

Class 4: Child Pornography and Exploitation

Administrative

Next Time

THURSDAY not Monday

212-31;247-67;295-314

News

Bush Family email hacked

Microsoft takes down botnet

With a warrant?

Last Time

Property Crimes

Aleynikov / National Stolen Property Act

NSPA requires tangibility. No crime to transfer only intangible property

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Last Time Identity Theft / Access Device Theft

Barrington

Proving means of identification prong

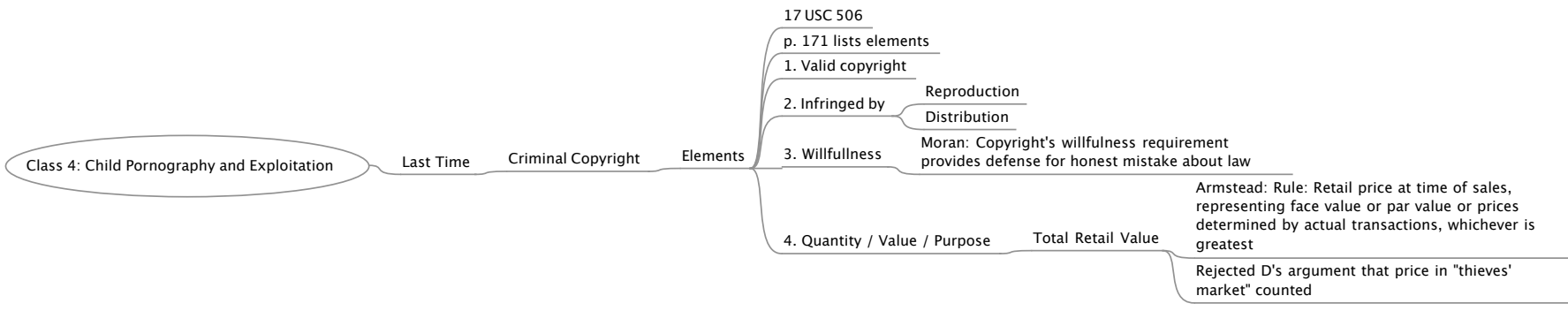
overriding requirement: sufficient to identify a specific individual

Mostly just to show application of law (if a little atypical)

Note 2: Flores-Figueroa

Held: must prove knowledge that number belonged to another person

Conviction reversed because proved D knew it wasn't his own, but did not know it had been assigned to someone else



17 USC 506

p. 171 lists elements

1. Valid copyright

2. Infringed by

Reproduction

Distribution

3. Willfulness

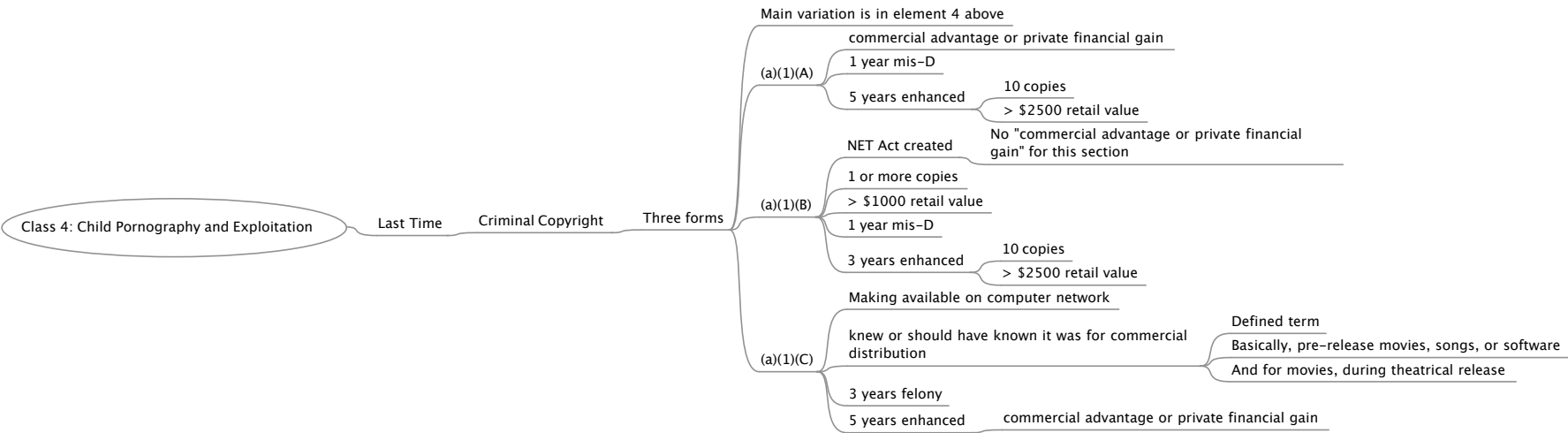
Moran: Copyright's willfulness requirement provides defense for honest mistake about law

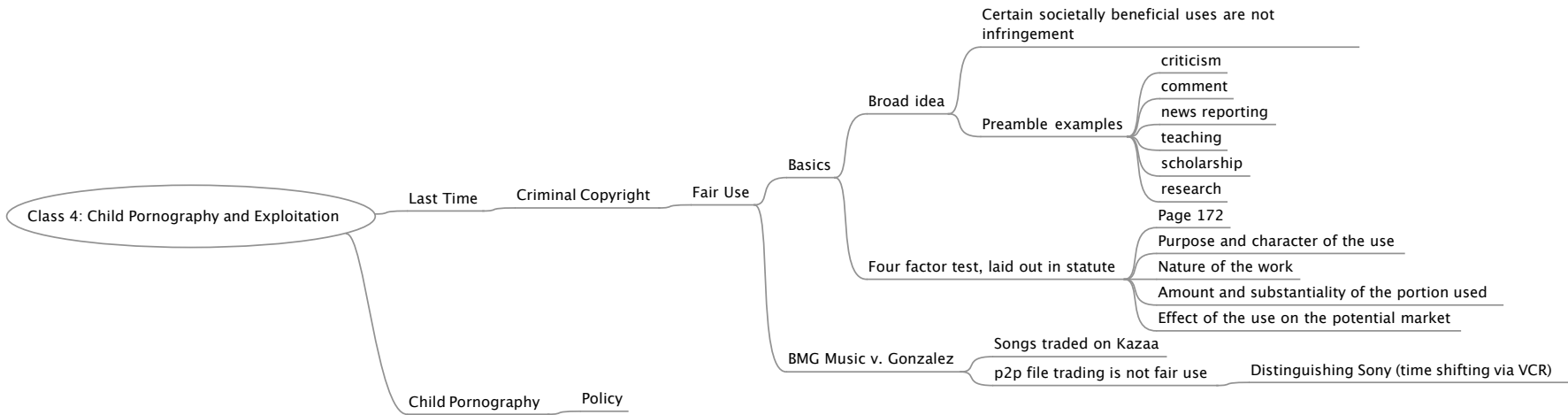
4. Quantity / Value / Purpose

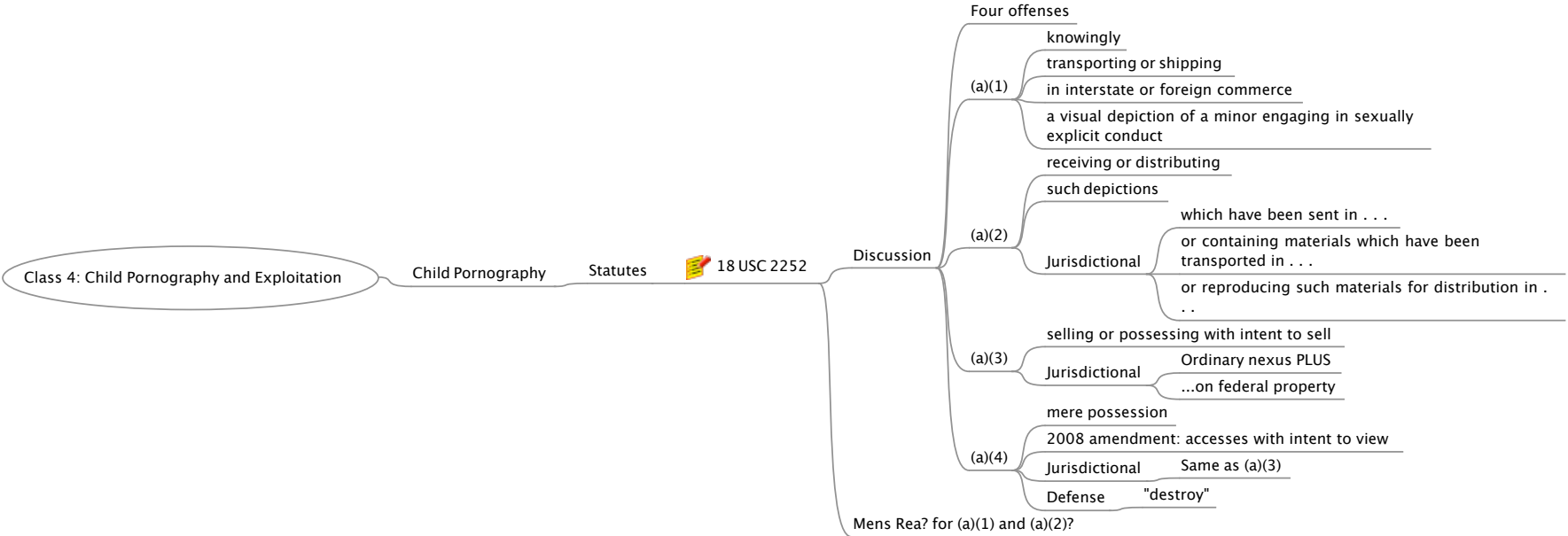
Total Retail Value

Armstead: Rule: Retail price at time of sales, representing face value or par value or prices determined by actual transactions, whichever is greatest

Rejected D's argument that price in "thieves' market" counted







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Child Pornography

Statutes

18 USC 2252

Discussion

Four offenses

(a)(1) knowingly transporting or shipping in interstate or foreign commerce

a visual depiction of a minor engaging in sexually explicit conduct

receiving or distributing

such depictions

(a)(2) Jurisdictional which have been sent in . . . or containing materials which have been transported in . . .

or reproducing such materials for distribution in . . .

(a)(3) selling or possessing with intent to sell

(a)(3) Jurisdictional Ordinary nexus PLUS ...on federal property

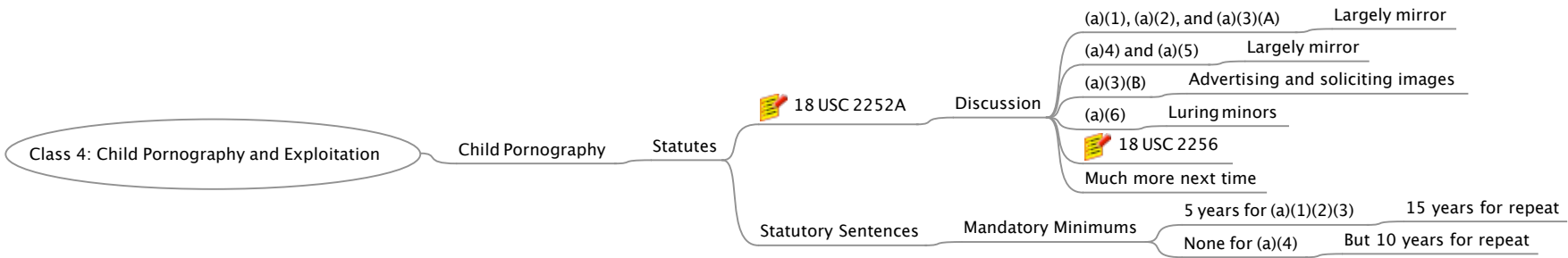
mere possession

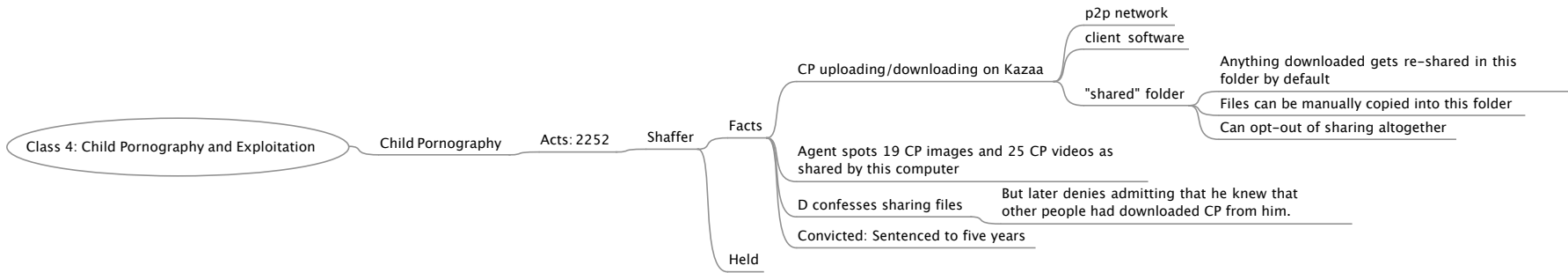
(a)(4) 2008 amendment: accesses with intent to view

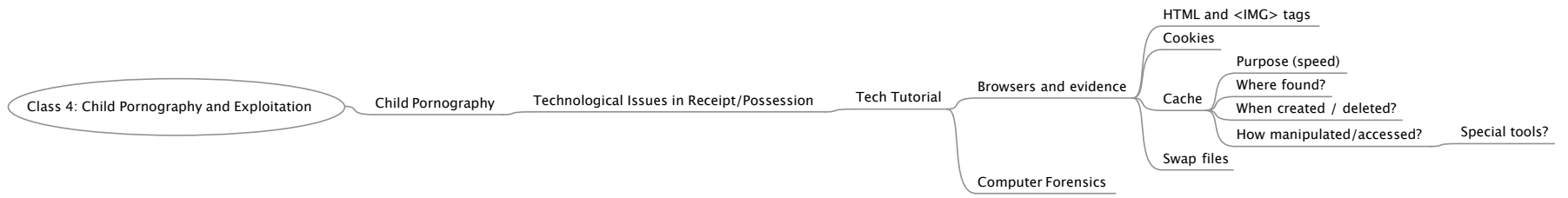
(a)(4) Jurisdictional Same as (a)(3)

(a)(4) Defense "destroy"

Mens Rea? for (a)(1) and (a)(2)?







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Child Pornography

Technological Issues in Receipt/Possession

Cases

- Easiest case
 - Not only in cache
 - Lots of directories with file folders with names
- Barton
 - 156 thumbnail images in cache only
- Note 3: Simone
 - Searched for
 - lolitas
 - pre-teens
 - pedophilia
 - Three images found in cache
 - Confession
- Note 4: Romm
 - Searched for images
 - Clicked thumbnails to enlarge
 - "save" for about five minutes then "deleted" them
 - Found in cache
 - Expert
 - During time of display, could print, enlarge, copy, email
- Note 6: Jensen
 - Actively searched for CP over extended period of time
- Note 7: Watzman
 - Accidentally clicked thumbnail

