

Liability by Omission

by Bolanle Ayomide Adejumo

Submission date: 14-Nov-2022 09:39PM (UTC+0000)

Submission ID: 189033170

File name: 38317_Bolanle_Ayomide_Adejumo_Liability_by_Omission_462128_761098551.docx (1.57M)

Word count: 1433

Character count: 7164



Liability by Omission

BMLW4005/BMPL4009

ayomideajumo14@outlook.com

[Date]

[Course title]

In my Essay I will talk about Criminal Liability and when it will be upheld for failing to act. Criminal Liability is the condition of being liable for a criminal conduct is referred to as criminal liability. To be held legally responsible for a crime, you must either be the person who performed the act themselves or someone who actively helped another person do the crime. Even though you were aware of the wrongdoing, you cannot be held legally responsible for it if it was not anything you did yourself. In addition, to be held legally responsible for a criminal conduct, you need to have had the intent to carry it out in the first place. If you did anything illegal but did not plan to do so, you cannot be held legally responsible for what you did. N. Meyers (2022) explained that for instance, if you were driving a vehicle that had been stolen by another person and you were unaware that the car was stolen, you would not be guilty of theft since you did not have the intent to steal the automobile while you were driving it because you did not know it was stolen. Or having possession of stolen goods without knowing it was stolen means that you cannot be held responsible for that crime. If you knew that you were driving a stolen car already, then you would be held responsible for stealing a car. The same thing applies to stolen goods. Manslaughter is the act of

killing someone without the intent to or without thinking. This can include hurting someone, but they have been killed which was not intended. Manslaughter is a crime that you can be responsible for, whether you intended it or not. There are two types of manslaughter, Involuntary and voluntary manslaughter. I will explain what this mean. According to the Sentencing Council (2018), Voluntary manslaughter is when all the elements for murder are present, including an intention to kill or cause serious harm, but the crime is reduced to manslaughter because of a loss of control or diminished responsibility, this is voluntary manslaughter. Voluntary manslaughter is a lesser charge than murder. In 2016, a total of 12 offenders were found guilty of manslaughter because they had a lack of control over their actions. Every single one of them was handed a set prison sentence varying anywhere from five to eighteen years. As a crime of common law, involuntary manslaughter is defined as the unlawful killing of a person without the intent to kill or inflict genuinely significant injury to the victim.

In legal parlance, the term "failure to act" refers to the situation in which a person or party is required to carry out a certain action but does not end up

doing so. People have a responsibility to conduct themselves in such a way that they do not directly endanger the wellbeing of other individuals; this is often what is meant when the term "duty to act" is used in the context of personal injury law or tort disputes. Here is an example of failure to act: If a person in the hospital is being kept alive by a drip feed, it would be considered illegal to remove this feed; however, refusing to replace a drip feed that has run out of fluid would be considered a failure to act, or an omission. A failure to act is referred to as an omission, which is general term. However, the term may have a variety of meanings in day-to-day life, and the consequences of such acts vary from situation to situation. Omissions, on the other hand, may be a very complicated subject in the legal system since they almost always end in the injury of a third party, which means that punishment may be justified in such cases. Should a person fail to do so, then that person runs the risk of being held responsible for carelessness. According to InBrief.com, The general rule means that, there is generally no criminal liability for neglecting to act in a specific scenario. This is the general rule. If there was to be widespread accountability for omission, then we would be compelled to adjust our behaviours and our plans to forestall the results that are the result of the

activities of another person. The Miller case in 1983 was an act of omission. The defendant was a homeless squatter who spent the evening drinking before returning to the premises where he was squatting. He had been there all night. He slept out with a lit cigarette in his hand, which led to the beginning of the fire. The defendant was aware of the fire after waking, but rather than putting out the fire, he simply moved his sleeping areas to the next location. In the end, the whole property was consumed by flames, and the resulting damage reached more than £800. The defendant was convicted of starting a fire. However, omissions can arise in any situation in which an individual is affected because of your actions. The question of whether omissions should be treated and punished as if they were physical crimes is a topic that has been discussed at length by many legal bodies; however, the debate has not yet justified a single answer. There are omissions that are charged, and then there are omissions that are not chargeable. In extreme circumstances, a person may even be sentenced to prison for their offense, such as in the instance of manslaughter caused by an omission. In other instances, omissions may be ignored if the person did not mean any damage by their failure to act and was really uninformed of the circumstance. This is one of the conditions that

must be met for this to be the case. In the case of omissions, duty of care also plays a significant role, and it is another aspect of the law that may lead to a conviction if it is violated. Abusing one's duty of care may often result in legal repercussions, including possible prosecution in court.

A duty to act is a legal obligation that requires a party to take required action to avert damage to another person or to the public. This obligation may be owed to another individual or to the public. In the area of law known as personal injury, an individual may be held to a standard of reasonable care to protect themselves from suffering an injury or other kind of damage. Anybody that fails to do that can be held criminally liable. You could also hear people refer to common law as "judge-made law" or case law. Because the law is implemented by referring to those past instances, it is also possible to say that common law is founded on precedent. When a person is under a contractual responsibility to care for another person, that person may be held accountable under criminal law for failing to act on this duty. This kind of duty is known as a contractual duty. For instance, in the case of *R v. Pittwood* (1902), a gatekeeper who

had been hired to lock the gate as part of his job description failed to do so, which led to an accident in which a train collided with a cart. The gatekeeper was found guilty of negligence. His failure to shut the gate led to a violation of the contractual obligation he had to act, and therefore, he was held criminally accountable for his inaction since the gate was left open. The assumption of duty may be made clear when a person states clearly that they are willing to look after another individual who is potentially vulnerable and in need of assistance. When someone has often helped or assisted another person, and as a result, there may be an understanding of responsibility between the two parties, the duty may be inferred from those actions alone.

Sentencing Council (2018) *Manslaughter Explained*. Available at: <https://www.sentencingcouncil.org.uk/news/item/manslaughter-explained/>. (Accessed: 1st of November 2022)

Meyer. N, (2022) *Criminal Liability: What should you know?* Available at: <https://uslawdictionary.com/criminal-liability-what-should-you-know/> (Accessed: 1st of November 2022)

Laver. N, (no date) *can a failure to act make someone guilty in the eyes of the law?* Available at: <https://www.inbrief.co.uk/offences/failure-to-act-law/#:~:text=In%20certain%20circumstances%2C%20the%20law%20expressly%20states%20that,is%20no%20liability%20for%20a%20failure%20to%20act>. (Accessed 2nd of November 2022)

Upcounsel (no date) *Failure to act definition: Everything you need to know.* Available at: <https://www.upcounsel.com/failure-to-act-definition> (Accessed: 2nd of November 2022)

DPP Law (2018) *What is an Omission and how can it come up with a legal claim?* Available at: <https://www.dpp-law.com/blog/what-is-an-omission/> (Accessed: 2nd of November 2022)

LexisNexis (2022) *Criminal act or Omission?* Available at: <https://www.lexisnexis.co.uk/legal/guidance/criminal-act-or-omission> (Accessed: 4th of November 2022)