

I. of II. Liparota case:

This case concerns whether the defendant, Liparota, had unlawfully acquired and possessed food stamps. The particular statute dealing with the unlawful acquisition and possession of food stamps is potentially ambiguous. The ambiguity hinges on the scope of the adverb “knowingly” that appears in the statute.

1. Liparota claims that he has not committed a crime.

a. What is Liparota’s interpretation concerning what one must “know” in order to be found guilty?

b. What is the government’s interpretation of what one must “know”?

2. a. What is meant by a ‘specific intent’ instruction? b. What is *mens rea*?

II. Solan article: Read the article by Solan and then answer the following questions:

1. How do Justices Rehnquist and Brennan differ in their views on the 'death penalty'?
2. State Solan's conclusion about how judges often use linguistic evidence in their decisions.
3. Solan talks about 'wide scope' and 'narrow scope' interpretations for potentially ambiguous sentences. Consider the jury instruction: "You must not be swayed by mere sentiment, conjecture, sympathy, passion..."

- a. What is the narrow scope reading?
- b. What is the wide scope reading?

3. Assume that the legislature is drafting a statute that permits legal possession of marijuana only for medical use. The statute then addresses illegal possession which it defines as "any use other than medical".

Which wording, a) or b) below, should the legislature adopt in order to avoid ambiguity, and why?

- a) *Whoever knowingly possesses marijuana for a purpose other than medical will be fined \$500.*
- b) *Whoever for a purpose other than medical knowingly possesses marijuana will be fined \$500.*

4. a. What is the 'rule of lenity'?

- b. Did the Supreme Court apply the rule of lenity to Liparota? Explain.

5. Assume there is a statute that says: "Boys and girls under 16 years of age are subject to a curfew after 8pm." This statute is claimed to be ambiguous.

- a. What is the narrow scope reading?
- b. What is the wide scope reading?

c. The police pick up a 15-year old boy that is on the street after 8pm and the police claim that the youth is in violation of the statute. Explain whether the rule of lenity should apply to him.

