

Carla and Jamie have been married for 15 years. One evening, Jamie comes home after a night out with friends, visibly intoxicated. Carla, who has been dealing with marital problems for some time, becomes increasingly agitated and confronts Jamie about his excessive drinking and neglect of their relationship. A heated argument ensues, during which Jamie admits to having a brief affair with a co-worker, Emma, a few months earlier. Carla, overwhelmed by anger and sadness, rushes to the kitchen and grabs a kitchen knife. She then stabs Jamie in the chest, causing serious injuries.

Discuss Carla's potential criminal liability, considering relevant case law and legislation. In your analysis, address issues such as the elements of the offence, any potential defences, and the relevance of Carla's emotional state and the confession made by Jamie during the argument.

Discuss the offences committed and any defences that may be considered.

Scenario Question.

In this assignment the scenario of Jamie and Carla will be evaluated and analysed to comprehend Carla's potential criminal liability considering her emotions at the time and using the recent confession of her husband Jamie to help better understand her emotional state and possibly use as a reason for why Carla stabbed Jamie with a kitchen knife. We already know Carla's *actus reus* in this scenario and it is her *mens rea* we have to hypothesize. For example, we know that Carla's and Jamie's relationship hasn't been the best for some time so that could be some built up anger on Carla's end and the fact her husband admitted to cheating with his co-worker fuelled her anger further. There have actually been studies into marriages that aren't performing as they should that shows the mental affects it can have on the partners, for

instance “It can lead to mental health problems like anxiety and depression” (*Rebecca Strong*) “Depression can lead to irritability and anger” (*Ann Pietrangelo*) and a case demonstrates this is the case of *Regina v Georgia Challen* (2019) (2016055604 B2) in this case Ms Challen stated that she had developed depression throughout the marriage and a mixture of her husband cheating had caused her to end up concluding his life. Depression can be one explanation to Carla’s actions, being more prone to being irritable and getting angry easier can really affect a person's day to day, and the fact that the main source of Carla’s anger is their marriage does not help the situation-she feels like the marriage has been on the decline, affecting her mental health and Jamie coming back drunk and admitting to cheating caused Carla to spiral as we know that she was already a little bit annoyed he came back in that drunk state. Some people may even state that this act was a crime of passion, which, by definition, a crime of passion is “a crime committed out of a sudden and strong emotion like anger” (*Legal dictionary 2019*), there isn’t a legal definition of a crime of passion but it can also be called temporary insanity in the UK and can be used as a defence and comes under the Mental Health Act 1983 one quote from the act being ‘other mental health or neuro diverse conditions’. Some case examples of crimes of passion are *Marvin Gaye 1984*, where Gaye, and his father got into an argument that quickly got heated, the mother ended up separating them but soon after Gaye’s father returned and shot Gaye in the chest. This is just one example of a crime of passion amongst many more.

Next, it would be best to delve into Carla’s criminal liability. The Criminal Law Act was introduced in 1977 and goes over criminal liability and what circumstances may warrant a lesser liability. The definition of criminal liability is the responsibility a

person has for their illegal conduct, e.g. their age and understanding of illegal actions. This is very important to the courts to prove as it shows the person was of sound mind and fully knew what they were doing as it allows a higher sentence whether as if a person is found to have a low liability due to issues like, as an example, schizophrenia. Issues like schizophrenia can have a huge impact on criminal liability if proven. This will be because one of schizophrenia's symptoms causes hallucinations which can make a person act out in self-defence.

Carla, though, may not be able to use the excuse of marital problems as that is not sufficient enough to get a lesser charge. She can explain that the marriage has been going through a rough patch for a while and that has caused her to become more irritable than usual so the fact that Jamie admits to cheating, she just acted out of anger and built-up irritation, she would still be held criminally liable, though as she still had full understanding. It also depends on how the act was carried out- if there were multiple stab wounds, then it shows that there was intention to seriously hurt or kill, but if there was one stab wound and/ or it was located in a non-vital area, that may also work on her side as it does support her defence of heat of passion.

Many people do argue that the act of a crime of passion to not be a defence, an example would be in Texas, where courts do not recognise the defence of crimes of passion, but UK courts do recognise this defence. One case would be the case of *R v Wilkinson* (2002) where he was found guilty of manslaughter rather than murder on the basis that the crime was committed out of provocation and was sentenced to 4 years in prison. Another case being *Leslie Humes* (2002) where his sentence was also dropped from murder to manslaughter. His defence being that he stabbed his wife due to finding out that she was cheating, quite similar to Carla's situation.

So, seeing these cases, it is possible for Carla to use that it was a crime of passion as a defence due to the circumstances. The courts will also consider the 'thinking time' Carla had when it came to her stabbing Jamie. To put it into perspective, if Jamie and Carla were in the furthest room from the kitchen, say, their bedroom, Carla would have had to go all the way downstairs into the kitchen, grab a knife, and go all the way back upstairs to stab Jamie. This could impact her defence as that could be argued that that gave her ample time to reconsider stabbing Jamie. It could also come under Section 18 of the Criminal Attempts Act (1981) stating 'a person does an act that is more than merely preparatory to the commission of the offence, he is guilty of attempting to commit the offence'.

Anger can also be a snap emotion and happens very quickly, it would be thought that her first reaction would be to slap Jamie upon hearing that he cheated but she instead decides to grab a knife. Carla attempting this act comes under the Criminal Attempts Act 1981 section 18. It explains how a person who does or attempts to do an illegal act which is more than slightly prepared, then that person can be found guilty of attempting. This can also be used against Carla in court due to them knowing that the marriage is going downhill, and they can imply that she could've used the heated argument and that it was a crime of passion as an excuse when really, she was just waiting for the opportunity to carry through the act. It may be a far reach, but there are instances of people planning out crimes like this and making these excuses to try and reduce the sentence- Like the Leslie Humes case (2002). She could otherwise be found for Grievous bodily harm (GBH), to get sentenced with GBH, a person would've had to cause serious harm to another, and it can be with or without a weapon, the case of DPP v Smith (1960) uses 'grievous bodily harm' to signify that it involves "really serious" harm and other cases show that injuries that impact on another's life can be prosecuted as GBH like in the case of Golding (2014). In this

scenario, Carla did use a weapon and is stated that Jamie received serious injuries. The case of R v Brown and Stratton is one example. In this case it was the son and nephew of the victim who decided after some drinking to beat up Stratton's now mother due to her showing up at her son's place of work and embarrassing her son due to her being in a dress as she was soon undergoing gender reassignment.

Ms. Stratton had come out with lacerations to the face and even had three teeth come out due to the two cousins and were convicted of GBH before it went down to a lesser sentence due to their intoxication at the time. Carla could be done for GBH due to her injuring Jamie, and she was not intoxicated like the two men were in the above case R v Brown and Stratton, so she had a better mindset and fully understood what she did. One case that shows this is the case of R v Savage; DPP v Parmenter (1992) where Savage claims she didn't mean to harm Parmenter but still got found for GBH.

Another defence that can be explored for Carla is self-defence. The scenario given states that it was a 'heated argument'. Carla can argue that she felt threatened by Jamie because he was drunk, therefor causing Carla to feel unsafe and unsure for what is about to happen, so she grabbed the kitchen knife as a means of defence. This could lessen or maybe even completely abolish Carla's sentence as self-defence implies that the force used was absolutely necessary, but other factors come into to play like, the amounts of stab wounds, whether she called an ambulance straight away after it happened and so on. It can be very hard to prove that it was out of self-defence though, if there is no physical evidence like, audio recordings or a video. If Jamie did lay hands on her and she has bruises or marks as a result that could also be used as evidence and can greatly help her defence. In the

Case of R v Rose (1884) the defendant was found to be acquitted of murder due to the act of self-defence, showing that it can be a plausible defence if proven.

To conclude this assignment, Carlos's criminal liability has been evaluated and her potential defences has been considered alongside looking at cases like the scenario given to further understand what convictions Carla may get. It has been found that most of the cases researched have all ended in a prison sentence so it is most likely, based off the scenario that Carla would get convicted of GBH under the criminal attempts Act (1981) section 18 and could face up to 5 years imprisonment due to the situation

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