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## Want To See Your Writing In The Next Issue?

The Bar Brief is actively seeking contributions for our next issue!

Publishing your work is a fantastic opportunity to create a polished writing sample for your law school applications.

Whether it's a deep dive into an obscure case or a commentary on current legal news, we want to hear from you.

**How to Submit:** Fill out the Writing Sample Application at [stfxprelaw.ca](http://stfxprelaw.ca) today!

## On The Docket

Take a break from the books and join us on the evening of **November 19th** for a **Pre-Law society social** at **Candid Brewing!**

Come out and meet the Executive Team, chat with others interested in law, and enjoy some delicious craft beverages. We will be hosting rounds of Law Trivia, so brush up on your legal facts (or just come for the laughs!).

See you there!

# THE BAR BRIEF

Issue 2, October 2025



## LAW & LORE: THE HALLOWEEN ISSUE

### From The Briefcase

Welcome to Issue 2 of The Bar Brief! With the spookiest time of year upon us, we've had a blast creating our Halloween Issue. Inside, we've explored the legal side of things that go bump in the night, from the "Ghostbusters Case" that declared a house legally haunted, to the IP battles of the horror film industry, and an academic look at witchcraft in criminal law. Plus, don't miss our alumni spotlight featuring recent alum Benjamin Kozak. We truly hope you enjoy reading this issue as much as we enjoyed putting it together!

Happy reading!

- *Charlie Nault, Editor-In-Chief*



# LIFE IN PRACTICE

## Hearing From X Alumni



**Benjamin Kozak** (StFX Class '25) is currently in the first year of his JD at the University of New Brunswick Faculty of Law. Benjamin graduated from StFX with distinction in a BBA Advanced Major in Finance and a minor in Psychology. During his time at X, Benjamin was deeply involved in leadership positions on campus, serving as Vice President of Sponsorships for Pucks for Purpose, Director of Sponsorships for the Schwartz Business Society, and as a member of the StFX Students' Union Board of Directors.

**What year did you graduate from StFX as well as what program?**

Graduated in 2025 with BBA Advanced Major in Finance and Minor in Psychology

**What is your best memory from X?**

Best memory was seeing the Pucks for Purpose games come to life after months of organizing

**Favourite study spot at X?**

4th floor library

**What is your biggest tip for a student considering law school?**

Put yourself out there and build your resume, schools now take a holistic approach to applications with an emphasis being placed on involvement and volunteering

**Favourite part of your law school experience so far?**

The tight knit community

**Why did you choose your law school?**

I chose UNB for its close knit community and deep roots in the legal profession



@Benjamin Kozak

Calling all StFX alumni who have pursued the bar! Your X-Ring connection is strong, and we want to hear your legal expertise. Join our growing Pre-Law Alumni Network to share your invaluable insights into law school and your career. Help inspire and guide current students and recent grads who are considering or beginning their legal journey.

Lend your experience! Reach out to Brayden Abbott, Director of Communications: [x2023cei@stfx.ca](mailto:x2023cei@stfx.ca).



# THE GHOSTBUSTERS CASE: WHEN THE COURT DECLARED A HOUSE HAUNTED

By Christie MacNeill

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You know those horror movies where the new homeowners regret ever moving in? *Stambovsky v. Ackley* proves that sometimes, real life is just as scary as fiction, especially if your real estate deal comes with a side of spirits. This court case, commonly known as the Ghostbusters ruling, was a case in the New York Supreme Court, Appellate Division. It's a rare case in which a court officially declared a house haunted. The New York appellate court held that a house previously advertised as haunted by ghosts was legally haunted for purposes of a rescission action brought by a buyer, Jeffrey Stambovsky. Because of its unique holding that “as a matter of law, the house is haunted,” the case has become a staple in U.S. contracts and property law textbooks, is frequently taught in law schools, and has even been cited by other courts.

Jeffrey Stambovsky was an eager, unsuspecting homebuyer from New York City, looking for a picturesque house along the Hudson. Helen Ackley, the previous owner, had a flair for drama and a love for ghosts. Her house in Nyack, New York, had a long history of supernatural claims. The Ackleys' Victorian waterfront home, built in 1890, became famous locally for its alleged poltergeists. Helen claimed that her grandchildren received mysterious gifts from ghosts, that her daughter Cynthia's bed would shake each morning,

and that a Revolutionary War Navy lieutenant haunted the house. The family's paranormal adventures included phantom footsteps, doors slamming on their own, and even a ghostly couple—Sir George and Lady Margaret—hovering midair in the living room. Despite these eerie occurrences, the Ackleys maintained that living alongside the spirits was peaceful. Helen's son-in-law later joked that the ghosts were merely evaluating potential suitors for Cynthia.

Stambovsky signed a \$650,000 contract for the house and made a \$32,500 down payment. Shortly after, he learned about the haunting and requested an in-person meeting with Ackley. When she passionately recounted the ghost stories, Stambovsky panicked and sought to rescind the contract, claiming fraudulent misrepresentation.



*The Haunted Library, 2021*



# THE GHOSTBUSTERS CASE: WHEN THE COURT DECLARED A HOUSE HAUNTED

By Christie MacNeill

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The appellate court ruled that because Ackley had publicly advertised the house as haunted, she could not deny it, and the house was legally considered haunted for the purpose of rescinding the sale. This allowed Stambovsky to back out of the contract, which was an unusual exception to the typical “buyer beware” (caveat emptor) rule. The court said no reasonable inspection could have revealed the ghosts, and enforcing the contract would be unfair. The ruling was based on fairness rather than fraud, since Ackley was not required to disclose the haunting. In the opinion, the justices had fun with ghost references, mentioning Shakespeare, Ghostbusters, and phrases like “plaintiff hasn’t a ghost of a chance.”

The ruling made the house a local celebrity. Real estate agents were flooded with calls, and even famous buyers—including the mentalist Kreskin and musicians Ingrid Michaelson and Matisyahu—expressed interest. Ackley eventually moved to Florida, claiming she was taking the ghosts with her. Since then, no hauntings have been reported, though locals joke that the spirits might still be hanging around<sup>1</sup>.

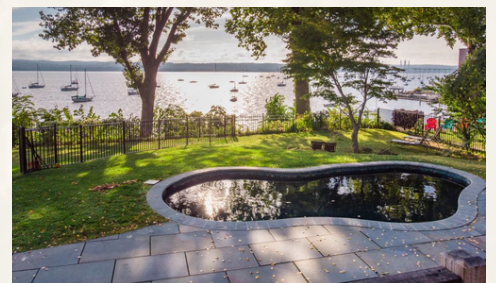
The house has since been extensively renovated and was sold in 2021 for \$1.795 million to an undisclosed owner<sup>1</sup>.



*The Haunted Library, 2021*



*The Haunted Library, 2021*



*The Haunted Library, 2021*



# MUST BE THE REASON OF THE WITCH: MENS REA, ACTUS REA, AND WITCHCRAFT

By Connor Sutherland

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## *Setting the Stage:*

*May 27th, 1692, Salem Town.* Seven judges look grimly upon the three accused, Sarah Osbourne, Sarah Good, and Tituba. The three look ragged. They had been held in their jail cells for weeks, receiving no visitors other than their jailer, who brought with him meagre portions of stale bread and bitter water. They stand without counsel. The magistrates listen stone-faced as the accuser of the three states their facts.

The niece of the local pastor, Abigail Williams, claims Tituba, her family's slave, had bewitched her. This, she claims, was evidenced by fits of shouting and mania.

Tituba is interviewed; she holds firm to her innocence for a long while, but soon enough hunger gnaws at her, and thirst dizzies her, and she admits to cavorting with Satan around a burning pyre not long before Abigail began to experience her fits. Yes, she danced with Satan, yes, she danced with sisters and brothers infernal, naked and leaping, shouting and hollering, speaking spells and curses upon Abigail.

The judges' sober faces remain unperturbed as they send the three witches away so that they might confer about this spiteful confession.

*Sarah Good, Sarah Osborne and Tituba are brought before the magistrate in Salem, MA in 1692*



*Reddit, 2022*

## *The Problem:*

Now, obviously, witchcraft has no real effect upon the recipient of a spell or hex. I'm not sure how many of you, my dear readers, used to play with stickpins and voodoo dolls, but whenever I used to, my least favourite teachers still showed up to class the next day to collect my homework. And, of course, I was never caught. But the question I want to answer here is: supposing I *were* caught, like Tituba and the two Sarahs, would what I had done be considered a full crime?



## MUST BE THE REASON OF THE WITCH: MENS REA, ACTUS REA, AND WITCHCRAFT

By full crime, I mean a crime containing both mens rea and actus reus. Mens rea is oftentimes vaguely defined as “guilty mind”, but William Wilson helpfully defines it as “including only the state of mind expressly or impliedly referred to in the offence definition as accompanying or prompting the conduct in question.”<sup>3</sup> Intention is one of these states of mind.<sup>4</sup>

In the above example, if we are to believe Tituba’s induced confession, we can see the intention to harm Abigail by the direction of hexes against her. I define *hex* in this instance as a spell which requires malicious intent to harm, as opposed to, for example, a divination or conjuration, which are not intended to harm. Wilson defines intention as that which gives an action “meaning.”<sup>5</sup> Wilson also notes that if an action is believed by the perpetrator to have failed, then that action had intention.<sup>6</sup> So we can see that if there is intent to commit a crime through the use of witchcraft, then *mens rea* is present.

But what about the other element of crime, *actus reus*? Could it be that it could also be present in the use of witchcraft to commit a crime, even though, as our modern age insists, witchcraft is not real and cannot do the things witches claim it can do?



Witch trial in Salem, Massachusetts, lithograph by George H. Walker, 1892.

Wilson defines *actus reus* as “those elements left over when the mental element (*mens rea*) is subtracted from



Illustration of Tituba by John W. Ehninger, 1902

the definition as a whole.”<sup>7</sup> In the case of murder, the actus reus would be the unlawful killing, and the mens rea would be the intention to kill. Therefore, no actus reus would be present, as witchcraft cannot actually do the things witches say it can do. I use empirically purposefully in this instance, because the forces supposedly behind witchcraft are invisible and immaterial. Therefore, there would be no clear causal connection between the incantation of a spell and any event which occurs afterwards, as it would be impossible to determine if what occurred afterwards happened due to a supernatural or a natural cause.

Because natural events occur much more often than supernatural events, the balance of probability dictates that the natural event occurred. Thus, a reasonable person could never see the action of uttering a spell as the actus reus of a crime. In my view, due to Tituba’s confession being an extraordinary claim, it would need to be substantiated by extraordinary evidence, so the reasonable person can comfortably disregard it as being the cause of an incident in the absence of such evidence.

However, just because a crime could not be completed does not mean that actus reus is entirely absent, as the accused still took action to attempt the offence. Section 24 (1) of the Criminal Code of Canada states that, “Everyone who, having an intent to commit an offence, does or omits to do anything for the purpose of carrying out the intention is guilty of an attempt to commit the offence whether or not it was possible under the circumstances to commit the offence.” So would Tituba’s confession, if her confession is taken as an accurate picture of the events leading up to Abigail’s fits, be an expression of an attempt to commit harm through witchcraft, even though witchcraft is impossible to do?



## MUST BE THE REASON OF THE WITCH: MENS REA, ACTUS REA, AND WITCHCRAFT

Technically, it would! Even though it would have been factually impossible to have committed the offence through witchcraft, the attempt was made under the assumption that it would have been possible. This is called a *factual impossibility*, and in many common law jurisdictions, it is not considered a valid defence against accusations of criminal wrongdoing.<sup>8</sup> The law makes clear that whether or not the completion of the offence is possible under the circumstances does not matter, and that they would be guilty of an *attempt* to commit a crime, if not the crime itself.

In fact, until 2018, witchcraft was its own separate offence in Canada,<sup>9</sup> but not for reasons you might think. As Riley Klaasen-Molyneaux describes it, the origin of this provision was due to the desire to limit the practice of “bad religion” and prevent fraud,<sup>10</sup> rather than stave off the forces of Satan. As early as 1893, when the *Criminal Code of Canada* was first established, the law dealt with witchcraft as a pretended thing, specifically regarding its use to fraudulently ascertain the location of lost goods or misplaced goods.<sup>11</sup> Besides, the court later took pains to distinguish fraudulent claims from fortune-telling carnival sideshows,<sup>12</sup> which demonstrates a shift from a strict liability understanding of the practice of witchcraft to an *intent*-based understanding.<sup>13</sup> However, whether or not intent to deceive could be inferred from the receipt of payment in exchange for telling a fortune was an issue that evolved and fluctuated over time, until finally the Supreme Court of Canada decided that, essentially, witchcraft was a strict-liability offence.<sup>14</sup> Eventually, the witchcraft provision was eliminated by then Minister of Justice Jody Wilson-Raybould due to its redundancy, as the fraudulent use of witchcraft as a means of swindling money was believed to be adequately covered by other “fraud provisions.”<sup>15</sup>

So, if Tituba and her compatriots were to have been tried in a Canadian court of law, under a plain reading of the law, they could have been convicted not because of the use of witchcraft itself, but for the attempt to commit another offence, such as murder or fraud, by means of witchcraft, and would be convicted of a crime.

### *Denouement:*

Sarah Osborne and Sarah Good taste their dry mouths as Tituba's heaving confession ceases and remains during the short period between their dismissal and resummoning. Their heads feel light as the gavel of the chief magistrate strikes a guilty verdict. The sweet taste of iron fills their mouths while they dance wildly, swinging two feet off the ground. Abigail William smiles and considers who else she might like to see, or might have seen, dancing the tenebrous dance of death.



*Two alleged witches being accused in the Salem witch trials, 1892. Howard Pyle*

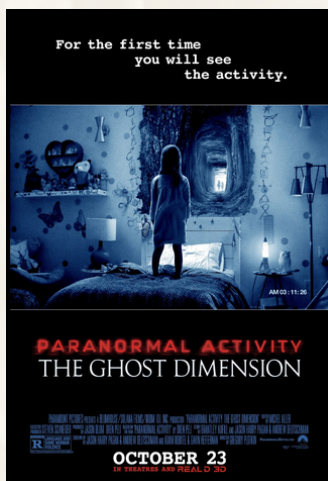


# BLOOD MONEY: THE BUSINESS OF FEAR IN THE HORROR INDUSTRY

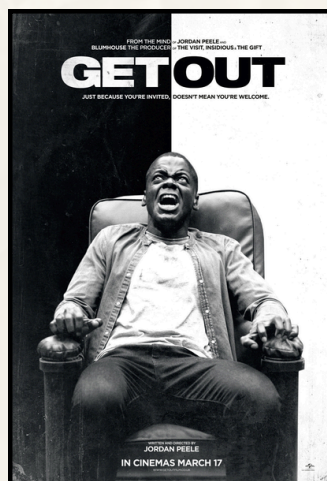
By William Ellis

Every October, people flock to their nearest theatres and become glued to their living room couches to get a taste of fear, the kind that sends chills down their spine but keeps them coming year after year. From slasher classics to psychological thrillers, the horror industry thrives on our fascination with all things Halloween. However, behind the monsters, masked killers, and haunted houses lies the complex world of business and law; proof that terror can be as profitable as it is entertaining.

The horror industry is one of the most profitable categories of entertainment. Films are known for grossing staggering amounts of money while maintaining extremely low production budgets. For example, the film ‘Paranormal Activity’ was made for \$15,000 and has grossed over \$190 million as of 2025,<sup>16</sup> and the more recent thriller, ‘Get Out’ was produced for \$4.5m and grossed more than \$250m in just the first 6 months after its release.<sup>17</sup> Streaming platforms such as Netflix and Prime Video have amplified this effect in recent years by buying exclusive rights to horror titles and launching seasonal content that attracts millions of viewers. With the addition of merchandising, costume sales, and other related business ventures, the “fear economy” has become a multibillion-dollar money-making machine.



Paranormal Activity, 2007, IMDb



Get Out, 2017, IMDb



Halloween, 1978, IMDb



Friday The 13th, 1980, IMDb

At the heart of all that business lies intellectual property law, the true “skeleton in the closet” of the horror world. In order to maintain control over popular franchises like *Halloween*, *The Conjuring*, and *Friday the 13th*, studios rely on copyright and trademark protection. This common practice became a major legal showdown in the *Friday the 13th* case when original screenwriter Victor Miller used U.S. copyright law to try to regain ownership of the script he wrote for the original 1980 film.



# BLOOD MONEY: THE BUSINESS OF FEAR IN THE HORROR INDUSTRY

By William Ellis

On the one hand, the studio argued that Miller was hired to write it, meaning the movie was a ‘work for hire,’ giving them ownership of all the rights. However, after years of legal battles, the court ruled in 2021 that Miller had created the script as an independent writer, not an employee, so he regained the rights to the story in America.<sup>18</sup> Cases like this highlight how intellectual property law determines who owns the monsters, and who profits from them.

The horror genre also profits largely from licensing and franchising. The characters we see every spooky season, like Michael Myers, Chucky, and Pennywise, are more than just fictional figures in our favourite slasher flicks; they’re valuable brands. Companies like Spirit Halloween and Party City build their empires on short-term leases and licensing agreements that allow them to legally sell and distribute any and all merchandise tied to famous films. These contracts grant major studios the ability to collect royalties while smaller, independent creators attempt to navigate a maze of restrictions to sell the same products.



*Michael Myers in Halloween (2018), IMDb*

For students interested in law, business, film, or Halloween in general, the horror industry offers a fascinating case study. It’s a world where copyright dominates our icons, contracts protect billion-dollar brands, and licensing becomes the true nightmare. Every scream has a clause, and every monster has a trademark.

## We Are Taking You to Court!

The StFX Pre-Law Society is organizing an exclusive opportunity to attend a real-life Supreme Court case at the Antigonish Courthouse!

Join us on November 5th or 6th and get the chance to see the legal system in action, right here in town!

Limited Spots Available! Reserve your seat on Bounce!

Don't miss out on this incredible learning experience, secure your spot today!



*Sign up to join the StFX  
Pre-Law Bounce  
community!*



# STFX PRE-LAW SOCIETY MEMBER SUBMISSION

## ON THE DEATH OF CHARLIE KIRK AND THE CANADIAN CRIMINAL CODE

By Madison Oakey

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The shooting of conservative activist and Turning Point USA founder Charlie Kirk at Utah Valley University drew widespread attention across Canada and the United States. Known for sparking political and legal debates across college campuses, Kirk's death highlights the concern over political violence and the need for proportionate, just punishments for severe crimes.

In both Canada and the United States, the accused remains innocent until proven guilty. The accused has yet to see trial and, as of right now, has not entered a plea.<sup>19</sup> I am not arguing in favour of or attempting to prove guilt. This article's purpose is purely academic: to apply Canadian legal principles to an important political event and to demonstrate how the Criminal Code conceptualizes and penalizes acts of violence. While the United States and Canadian Criminal Codes differ in statutes, such comparative analysis offers valuable insights to aspiring legal students and scholars alike.

The accused, 22-year-old Tyler Robinson, faces seven charges in connection with the fatal shooting of Kirk.<sup>20</sup> Between these seven charges, the prosecution is seeking the death penalty against Robinson.<sup>21</sup> However, Canada does not have the death penalty (i.e., capital punishment). This is for several reasons, one being that capital punishment violates section twelve of the Charter, which states that everyone has the right not to be subject to cruel or unusual treatment/ punishment.<sup>22</sup> Through a Canadian perspective, this article will examine the two most serious charges facing Robinson: first-degree murder and felony discharge of a firearm.

The first and most serious charge against Robinson is aggravated murder.<sup>23</sup> Under Canada's Criminal Code, a person commits homicide when they directly or indirectly, by any means, cause the death of a human.<sup>24</sup> These means can range from an unlawful act to criminal negligence.<sup>25</sup> Culpable homicide charges are categorized into murder and manslaughter.<sup>26</sup>

Robinson allegedly shot Kirk on the university campus by firing the shot from the top of a nearby building. After being transported to the hospital, Kirk died from the injuries sustained from the gunfire.<sup>27</sup> Robinson's alleged actions directly caused Kirk's death, and the legal requirements for a murder charge appear to be satisfied.

The Criminal Code divides murder into first and second degrees. The former is when the offence was planned and deliberated by the accused, while any other circumstance constitutes second-degree murder.<sup>28</sup> Prosecution has evidence against Robinson, including text messages, stating he planned the attack on Kirk.<sup>29</sup> The prosecution has a note, written by the accused, stating he had an opportunity to kill Kirk and intended to take it.<sup>30</sup> Therefore, Robinson meets the criteria to be charged with murder in the first degree.

However, for crimes of this nature, the *actus reus* and *mens rea* are considered part of the crime and are used to establish guilt; that is, for true criminal offences (i.e., murder), the *mens rea* is a necessary element for the prosecution to prove.<sup>31</sup> Evidence presented by the prosecution satisfies both the *actus reus* (the act) and the *mens rea* (the intent).



# STFX PRE-LAW SOCIETY MEMBER SUBMISSION

## ON THE DEATH OF CHARLIE KIRK AND THE CANADIAN CRIMINAL CODE

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Thus, if convicted in Canada, murder in the first degree is an indictable offence that has a sentence of imprisonment for life.<sup>32</sup> Parole eligibility for murder in the first degree occurs only after twenty-five years have been served.<sup>33</sup>

Robinson is also charged with felony discharge of a firearm.<sup>34</sup> In Canada, the Criminal Code categorizes firearm offences into use, possession, trafficking and assembling offences, with use and possession being most relevant in the present case. Canada maintains far stricter firearm regulations than the United States. Therefore, Robinson's firearm conduct would constitute multiple indictable offences under Canadian Criminal law.

Using a firearm in the commission of an offence is a distinct indictable offence, separate from the offence in which the firearm was used.<sup>35</sup> Therefore, the use of a firearm to shoot Kirk is an offence, separate from the first-degree murder charges. For the commission of an offence involving a firearm, the punishment is imprisonment for no more than 14 years.<sup>36</sup> Likewise, the Criminal Code specifies that careless use of a firearm (including use, carrying and handling), the pointing of a firearm (loaded or unloaded) at another person, and the possession of a weapon (including a firearm) for dangerous purposes are also indictable offences carrying sentences ranging from 5-10 years.<sup>37</sup> Multiple firearm offences must be served consecutively, not concurrently. This means that if convicted of both murder in the first degree and any of the above firearm offences, Robinson could face a sentence exceeding 27 years.

The principle of proportionality, central to retributive theories of punishment, holds that the severity of the punishment must fit the severity of the offence. Immanuel Kant, a noted retributivist, argues that "justice ceases to be justice the moment it can be bought for any price whatsoever."<sup>38</sup> I agree insofar as mercy or leniency undermines the law's authority and amounts to injustice. Offenders must not benefit—whether through reduced sentences or negotiated leniency—from acts that violate the fundamental legal order of the state. In the end, the injustice is against the law-abiding citizens.

Failure to impose a proper, proportionate punishment in this case would represent injustice at its core—both for the Kirk family and for society as a whole. Retributive justice demands accountability for the offence itself and for the harm resulting from it.

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Madison Oakey is a 4th year Honours Political Science student at StFX. Originally from Timberlea, Nova Scotia, she has been part of the Pre-Law Society since her first year at X. In some shape or form, she hopes to work in the legal field to help fellow Canadians.



# Notes

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# Notes

36. "A Look at the Charges against the Man Accused of Fatally Shooting Charlie Kirk." AP News, September 17, 2025. 3.
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