

CRIMINAL LAW

Fall 2007 Mid-Term Question
Professors Coyne and Puller

Social Security _____

I have spent all my life under a Communist regime, and I will tell you that a society without any objective legal scale is a terrible one indeed. But a society with no other scale but the legal one is not quite worthy of man either.

Alexander Solzhenitsyn

Please answer the short answer questions that begin on page two first.

Please review this question, reflect on it and consider solutions to the problem. Use only your social security number on this examination and blue book. Please answer this problem in no more than five handwritten pages. We will evaluate your answer on your knowledge of the law, ability to recognize issues and your analysis of these issues.

PART ONE

Shelly Martin lived with her pregnant daughter Pat James. Shelly's home health aide, Ryan, also lived with them. Shelly was previously injured in a skiing accident that affected her brain and caused her at times to have violent convulsions.

Billy Budd, their teenage neighbor, smoked some pot on Christmas night then dressed up as Santa Claus and came into their house. He took all their Christmas presents from under the tree using the key Shelly Martin had given his family to get into the house in an emergency. He left with the presents but when he got home, he felt so bad about what he had done that he turned right around and brought the presents back and placed them under the tree.

When Ryan awoke to the noise downstairs, he grabbed a baseball bat, and ran there. Seeing the intruder heading toward the kitchen he struck a blow with the bat to Santa's head, dropping Santa to the ground. He continued to hit Santa until Santa stopped moving. When Shelly and Pat came downstairs, they immediately recognized that Santa was indeed Billy Budd and knew he needed immediate assistance.

They all piled into Shelly's Jeep putting Billy into the cargo area. Shelly drove as fast as she could to the emergency room. Unfortunately, on her way there she had a convulsion and drove into a brick wall. Pat died at the scene and Ryan, Billy Budd and Shelly went to the hospital. Ryan and Shelly were released after receiving treatment. Many months later Billy Budd died from his injuries.

Discuss what crimes were committed by whom and any available defenses.

PART TWO

Define each concept fully and then state how, if at all, the concept applies to Part One.

Insanity Defenses _____

Specific Intent Crimes _____

Murder _____

Actus Reus and Mens Rea _____

Mistake of Law _____

MASSACHUSETTS SCHOOL OF LAW

**CRIMINAL LAW
FINAL EXAM
FALL 2006**

PROFESSORS COYNE/PULLER

SS#: _____

*The secret of success in life is to be ready
for the opportunity when it comes.*

Benjamin Disraeli

Use your social security number on the exam and blue book. Write legibly and coherently.

You will be graded on your knowledge of the law, ability to analyze the issues and your treatment of the issues.

Please take the time to think about and organize your answer. Please do not just define the issue of law, but think about how it applies to the facts and what the ramifications of your conclusion are. Please limit your answer to six pages and write on only one side of each page.

QUESTION ONE

David and his wife Dominique had been married for twelve years. Dominique asked David to leave telling him that she “needed some space” and “a real man”. David left their house and moved into an apartment a few miles away with his old college roommate, Larry. David later persuaded Dominique to go to counseling with him.

One night, David took Dominique to dinner after a counseling session. Dominique told him she thought the marriage was over and that she wanted to see someone that she had met. David went back to his apartment and drank a six-pack of beer and a little Sambuca. He called Larry on his cell phone to discuss what Dominique had said. Larry told him that Dominique never really loved him and laughingly said, “why don’t we just kill that witch and burn her house down”. Now drunk, David decided to drive over to their house to try once more to convince Dominique that he loved her and she him.

When he arrived at the home, he saw a strange van in the driveway. He parked his car around the corner and walked back to their house. He peered in the window and saw

Dominique and a large man eating dinner and drinking wine. He then saw them kiss. The man he saw was his former attorney, Patrick. David decided to go home and get his cell phone with the camera but before doing so he punctured two tires on Kevin's van, opened the back door of the van, and took a laptop and a briefcase from the backseat. Unknown to David, the briefcase contained \$1,000 cash and a large amount of cocaine.

David went to his apartment and got his cell phone camera and an old pistol that had belonged to his mother. Larry said he would drive David back to the house because David was too drunk to drive. Larry parked around the corner and David walked to the house. Larry decided this was a bad idea and left. David saw the van in the driveway and the curtains to the front guest bedroom closed. He listened near the window of the bedroom and heard the sounds of two people having sex.

David then burst through the front door of the house and into the bedroom where he found his wife and Kevin nude. He pulled out the cell phone camera, started to take pictures and said, "you will die when I publish these on the internet". Kevin, a former high school football player, was 6'3" tall and weighed about 250 pounds. David was about 5'6" and weighed only 120 pounds. Kevin lunged and swung his fist at David. David pulled out his mother's gun and fired once with the bullet passing through Kevin and into Dominique's head.

David immediately called the police and stayed until assistance arrived. Kevin died on the way to the hospital. Dominique was in a coma for a year and a half and recently died. Dominique's autopsy revealed that she was 3 months pregnant.

PART ONE

Discuss all of the issues in this case.

PART TWO

Now, consider the same factual scenario, but David suffers from a minimal brain dysfunction with an associated explosive personality disorder with paranoid features. How, if at all does this affect David's criminal liability?

QUESTION TWO

Heidison and Sarahs work together. Heidison was known for arguing and fighting and, in fact, had engaged in many fights with another employee. Sarahs knew the fact that Heidison had engaged in this fight. On the day in question, Sarahs was accused numerous times by Heidison of not performing his job correctly. Heidison was verbally abusive to Sarahs. He asked his supervisor, Al, if he could tell Heidison to quit harassing him. Al told Heidison exactly that and said, "if you don't knock it off I've told Sarahs it's okay to kick the crap out of you".

Heidison continued to harass Sarahs. Finally, Sarahs walked within one foot of Heidison and asked Heidison if he had a problem with him. Heidison said, "Yeah, I have a problem. You do not do your job right. You have a problem with me?" Sarahs then said, "Yeah, I have a problem. You have a big mouth."

Heidison, who was cutting packages at the time with a six-inch packing knife, swung around towards Sarahs with knife in hand, but made no appreciable effort to move the knife towards Sarahs' body. When Heidison began to turn, Sarahs hit him in the face, knocking Heidison backwards. Heidison's head hit the cement floor and he died. The autopsy showed that death was caused by Heidison's head hitting the floor and not the blow to Heidison's face.

Please define fully each concept below and explain how each of the following concepts affects Question Two. Please appropriately tie that concept to the facts of the case or explain why the concept is not applicable to the fact pattern contained in Question Two.

Malice Aforethought: _____

Specific Intent Crimes: _____

Conspiracies: _____

Strict Liability: _____

Insanity Issues: _____

Self-Defense and Imperfect Self-Defense: _____

Attempt: _____

Larceny and Embezzlement: _____

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CRIMINAL LAW

Fall 2006 Mid-Term Question
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Social Security _____

Lawyers cannot remain empty of head and pure of heart....

A lawyer has a duty to investigate or take some steps to inform himself in a situation where he believes that there is client perjury.

Barry S. Alberts

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PART ONE

Laura Smith and her disabled daughter Holly Jones lived in their cottage at Salisbury Beach in Massachusetts next to John Victim and his wife Caroline. Holly previously was severely injured in a car accident that affected the left side of her brain. This injury prevented her from speaking clearly and holding employment. For many years Laura, Holly, John and Caroline socialized together and shared many a cookout. When John erected a stone fountain on the boundary line between the two cottages, things changed however. The neighbors began to fight and cuss at one another, and Laura even told John and Caroline during one heated argument that she would see them dead before they ruined her view of the beach.

One night in the fall when John and Caroline had returned to their home in Andover, Massachusetts, Laura and Holly had their friend David Gray over for dinner. After they all smoked a lot of weed and got really drunk, they started discussing the “problem with the yuppies from Andover.” David said, “For \$1,000 I can burn that house down and you’ll never have to worry about them again.” Holly nodded her head to her mother and Laura said, “I’d hate to see them come back in the spring.”

On Thanksgiving night, John and Caroline had a huge fight. Caroline told John she was pregnant. Instead of being excited, he said, “We said we would wait a few more years. How could you do this to me?” Devastated, Holly left for the night to stay at their cottage in Salisbury, as she always found peace listening to the sounds of the ocean.

Shortly after 2 a.m. on the day after Thanksgiving, John and Caroline’s beach house exploded in flames. David Gray and his friends Crazy Larry and Denise Denephen were

seen running from the house with gas cans. David and Larry were found at the hospital suffering from burns to their faces as the flashback from the fire caused them second degree burns. Denise Denephen died from her injuries.

The next day police found Caroline Victim's severely burned body in the rubble.

Discuss what crimes were committed by whom and any available defenses.

PART TWO

Define each concept fully and then state how, if at all, the concept applies to Part One.

Mental Illness Issues _____

Provocation _____

Vagueness _____

Strict Liability _____

Malice Aforethought _____
