

CRIMINAL LAW (FALL 2015) EXERCISE 2, 3 AND 4 (10 Points Each = 30 Points)

Due November 16, 2015– NO Exceptions. All Exercises Must be Typed, Double Spaced, and no more than 4 pages per exercise (Total 12 Pages). Make certain that you begin each exercise with a title (e.g., Exercise 2, Exercise 3, Exercise 4). Follow the instructions for each exercise.

Exercise 2 (10 Points):

INCLUDE A "YES" OR "NO" ANSWER AT THE BEGINNING OF YOUR RESPONSE TO EACH QUESTION.

1. Intending to kill Missy, Danny takes a shot at her while she is standing in a street. Although Danny is a champion shooter, he surprisingly missed his target. However seconds later a truck hits Missy and kills her. Precede each answer with a YES or NO

A. Is Danny guilty of Murder? Yes or No – Explain Why or Why Not

B. Assume instead that the truck strikes missy first. While she is laying near death in the middle of the street, Danny lives up to his champion reputation and shoots Missy, killing her instantly. It is clear that Missy would have died shortly from the truck injury alone. Is Danny guilty of murder? Yes or No – Explain Why or Why Not

2. While Ursula is standing on the side of a busy highway, Dennis approaches her from behind and stabs her; Ursula pulls away from him, falling onto the highway. Shortly thereafter, a passing car strikes unlucky and she dies from the combined effects of the knife wound and the injuries inflicted by the car. Is Dennis guilty of any form of criminal homicide? Yes or No – Explain Why or Why Not

3. Richard approaches Mark and says, "I'll give you \$500 if you'll beat up Fred." Mark is an undercover police officer and arrests Richard. Has Richard committed a criminal offense? Yes or No – Explain Why or Why Not

4. Arnie knows where a large amount of counterfeit money can be purchased and decides to ask Benny to help him pass the bills if he obtains them. Upon disclosure of the scheme to Benny, Benny responds, "What a bread for you. You'll make a fortune." On the basis of these facts alone, are Arnie and Benny guilty of criminal conspiracy? Yes or No – Explain Why or Why Not

5. Connie is charged with conspiring with Ron and Sylvia to kill Verna. Ron and Sylvia are acquitted. Can Connie be convicted? Yes or No – Explain Why or Why Not

6. Janice, a married woman, is having an affair with her secretary, Sam. The two agree to spend the night together at the Hilton Hotel. Can they be convicted of criminal conspiracy? Yes or No – Explain Why or Why Not

7. Can Ralph be convicted of murder in the following situations?

A. Ralph intentionally stabs Vicky in the leg. The wound proves fatal and Vicky dies. Yes or No – Explain Why or Why Not

B. Ralph throws a bottle in Vicky's direction, intending to frighten her. The bottle shatters against the wall; a piece of glass strikes Vicky, and she bleeds to death. Yes or No – Explain Why or Why Not

C. Ralph, showing off to friends, pilots his new speedboat through a crowd of swimmers. Going at full speed, he intends only to scatter the swimmers, but one of them is hit by the boat and dies. Yes or No – Explain Why or Why Not

Exercise 3 (10 Points):

Select one of the following answers for each question: YES, NO, PROBABLY, PROBABLY NOT. Explain each answer.

1. Would the killings in the following situations more likely be voluntary manslaughter than murder?

A. Vince calls Debbie several names that reflect on her ethical standards and mother's sexual practices. Debbie becomes irate and kills Vince.

B. Dean and Jimmy are arguing over a place in the theater line. They agree to settle the matter by fighting it out. During the fight Jimmy is killed.

C. Vondra throws a rock at Denise and runs away. The next days, Denise sees Vondra and kills her.

D. Vondra throws a rock at Denise and runs away. Denise, frustrated at her inability to obtain revenge against Vondra, sees Xaviera, an innocent bystander, and kills her.

2. Should the following killings be charged as involuntary manslaughter?

A. Mark intentionally drops a large rock from a highway overpass. Distracted by the approaching rock, Wally loses control of his car on the highway and is killed in the ensuing crash.

B. Andy is cleaning his gun when the telephone rings. He leaves the gun on the table while he goes to the adjoining room to answer the phone. Meanwhile Johnnie, Andy's four-year-old son, wanders into the room and takes the gun to play with it; it discharges, killing Johnnie instantly.

C. Mary is attempting to commit suicide. Rob intervenes to prevent this, and in the struggle the gun Mary was using discharges, killing Rob.

3. Can Bill be convicted of battery in the following situations?

A. Bill puts poison in Susan's drink, and she drinks it.

B. Bill intentionally spits on Susan's shoe.

C. Bill, driving a car in a highly negligent manner, strikes Pedestrian. Bill did not intend to injure anyone.

Exercise 4 (10 Points):

Select one of the following answers for each question: YES, NO, DEPENDS. Begin each answer with one of the aforementioned answer options at the beginning of your response.

1. Don points a gun at Vivian and pulls the trigger. Unknown to Don, the gun is defective and will not fire. Is Don guilty of assault?

2. Danielle attacks Violet and Violet's face is severely disfigured. Danielle is charged with mayhem, but at the time of the trial, two years later, Violet's face has returned to normal. Can Danielle be convicted?

3. Dance and Vance are at a party. Both have consumed great amounts of liquor. Vance passes out, and Vance engages in an act of intercourse with her while she is unconscious. Is Dance guilty of rape?

4. Dennis tells Vanna that unless she submits to intercourse with him, he will report her to the police as a prostitute. Vanna submits. Is Dennis guilty of rape?

5. Dunbar tells Veronica that if she will engage in intercourse with him, he will pay her \$150. He does not intend to pay her, and after the act is complete he refuses to do so. Is Dunbar guilty of rape?

6. In Deft's prosecution for rape of Vicky, Deft testifies that Vicky consented to the intercourse. Vicky testifies for the prosecution that she did not consent but rather physically resisted as much as she could. Deft asks the jury to be instructed that he should be acquitted if the jury determines that he reasonably believed Vicky consented, whether or not she actually did. Does the prosecution have a viable argument that this instruction should not be given?

7. While Slim is walking down a hall in a public building, Bill moves in front of him and refuses to permit him to proceed. Is Bill guilty of false imprisonment?

8. Doug Delude, as part of an extortion scheme, tells Dupe that his wife is in the hospital calling for him. Dupe unwillingly accompanies Delude to his car and drives away with him. Is Delude guilty of kidnapping?

9. D breaks into V's house and finds her in the kitchen. He compels her to go into the adjoining room and rapes her there. Is D guilty of Kidnapping as well as rape?

10. Starkmad and Disgusting rob a bank. During the robbery, Disgusting becomes attracted to the teller and forces his attentions upon her, despite Starkmad's urging to avoid this. Finally, Starkman strikes Disgusting with the butt of his gun to discourage the attack on the teller; the gun discharges accidentally and kills Disgusting. Is Starkmad guilty of felony murder?

CRIMINAL LAW FALL 2015
EXAM NUMBER 2
ESSAY COMPONENT

30 points

You are an assistant to the prosecutor (ME – THE INSTRUCTOR OF THIS CLASS). You are being asked to write a memorandum outlining the issues of this case, including the crimes that the defendants (both Helen and Allen) can reasonably be charged with. If any facts are unclear or if facts you deem critical are not stated, indicate what they are and how they would affect your analysis of this case. You **MUST** explain/defend each of the charges you assign to each defendant.

* I'm the assistant *

LIMIT YOUR ANALYSIS TO NO MORE THAN 5 DOUBLE-SPACED PAGES. THIS MUST BE SUBMITTED IN CLASS ON NOVEMBER 16, 2015. PAGES MUST BE NUMBERED AND YOUR NAME MUST BE INCLUDED ON PAGE 1. THIS COMPONENT OF EXAM 2 IS VALUED AT 30 POINTS.

A 22-year old heiress of a wealthy family was kidnapped by a small band of revolutionaries, who held her captive in a closet for several weeks, and repeatedly threatened to kill her unless she sent taped messages to her family. After 10 days of threats and abuse coupled with deprivation of food and sleep, the heiress [whose name is Helen] heard a commotion and several shots in a room next to her closet. Fearing that she would be killed, she opened the closet door and observed the following scene: a member of the revolutionary group [named Mark] was lying in a pool of blood; another member of the group [named Allen] was standing over him with a pistol that was smoking. Seeing that Helen had emerged from the closet, Allen pointed the pistol at her and said; "Now you will have to die, because you can pin the murder on me. I won't kill you now because you are still valuable to us. But you will never leave here alive. We can't afford to let you go now. We will eventually kill you – maybe next week or next month. There is only one way out for you. Mark is dying, but he is not dead yet. If you go ahead and kill him now I will be able to trust you. So what will you do? Do you kill him or do I kill you? Mark has only 5 or 10 minutes left before he dies, so you have about 2 minutes to make up your mind." Fearing that she will be killed, Helen said that she would go ahead and kill Mark. She was then handed a pistol and told that there was one round left in the pistol. Still covered by Allen's pistol, she was told to shoot Mark – through the head, which she did.

Over the next few weeks Helen became convinced that she was guilty of first degree murder and she began to identify more and more with the group. Soon she was allowed out of the closet. A month after the shooting of Mark, the police received an anonymous telephone tip that Helen was being held in the house where she was, in fact, being held. The police – without a warrant – surrounded the house and burst

through the front and back doors with their guns drawn. Helen was sitting at a table with Allen when the raid took place; nobody else was in the house at the time. As the police came through the door, Allen handed Helen one of the two sub-machine guns that were under the table, shouting, "It's the pigs; their going to kill us; we have to protect ourselves!" Helen and Allen began shooting and one policeman was killed before Allen and Helen were subdued and taken prisoner. The bullet that killed the policemen came either from Allen or Helen's gun but it cannot be determined from which, since the guns were mixed up in the excitement. After Allen and Helen were arrested, handcuffed, and removed from the building, the police - without a search warrant - conducted a search of the entire house, claim that they were looking for other members of the group. In the process for searching for other members, they opened closets, drawers and cabinets, and seized numerous papers, including a diary kept by Allen from the beginning of the kidnapping and a diary kept by Helen beginning the day after the shooting of Mark. Allen's diary reveals that on the morning of the shooting of Mark, Allen discovered that Mark was an undercover agent for the F.B.I. Deciding that Mark had to be killed, Allen contrived to have Helen kill him. Allen knocked Mark unconscious and spilled animal blood around the body and then fired two shots in the air. Helen then killed Mark as Allen had planned (as previously described). Allen's diary also revealed that he had put LSD into Helen's drinking water the day before the killing of Mark. Helen's diary revealed that she did not know that Mark was an informant, and that she believed Mark was alive but dying at the time she shot him. It also reveals that she did not think that Allen would kill her immediately if she had refused to shoot Mark, but she did think there was a good chance that she would be killed some time in the future. The diary also reveals that Helen hated Mark because Mark had constantly threatened to rape and kill he in the early days of her kidnapping and that Helen felt pleasure when she shot Mark. There is a statute, enacted just before the kidnapping of Helen, which provides for a mandatory sentence of death for the first-degree murder of a law enforcement official.