

1.4 Module 4 Criminal Law

1.4.1 Headline information about the module

Module title	Criminal Law
Module NFQ level (only if an NFQ level can be demonstrated)	N/A
Module number/reference	Module 4
Parent programme(s) the plural arises if there are embedded programmes to be validated.	LLB (Hons)
Stage of parent programme	1
Semester (semester1/semester2 if applicable)	Semester 1 and 2
Module credit units (FET/HET/ECTS)	ECTS
Module credit number of units	15
List the teaching and learning modes	Full Time, Part Time
Entry requirements (statement of knowledge, skill and competence)	Learners to have programme entry requirements
Pre-requisite module titles	None
Co-requisite module titles	None
Is this a capstone module? (Yes or No)	No
Specification of the qualifications (academic, pedagogical and professional/occupational) and experience required of staff (staff includes workplace personnel who are responsible for learners such as apprentices, trainees and learners in clinical placements)	Lecturers expected to hold at least a level 8 legal qualification, preferably with a professional legal qualification. It is an advantage to have completed the Certificate in Training and Education provided by Griffith College
Maximum number of learners per centre (or instance of the module)	60
Duration of the module	Two Semesters, 24 weeks
Average (over the duration of the module) of the contact hours per week (see * below)	4
Module-specific physical resources and support required per centre (or instance of the module)	Lecture room with internet access and digital projector.

Analysis of required learning effort										
Effort while in contact with staff										
Classroom and demonstrations		Mentoring and small-group tutoring		Other (specify)		Directed e-learning (hours)	Independent learning (hours)	Other hours (specify)	Work-based learning hours of learning effort	Total effort (hours)
Hours	Minimum ratio teacher/learner	Hours	Minimum ratio teacher/learner	Hours	Minimum ratio teacher/learner					
72	1:60	24	1:20				279			375
Allocation of marks (within the module)										
				Continuous assessment	Supervised project	Proctored practical examination	Proctored written examination	Total		
Percentage contribution				50			50	100%		

1.4.2 Module aims and objectives

This module allows learners to understand the key distinctions between civil and criminal law and is an essential foundational module of the programme. Key philosophical and theoretical concepts in Criminal Law are introduced to the learners and examined, including due process and complicity. The Module also aims to provide learners with an understanding of the nature and elements of a crime both in strict legal terms and its wider social context.

Learners are also provided with an understanding of each step of the criminal process and procedure, from the jurisdiction of the courts through to arrest, bail, detention and modes of trial. The Module also familiarizes learners with a number of specific offences, most especially offences against the person and offences against property. This module provides learners with knowledge and understanding of the defences to criminal charges as well a knowledge and understanding of reform proposals in criminal law. Finally, learners are enabled to apply their learning to practical factual scenarios.

1.4.3 Minimum intended module learning outcomes

On successful completion of this module, learners will be able to:

- (i) Analyse and discuss the definition of a crime
- (ii) Distinguish and communicate the various elements of criminal practice, procedure and criminal liability, including accessorial liability
- (iii) Discuss core groups of offences namely homicide offences, sexual offences, assault based offences, offences against property and inchoate offences and defences
- (iv) Evaluate the defences available to a criminal offence
- (v) Research legal problems using both hard copy sources and online legal databases.
- (vi) Apply criminal law principles to practical, abstract factual situations arising in a legal context
- (vii) Engage in legal reasoning and analysis demonstrating knowledge of the principles of criminal law

1.4.4 Rationale for inclusion of the module in the programme and its contribution to the overall MIPLOs

Criminal Law is a core module where learners become familiar with the principles, legislation and case law relating to the area of criminal law within the Irish legal system. It is also one of the areas of law that is examined by the Law Society of Ireland to embark upon training as a solicitor in Ireland. It is essential that learners understand the key ingredients of Criminal Law, including the trial and sentencing process. Through this Module, learners also appreciate, at an early stage in their learning, the exacting standards of precision and evidential probity required within law, as a whole, and, specifically, in the criminal justice system. This module serves to directly underpin all programme learning outcomes.

1.4.5 Information provided to learners about the module

Learners will receive the following resources and materials in advance of commencement including:

- Learner Handbook;
- Module descriptor;
- Module learning outcomes;
- Assessment strategy;
- Reading materials;
- Class Notes (on a weekly basis).

Additionally, this material will be made available through Moodle, the College Virtual Learning Environment, along with other relevant resources and activities.

1.4.6 Module content, organisation and structure

The Criminal Law module is a 15 ECTS credit module taught and assessed over two academic semesters. The module is delivered over 24 lecture sessions of two hours' duration and 12 hours' duration and 12 tutorial sessions

The Learning Outcomes for this module have been aligned with the knowledge, skills and competencies indicated as appropriate for Level 6 on the NFQ. They have been articulated using the Quality and Qualifications Ireland (QQI) Awards Standards for Honours Bachelor of Laws and Master of Laws (July 2014) and for Generic Higher Education and Training (July 2014).

- Introduction to Criminal Law:
 - The sources of Criminal Law
 - Trial 'in due course of law'
 - Classification of crimes
 - Sentencing
- Criminal Practice and Procedure:
 - The criminal jurisdiction of the Courts
 - Arrest and Detention
 - Bail
 - Modes of trial
- The Elements of a Crime:
 - *Actus reus*
 - *Mens rea*
- Complicity
 - Doctrine of Innocent Agency
 - Doctrine of Common Design
 - Accessorial Criminal Liability
- Offences Against the Person – Homicide:
 - Murder
 - Manslaughter
 - Infanticide
- Sexual Offences:
 - Rape
 - Sexual assault
 - Sexual offences against children
 - Incest
- Assault-based Offences:
 - Assault
 - Assault causing harm
 - Assault causing serious harm
 - Syringe attacks
- Inchoate Offences:
 - Attempts
 - Conspiracy
 - Incitement
- Offences against property:
 - Theft
 - Deception offences
 - Making off without payment
 - Burglary

- Aggravated burglary
- Robbery
- Handling and possessing stolen property
- Criminal Damage
- Defences:
 - Lawful Use of Force
 - Provocation
 - Intoxication
 - Insanity
 - Automatism
 - Duress
 - Necessity
 - Infancy
 - Mistake
 - Consent
 - Unconstitutionality

1.4.7 Module teaching and learning (including formative assessment) strategy

The module is delivered using participative lectures, which consist of tutorial-style discussions, group work sessions and exercises. Formative assessment is provided through tutorial-style discussions, group work and exercises. These focus on specific case law and problem-based learning requiring learners to analyse the law and apply it to practical tort law disputes or issues. The lectures are supplemented by structured on-line resources and directed reading. Formative assessment is also provided in the form of interactive exercises such as directed class discussion topics that reference experiences on court visits or current affairs pertaining to Criminal Law at the time of instruction. Learners are also enabled to develop their oral communication and presentation skills.

Learners also engage in collaborative work in pairs or small groups to brainstorm what learning has been achieved at the end of lectures. In order to support learners through the examination process, they engage in the answering of sample examination questions and correction of their own or peer's papers, thereby familiarising themselves with the marking criteria. Learners also engage in activities where they draft their own exam questions in order to recap and consolidate a particular topic.

Learners undertaking the course via blended learning benefit from varied and additional options for engagement to compensate their reduced attendance of campus. These include webinars, screencasts (recorded lectures), discussion fora, and increased use of the College's VLE (Virtual Learning Environment), Moodle.

In addition to what has been stated, classroom assessment and benchmarking techniques are deployed to encourage learners to develop more agency in terms of their own learning including in-class presentations, group work, peer-review exercises and reflective practice. The variety of teaching, learning and assessment techniques reflect an enhanced emphasis on skills acquisition to deepen practical knowledge. Finally, the attention of learners is drawn

to current industry practice and technology used in the specific area of law to add a further dimension to learning, tracking the actual practice of legal professionals.

1.4.8 Work-based learning and practice-placement

There is no work based learning or practical placement involved in this module.

1.4.9 E-learning

Moodle, the College virtual learning environment, is an essential tool permitting learners to engage with the lecturer and other module supports including class notes, research material, the learner forum and online resources such as legal databases. Moodle can be accessed in the learners' homes. The learners are also given access to Lynda.com as a resource for reference.

1.4.10 Module physical resource requirements

Requirements are for a fully equipped classroom. The classroom is equipped with a PC and Microsoft Office; no other software is required for this module.

The College library has a dedicated Criminal Law section and online legal research tools (Justice One, Westlaw, Hein Online).

1.4.11 Reading lists and other information resources

Campbell, L., Kilcommins, S. and O'Sullivan, C., Criminal Law in Ireland, Cases and Commentary (1st Edition, Clarus Press 2010)

Hanly, C., An Introduction to Irish Criminal Law (3rd Edition, Gill 2015)

Hughes, C. and Hughes, S., Criminal Procedure in the District Court: Law and Practice (1st Edition, Clarus Press 2015)

*Ormerod and Laird, Smith & Hogan's Criminal Law (14th edition, Oxford 2015) * *Updated edition.*

Charleton, Bolger and McDermott, Criminal Law (Butterworths 1999)

Secondary Reading:

Ashworth & Horder (2013) Principles of Criminal Law. Oxford: Oxford University Press

Conway, V., Daly, D. & Schweppe, J. (2010) Irish Criminal Justice: Theory, Process and Procedure. Dublin: Clarus Press

Herring, J. (2013) Criminal Law: Text, Cases, and Materials. Oxford: OUP

McAuley and McCutcheon (2000) Criminal Liability: a grammar . Dublin: Butterworths

McIntyre, McMullen, Toghda (2012) Criminal Law. Dublin: Round Hall

O'Malley, T. (2013) Sexual Offences. Dublin: Round Hall

O'Sullivan, L. (2011) Criminal Legislation in Ireland. Dublin: Bloomsbury

Walsh (2002) Criminal Procedure. Dublin: Thomson Round Hall

Ormerod (2009) Smith & Hogan's Criminal Law, Cases and Materials. Oxford: Oxford University Press

Law Reform Commission Reports relevant to areas considered, these will be identified to learners as they arise during the course.

Articles from online journals relevant to areas considered, these will be identified to learners as they arise during the course.

1.4.12 Specifications for module staffing requirements

Lecturers are expected to hold at least a level 8 legal qualification, preferably with a professional legal qualification. It is an advantage to have completed the Certificate in Training and Education provided by Griffith College

Learners also benefit from the support of the Programme Director, Programme Administrator, Lecturers, Learner Representative, Students' Union and Counselling Service.

1.4.13 Module summative assessment strategy

Theoretical knowledge is assessed by both continuous assessment (50%) and a summative end of year examination (50%). The continuous assessment shall consist of a written assignment (50%) and an oral presentation (15%). The written assignment comprises a written submission based on a factual scenario. This submission later comprises the basis of the oral presentation upon which the learners are summatively assessed.

The examination will consist of both essay and problem style questions. Essay style questions will place emphasis on the demonstration of understanding pertaining to Criminal Law. Problem Style questions will enable learners to apply the principles of Criminal Law to a factual scenario.

The assessed work breakdown can be seen in the table below.

No.	Description	MIMLOs	Weighting
1	Exam	i, ii, iii, iv, vi, vii	50%
2	Written Submission	i,ii,iii,iv,v,vi,vii	35%
3	Oral Presentation	i,ii,iii,iv,v,vi,vii	15%

1.4.14 Sample assessment materials

Sample Criminal Law Assignment:

Written Submission and Presentation:

Guidelines:

With reference to the scenario set out below learners should prepare a written legal submission and an oral submission in relation to the case.

You will be arguing on behalf of either the Director of Public Prosecutions or Omar Little.

All advocates have an ultimate duty to the Court so your submission should deal with case law which supports an argument you wish to make, and those which you do not. You are free, of course, to argue that a particular case is more applicable to your side of the scenario than the other side, however, take care not to mislead by omitting case law which does not support your position.

While in general legal submissions rely predominantly on case law, for the purposes of this exercise you may, if you think the law is uncertain or in need of reform, introduce limited academic commentary from text books or learned academic articles to support your position. Primarily, however, you should use case law from Ireland. Where relevant, use influential case-law from other common law jurisdictions, taking care to note that case law from other jurisdictions will only ever be persuasive, whereas Irish case law is binding. In relation to the written submission, there is an allocation of 70% of the 50% of the marks being 35% of the overall mark for the year)

In relation to the oral submission there is an allocation of 30% of the 50% being 15% of the total marks for the year. (7.5% of the 15% is for Communication Skills, 3% is for observance of Court Procedure, and 4.5% for the strength of your argument)

In relation to structure please note the following;

- Approach the written submission in the form of a problem question.
- Thus, you should first state the issues, and then the relevant law, apply the law to the relevant facts, and reach a conclusion.
- This exercise should be undertaken with a view to supporting the argument you wish to make on behalf of the party you are representing.

In relation to formatting please note the following:

- The submission should be no longer than 2000 words, excluding footnotes.
- It should be typed in Times New Roman font, size 12.
- The margins of text should be justified.
- Line spacing should be 1.5 throughout.
- Use headings throughout the text.
- Insert page numbers in the bottom right corner of the page.

All external material must be referenced using the OSCOLA referencing system, a guide to same is contained on the LLB Info Moodle page.

You are reminded of the rules relating to academic misconduct – all material which is not your own must be referenced. This includes direct quotations, and your own interpretation of material read elsewhere. Note: external material will be identified by Turnitin when you submit your piece. Take care not to copy large sections of text from external sources, as even if referenced, you will lose marks for lack of originality. Most of the time, you should be putting what you read into your own words and referencing the material.

The written submission:

- should include a cover sheet, available on Moodle.
- should be submitted through the Turnitin link on Moodle ahead of the submission date and time

In relation to the oral submission (30% of 50% being 15% of the overall mark for the year):
The oral submission is an opportunity for you to show that you understand the written submission you have made

- You will make your submission as per the schedule posted on Moodle.
- Your submission is 5 minutes long and should show the examiner that you understand the material you have written about – marks are awarded for knowledge and understanding of the law and the application of the law to the facts of your case.
- You must maintain a focus on the facts of the case when making your submissions.

A suggested structure would be as follows:

- You should start by introducing yourself and who you are representing. You should then introduce the arguments you are going to make.
- The state the law supporting your arguments, in this section you should relate the law to the facts of the case.
- You should deal with law which does not support your case, and if possible try and say how your case differs from these cases.
- You should then conclude by saying why the court should rule in your favour, and you do this by summarising the arguments you have made.
- You should address the examiner as Judge, you should dress as if you were attending court, i.e. smartly, and you do not interrupt the examiner.

Omar Little was convicted of the murder of Bunk Moreland by way of joint enterprise, contrary to Section 4 of the Criminal Justice Act, 1964 and Section 3 of the Criminal Justice Act 1990 at the Central Criminal Court. Mr. Little was subsequently sentenced to life imprisonment.

Mr. Little appealed his conviction to the Court of Appeal who upheld the conviction. Mr. Little has now appealed the case to the Supreme Court on a point law of general public importance.

The background to the case was as follows. Omar, and his boyfriend Brandon Wright made their money from robbing drug dealers. In May of 2014, Omar and Brandon decided to steal money from a local drug dealer in Baltimore, Co. Cork, D'angelo Barksdale. Omar had a widely held reputation as a fierce stick up artist amongst the criminal underworld but he had in fact never shot anybody. His reputation did all the work for him. Omar agreed with Brandon that while they would carry loaded guns there would be no chance that they would have to use them due to Omar's sheer presence. Omar and Brandon had been staking out the general area and were aware of the disused house where D'Angelo brought the day's earnings at close of business. At 23:30 on the 9th May 2014 Omar and Brandon burst through the front brandishing their loaded weaponry. Omar could see D'angelo, an employee of D'Angelo's, Wallace, and somebody that was wearing a hoodie that Omar thought he recognised but could not tell from where. Omar requested the transfer over to him of the day's takings. D'angelo pushed the bag containing the money across the floor and informed Omar and Brandon that they would 'live to regret this'. Just to show that they should be taken seriously, Omar fired a shot into the roof and said: 'I do not need to remind you who I am. Follow us

and you know what you can expect.’ Upon exiting the building, a shot was fired coming from the direction of where D’Angelo and the others were standing. Omar and Brandon ran as fast as they could up the road when another shot rang out. Omar looked back and saw that they were being followed by D’Angelo, Wallace pointing a gun, and the third individual that had been in the room, who Omar now recognised as Detective William ‘Bunk’ Moreland, an individual he associated more with sharp suits instead of baggy hoodies. Omar had known Bunk as a Homicide Detective when he lived in Dublin but figured that he must now be an undercover agent in the Drug Squad. Omar looked across at Brandon who had turned around and was just about to shoot his sawn off shotgun when Omar shouted and him to put the gun away, that a ‘cop was following them’. Just as Omar said it, however, Brandon shot and that shot Killed Detective Moreland. Omar and Brandon outran the pursuing D’Angelo and Wallace but were arrested the next day by Detective Jimmy McNulty. During his interview, Omar relayed his side of events as laid out above. He said that he didn’t want to be known as a cop killer and was furious with Brandon for what he did.

At the end of the trial, the trial judge, Judge Daniel Phelan charged the jury as follows;

“Ladies and Gentleman of the Jury, this is indeed a sad case. This goes without saying considering we are dealing with the death of a Detective Garda. You have heard the evidence given by Mr. Little in his defence. He has been charged with the murder by way of joint enterprise of Detective Garda Moreland. I must therefore address you on the issue of common design, or if you prefer, joint enterprise and how that doctrine would give rise to potential guilt on behalf of Mr. Little.”

The doctrine of joint enterprise, or common design as it is sometimes referred to, applies where two or more parties act together in furtherance of a common criminal purpose. Each participant is fully liable in the circumstances for the criminal acts of the others provided those acts emanate out of the agreement. It follows that a party is not liable for the criminal actions of others that go beyond what was agreed. In R v Anderson and Morris [1966] 2 QB 110 at 118, the doctrine was stated as follows:

‘...where two persons embark on a joint enterprise each is liable for the acts done in pursuance of that joint enterprise and that includes liability for unusual circumstances if they arise from the execution of the joint enterprise but...if one of the adventurers goes beyond what has been tacitly agreed as part of the common enterprise his co-adventurer is not liable for the consequences of that unauthorised act.’

Now, Mr. Little has been charged contrary to Sections 4 of the Criminal Justice Act, 1964 & Section 3 of the Criminal Justice Act, 1990. These are two different charges. Section 3 deals with the murder of any individual. Section 4 deals with the murder of a member of An Garda Síochána whilst on duty.

You have to ask yourself this. On the basis of the evidence as heard in this courtroom, what do you determine was tacitly agreed by Mr. Little and Mr. Wright. The men’s reason for murder contrary to Section 4 of the 1964 Act is the intention to kill or cause serious injury. The men’s reason for Section 3 of the 1990 Act is the intention to kill or cause serious injury

to an individual and knowing that that individual is an on duty member of An Garda Síochána or is reckless in this regard.

Another way of putting it is whether Mr. Little foresaw prior to the incident whether something like this could happen, i.e. that Mr Wright would use his gun to kill another or indeed to kill another who he knew or was reckless as to whether that other individual was an on duty Garda. Liability would attach to Mr. Little in such circumstances.”

As stated, the jury in the case found Omar guilty of Capital Murder under Section 3 of the Criminal Justice Act 1990. He appealed to the Court of Appeal on the ground that Judge Phelan’s direction to the jury was incorrect as the trial judge seemed to suggest that the test used for joint enterprise was one of foresight as opposed to tacit agreement. Mr Little also appealed on the ground that the Section 3 Capital Murder Charge should have been withdrawn from the jury as there was not enough evidence of what Brandon knew to convict for the more serious charge of Capital Murder. Having lost the appeal on both points Omar has now appealed to the Supreme Court on a point of law of general public importance in that the test for find liability in joint enterprise situations in this jurisdiction is tacit agreement as opposed to foresight. He has also appealed on the basis of Brandon’s knowledge at the time.

The DPP have cross appealed that the trial judge’s charge to the jury is correct in law but that if it is not, then the Supreme Court is in a position to clarify the test indicating that foresight would infer Mr Little intention at the time of the killing. The DPP further cross appealed on the basis that given previous case law, there appears to be much scope to find that Brandon had the requisite knowledge or indeed, recklessness to be found guilty of the Capital Murder of Detective Garda Moreland, and therefore to find Mr. Little guilty of same, by joint enterprise. Nothing further has been appealed. No other legal points other than those just highlighted should be addressed in any submissions.

You will argue on behalf of the Applicant, Mr Omar Little or on behalf of the Respondent Director of Public Prosecutions. As outlined above, Counsel for Mr Little will be arguing that the trial judge erred in his direction as to what constitutes joint enterprise in this jurisdiction and whether Mr Wright had the requisite knowledge or recklessness to be guilty of S3 Capital Murder. Counsel for the DPP will be arguing that the direction of the trial judge was correct but that even if it were not so, it is high time that the test for joint enterprise be clarified in this jurisdiction in that a tacit agreement can be inferred from the foresight of the secondary party. Counsel for the Director of Public Prosecutions will also be arguing that the evidence outlined in the trial court absolutely could give rise to a jury, properly directed, coming to the conclusion that it arrived at.

As stated, your submission should address nothing more than the above raised point.

See Appendix 1 for Marking Scheme

Sample Examination
Answer any three of the following questions.
All questions carry equal marks.

Question 1

Per O'Higgins C.J. in The State (DPP) v Walsh [1981] IR 412 at 421 stated that scandalising the court is committed:

“where what is said or done is of such a nature to be calculated to endanger public confidence in the court which is attacked and, thereby, to obstruct and interfere with the administration of justice.”

With reference to the above statement, citing case-law and academic commentary discuss the instances when a person may be found guilty of scandalising the court.

Sample Answer 1

Students should discuss R v Gray, AG v Connolly, AG v. O' Ryan & Boyd, The State (DPP) v. Walsh

Question 2

Reginald Cousins is homeless. One night last winter he was looking for shelter. He saw what he thought was an abandoned property. He went to the back door of the property and found that it was unlocked. He entered and went into the sitting room. He soon realised that the house was not an abandoned property but as he could not hear anybody, he reckoned that he would be able to get a few hours sleep on the comfortable couch. Sometime later, he was awakened by a stream of light pouring in from the kitchen to the sitting room. Startled, he jumped up and as he did so, he bumped into a lamp that was adjacent to the couch. The lamp was smashed to smithereens. Reginald was sure that the person in the kitchen had heard this so he tried to duck down by the couch so as not to be seen. He feared that the person in the kitchen would attack him for being in the house. He saw a letter opener on the table where the lamp was. He took it. Reginald is a pacifist and would never wish harm anybody, however he felt that merely brandishing the letter opener might be enough to stave off an attack. Reginald then heard the person in the kitchen going up the stairs, presumably to bed. Reginald took this as his opportunity to escape. He went into the kitchen to go out the back door. He saw the fridge door slightly ajar. He had not eaten in 36 hours. He figured that the owners of such a plush house would not miss a few slices of cheese. He took some slices of cheese from the fridge and started eating them on the spot. At this point the homeowner, William, came down the stairs muttering to himself 'I betcha I left that kitchen light on'. Reginald was so engrossed in eating that he only noticed William when he came into the kitchen. William shouted at him hollering: 'what the hell do you think you're doing in my house'. Reginald, petrified, pulled out the letter opener and started waving it in William's direction. He stammered 'I don't wanna use this, but I will if I have to.' Reginald then darted out of the house. William is a detective and knew Reginald from the streets. Reginald was arrested an hour later.

Advise the DPP as to what offences against property that Reginald may be charged with.

Sample Answer 2

Students should address the following issue using relevant case-law: Knocking over the lamp, S. 2 Criminal Damage meaning a Section 12 Burglary charge. Picking up the letter opener, s4 Theft, taking the cheese with the letter opener on him, theft and potentially, s. 13 aggravated burglary, waving the letter opener while taking the cheese, s.14 robbery.

Question 3

Answer either question A or B

(A)

Blanche went to live with her sister Stella and her husband Stanley. Blanche is a quiet, sensitive woman. She soon found out that Stanley was abusive to Stella and their two daughters, both physically and emotionally. In January of this year, Stanley made sexual advances towards Blanche. She rebuked same but was horrified at the incident. For the following month, by way of, what Blanche thought was, revenge, Stanley kept taunting and mocking her.

In March, Blanche came home from her walk to find her 15-year-old niece, Esther, crying. Blanche enquired as to what was wrong and Esther broke down and told her that Stanley had abused her from the ages of 7 to 14 and that she had just found out that he was now sexually abusing her younger sister who was 10 years old. Blanche told Stella all this and urged her to get a barring order against Stanley, which she did in April. In May, while Blanche was home alone, Stanley came to the house to pick up some personal items. He snarled a request at Blanche to give him his Bowie knife from the kitchen drawer. Blanche was scared stiff, failed to get the knife and as a result, Stanley called her a dopey fool, hit her and left. Before he left, he said that he would return to fix some tiles on the roof. Blanche, Stella and Stella's two daughters were all in fear at this point.

Blanche was half her normal weight and was physically and emotionally drained. Stanley came back two days later. He immediately turned on Blanche. "Look how skinny you've become", he said, laughing. "You look even older now that your hair is falling out". He went to make a grab for her hair. Blanche picked up the Bowie Knife, which she had got out before Stanley came over so that it would be ready for him this time and stabbed him once into the heart, killing him. Blanche has been arrested and during interrogation says that she doesn't remember the stabbing and that the last thing she remembers is Stanley laughing at her and making a grab for her hair.

Advise Blanche as to whether she has a defence of automatism available to her, citing relevant case-law and academic commentary in your answer.

Sample Answer 3

Students should discuss Rabey, Falconer, Favretto, Quick, Hennessy, etc.

(B)

Homer and Barney are drinking at their favourite watering hole, 'Moe's'. They have had quite a few beers. Shortly before closing time, Otto, the local bus driver came into the tavern. He enquired of Homer and Barney as to whether they would prefer a better "buzz" than beer. Both politely declined. Barney went off to the bathroom. Otto, for a bit of fun, slipped some L.S.D. into his drink. Barney came back and drained the remainder of his drink. The effects of the L.S.D. kicked in almost immediately. He ran towards the window at the front of the bar and dived straight through it yelling 'I am a clown'. The bar owner, Moe turned to Homer, told him that him and Barney probably had had enough at that stage and should probably leave. Homer left and as he walked out onto the pavement bumped into a man. Homer instantly recognised the man as Donald, the man who had recently bought Mr Burns' casino. Homer apologised profusely for his clumsiness to which Donald retorted: "You're nothing but a fat, stupid, slob. I've come across you're type before." Enraged, Homer pounded on Donald's head with his clenched fist, knocking him unconscious. Homer woke up the next morning not remembering what had happened the night before. Shortly after, Homer and Barney are arrested by Chief Wiggum. Homer is charged with the murder of Donald (who died as a direct result of a haemorrhage due to the blow to the head) and Barney was charged with criminal damage.

Advise both Homer and Barney as to whether the defence of intoxication is available to them, citing relevant case-law and academic commentary in your answer.

(33.33 marks)

SOLUTION

Students should discuss the difference between crimes of specific intent (e.g. murder) for which there is a defence of intoxication and crimes of basic intent (e.g. criminal damage for which there is none. Students should discuss the meaning of intoxication (both drink and drugs). Students should discuss the consequence of voluntary and involuntary intoxication.

Question 4

Answer either (A) or (B)

(A)

"In light of such developments, it is perhaps true to say that one case – or line of case law – stood out as being stubbornly harsh in its rigid objectivity. It was in the sphere of objective recklessness, and comes from the case known by every law student: R v Caldwell [1982] A.C. 341. Well in line with this departure from objectivity in the criminal law, the House of Lords took the step in October 2003 of overruling Caldwell, in the important case of R v G [2003] 3 W.L.R. 1060."

-Per Ryan and Ryan in "Recklessness, subjectivity and the Criminal Law", Irish Law Times 2004, 22, 90-95

With reference to the above two cases, other relevant case-law and relevant academic commentary discuss the test for recklessness in both Ireland and England in the 20th and 21st centuries.

Sample Answer

Students should discuss *Cunningham, Caldwell, R v G & Anor, Murray, Cagney & McGrath, Clifford*.

OR

(B)

“Even the most breathless admirer of the common law must regard it as a reproach that after seven hundred years of judicial decision-making our highest tribunal should have been called upon time and time again in recent years to consider the mental ingredients of murder, the oldest and the most serious of crimes.”

- Per Lord Bingham of Cornhill addressing the audience at the Mansion House in July 1998 on the occasion of the annual London Lord Mayor’s Dinner for Her Majesty’s Judges

Discuss the various ways in which the Irish and English courts have defined the meaning of intention over the years, citing relevant case-law and academic commentary.

Sample Answer 4

Students should discuss Hyam, Hancock and Shankland, Moloney, Nedrick, Woollin, Murray, Douglas and Hayes, Clifford.

Question 5

“The other external element requires that the consent of the woman be absent. It is important to focus on the simplicity of this element. Once there is no consent to sexual intercourse the act is rape if the accused knew or was reckless as to that absence of consent.”

Discuss the instances when consent will be vitiated using relevant legislation, case-law and academic commentary.

Sample Answer 5

Using relevant case-law students should discuss the instances when consent will be vitiated and when it isn’t: Fear or intimidation, when the victim is unconscious, the victim is intoxicated, the victim is not aware of the nature of the act, the victim has been misled as to the characteristics of the defendant. Students should discuss the issue of resistance.

Question 6

Bart and Milhouse are two twelve-year-old boys who decided to go camping without their parents’ permission. Cold and uncomfortable, they lit some newspapers in the back yard of and made a temporary fire. Herb, a homeless man was sleeping 10 feet from the fire. The boys thought that the fire would keep him warm too. When they left the yard, they thought that the fire would extinguish itself on the concrete floor. It did not however. It spread as far as where Herb was lying, engulfing him in flame. Then, an extraordinary gust of wind spread the fire to the next block of buildings causing €10,000,000 (ten million euro) worth of damage. Herb died and the autopsy came back stating that he died of a combination of hyperthermia

and asphyxiation through smoke inhalation. The Coroner stated in her report that had Herb would have died from exposure to the elements, notwithstanding the fire. Bart and Milhouse have been charged with murder and s.2 Criminal Damage. Advise the DPP on the relevant causation issues in the case.

Sample Answer 6

In relation to Herb, students should discuss the but for test, the de minimis principle and the substantial cause test.

In relation to the criminal damage to the buildings, students should discuss Act of God as a novus actus interveniens.