

**Note: There is no such thing as a “perfect brief,” but there is a process to follow (IRAC). Different wording may be used to establish the same arguments. Here is one example:**

**Louise v. KMART**

**I:** Did false imprisonment take place when Louise was stopped, ordered to return to the register, and told she had to wait?

**R:** False imprisonment is intentional confinement of another, causing injury.

**A:** **Notice that each sentence refers to an element of law and facts that logically lead to a conclusion.**

**Louise:** The security officer intended to confine Louise because he believed she was attempting to take a toy without paying for it. His desire was to stop a shoplifter. She was confined to the store for 30 minutes and then “allowed to leave.” She had no reasonable escape because if she attempted to do so, physical force may have been used to detain her and/or she would have appeared to be a shoplifter. An emotional injury is assumed.

**KMART argues** that Louise was not confined because the security officer did not threaten to physically restrain her. She could have left store.

**C:** False imprisonment took place. Leaving the store was a not reasonable alternative.

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**I: Did KMART have the right to confine Louise using the merchant privilege?**

**R:** If a merchant has probable cause to believe that a customer is attempting to unlawfully take property, the merchant may detain the customer for a reasonable time to investigate in a reasonable manner.

**A:** **KMART** had probable cause to believe that Louise was attempting to unlawfully take a toy because of her actions: (1) she examined several items in the infant aisle where she could have placed the toy in the seat, (2) she entered the restroom, where she could have removed a price tag or packaging and added crumbs or stains on the toy, (3) she bypassed the cash registers to avoid payment, and (4) she could not produce a receipt establishing ownership of the toy. While each action alone would not create suspicion, the combination of events does create reasonable suspicion.

Thirty minutes was a reasonable time to conduct a reasonable investigation because, (1) checking the aisle where the item was located and the bathroom may have revealed evidence of theft (i.e., a tag), (2) checking the inventory was necessary to compare the number of toys still on display and the number sold, (3) reviewing the video was necessary to determine whether the toy was in the baby seat when Louise entered the store or whether she handled the toy when she was in the aisle. After the investigation did not reveal that Louise was not attempting to steal the toy, she was allowed to leave.

**Louise argues** that there was no probable cause because (1) the toy had crumbs and stains on it; (2) customers often purchase items, discard receipts, and return to the same store with the same products; and (3) customers also leave when their children are crying. None of these actions raise reasonable suspicion of attempted theft.

**Louise also argues** that the detention was unreasonable because checking the inventory and the aisle would not help establish that she had taken the toy. The toy may have been lost in the store, or other customers may have moved the toy, or customers may be in the process of purchasing the toy.

**C:** It is your choice – which argument is better and why? You decide.