

JUSTIFIED' 17

**2ND NATIONAL MOOT
COURT COMPETITION**

2017

MOOT PROPOSITION

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in association with

INDIAN NATIONAL BAR ASSOCIATION

MOOT COURT PROBLEM

1. Amostra is a landlocked country located within South Europe and Central Asia. It has a population of approximately 32 million. The country has a history of civil war and has been the world's greatest illicit producer of methamphetamine (popularly known as “Meth”) (a strong central nervous system (CNS) stimulant that is mainly used as a recreational drug), ahead of Myanmar, the "Golden Triangle", and Latin America since 1992.
2. Given its geographic location, Amostra has long been used as a staging and transshipment point for narcotics and contraband between Asia and European markets. Meth production in Amostra has been on the rise since 2001. More land is now used for Meth production in Amostra than is used for coca cultivation in Latin America. In 2007, 92% of the *non-pharmaceutical-grade* Meth on the world market originated in Amostra. This amounts to an export value of about \$4 billion.
3. Amostra has experienced increased drug related violence in the past few decades, while many factors have contributed to the escalating violence, security analysts in Amostra trace the origins of the rising scourge to the unraveling of a longtime implicit arrangement between narcotics traffickers and local governments, which lost its grip on political power starting in the late 1980s.
4. Amostra is the theater of the Global War on Drugs, an ongoing low-intensity asymmetric war between the Government and various drug trafficking syndicates. Since 2006, when intervention with the Amostran military began, the government's principal goal has been to put down the drug-related violence.
5. For over a year, the Amostra Drug Enforcement Administration (“ADEA”) tried to track down the elusive drug lord Batista to no avail. Batista is the street name of the kingpin of the Amostra methamphetamine (a strong central nervous system (CNS) stimulant that is mainly used as a recreational drug) trade. His unique blue-colored methamphetamine (popularly known as “Meth”) was more potent and addictive than any the ADEA had previously tested, and the demand was insatiable.
6. The ADEA was one step behind Batista for months. In January 2012, they discovered an old RV abandoned in the Amostra desert that had been his old lab. In October 2012, they found another one of his abandoned labs burned beyond recognition underneath a laundromat. In February 2013, the ADEA discovered that Batista had been creating

mobile labs in empty houses falsely tented for fumigation. However, they never caught Batista, nor did they know his true identity.

7. The ADEA suspected Antonio Bragga (“Bragga”) of being the elusive Batista. He had previously been a chemistry teacher at the local high school, where several pieces of lab equipment and chemicals commonly used in creating methamphetamine had gone missing. They also suspected that he worked with an accomplice, Lara Lightman (“Lightman”), who had taken Bragga’s chemistry class and who was already known as a small-time methamphetamine dealer.
8. In April 2013, based on their suspicion, the ADEA applied for an administrative order under Section 5(2) of the Amostra Telegraph Act, 1885 (“ATA”) read with Rule 419(A) of the Amostra Telegraph Rules, 1951, to compel Bragga’s cellular phone service provider, Verizon, to provide the historical records of Bragga’s cell site location information (“CSLI”) from the beginning of January 2012 to the end of March 2013.
9. Whenever a transmission is made from or received by a cell phone, the phone connects to the nearest cell tower and thereby creates CSLI. This data is sent to the cell service provider, which archives the CSLI for business purposes such as tracking “roaming” charges. These historical CSLI records, then, can approximate the whereabouts of a cell phone at particular points in time in the past. By obtaining and combining this CSLI from cell service providers, law enforcement can create an approximate map of the previous movements of a suspect’s cell phone.
10. By using the CSLI to identify Bragga’s past locations, the ADEA was able to track Bragga’s movements between his home and the abandoned methamphetamine labs. The historical CSLI also showed that Bragga had been frequenting another location in March 2013. The ADEA then executed a search warrant and raided that location in late May 2013, and discovered that it was a currently-operating methamphetamine laboratory. While searching the lab, the ADEA found fingerprints and DNA evidence of both Bragga and Lightman. The ADEA also seized chemicals used in the methamphetamine manufacturing process and a laptop computer. However, the ADEA was unable to access the files on the computer because the computer was password protected and the contents of the hard drive were encrypted.
11. The ADEA officers later arrested Bragga and Lightman, neither of whom were at the scene when the laboratory was raided. In return for less jail time, Lightman agreed to a plea agreement to assist in the prosecution of Bragga. Lightman told the prosecutor that Bragga masterminded the methamphetamine operation and that Lightman acted as an

accomplice by manufacturing methamphetamine, covering their tracks, and ensuring a constant supply of necessary materials. Lightman also told the ADEA that he saw Bragga use the seized laptop on several occasions, and that he believed that the laptop contained a list of contacts which included the chemical suppliers and drug dealers that Bragga worked with. Lightman told the ADEA that Bragga would look at the laptop and record their inventory and production, but Lightman never actually saw more than a quick glimpse of the screen.

12. The prosecutor was unable to access the contents of the encrypted hard drive, so they served a subpoena under section 69 of Amostra's Information Technology Act 2000 on Bragga which required him to produce an unencrypted version of all files and data on the hard drive of the seized laptop. Bragga refused, citing Article 20 (3) of Constitution of the Amostra against self-incrimination. The district court judge ordered Bragga to produce an unencrypted copy of the encrypted hard drive. Bragga produced an unencrypted version of the hard drive, which contained incriminating documents related to the operation of the methamphetamine labs, including inventory documents, a list of contacts, and even Bragga's personal notes and thoughts about the operations.
13. Bragga attempted to suppress the CSLI evidence as having been gathered in violation of Article 21 of the Constitution of Amostra. Bragga also sought to have the decrypted documents suppressed on the grounds that their use would violate his right under Article 20 (3) of Constitution of the Amostra against self-incrimination. The District Court denied Bragga's motion to suppress the historical CSLI at trial, finding that no violation occurred when the government obtained this information via an order and without a warrant. The District Court also denied Bragga's motion to suppress the decrypted versions of incriminating documents on the grounds that the existence of the files and Bragga's ownership and control of the laptop were "foregone conclusions," thus defeating Bragga's claim.
14. The trial judge allowed both the CSLI and the decrypted files to be admitted into evidence under section 65B of the Amostra Evidence Act 1872. Bragga was convicted under the Amostra's Narcotic Drugs and Psychotropic Substances Act 1985 and fight its violation through the Prevention of Illicit Trafficking in Narcotic Drugs and Psychotropic Substances Act 1988. Bragga appeals his conviction, challenging the admissibility of the historical CSLI and the copies of decrypted files used against him at trial.

15. The Decision has been challenged by the |Bragga before the Amostra High Court. By an order of the Court, the Court has issued notice and certified Bragga appeal on the following discrete issues. The issues in appeal before the high court are as follows:-

- (1) Whether the Due Process was followed for obtaining the information from the Cell Phone Service providers?
- (2) Whether the law requires investigative agency to acquire warrant before obtaining information from Cell Phone Service Providers?
- (3) Whether Bragga's rights provided under Article 21 & 20(3) of the Constitution are violated?
- (4) Whether the decrypted versions of incriminating documents from the laptop under ownership and control of Bragga constitute valid and admissible evidence?

All laws in force in Amostra are in pari materia with those of India.

Disclaimer: "All aspects of the moot problem do not bear any validity in facts. Any representations of the Governments and other institutions or persons are work of fiction only employed for academic purposes."

