influenced by forces outside of the courtroom. A question that needs to be asked though is, is it possible for a jury member to make a decision without consulting outside evidence? it is argued that it is simply human nature to want to know more about the situation we are dealing with. There have been calls for a reform of the law to strike down on people whose behavior falls under contempt of court. The law commission has made several suggestions regarding a reform

such as confiscating all internet enabled devices before a trial and putting tougher controls on the use of the internet in an attempt to reduce contempt of court.[17]So are juries fair or has their exposure to social media and the internet had a negative effect on their integrity? Professor Cheryl Thomas from UCL undertook research in 2010, " This research shows that juries in England were found to be fair, effective and efficient".[18]The research highlighted three key points; firstly a white majority jury did not discriminate. Secondly juries convict a defendant 2/3 of the time and finally in no courts defendants were let off more than they were charged.[19]In conclusion it is possible to argue that the availability of social media and the internet poses a threat to the principle that a jury must remain free of bias and not make any decisions that have been influenced by outside forces. But recent research in the UK has shown to this day juries remain to be fair and effective at what they do. Also in any case where contempt of court exists the defendant is dealt with severely. Word count: 1650.