

Criminal law

BMPL4009

Assignment 2

Scenario question

Table of Contents

Introduction	3
Paula's case	3
Actus reus	3
Mens rea	4
Defenses	4
Harriet's case	5
Actus reus	5
Mens rea	5
Defenses	5
Conclusion	6
Reference list.....	8

Introduction

The criminal justice system is built upon criminal law. Its purpose is to define and control behavior that society and itself deems hazardous or threatening. Criminal law forbids actions that endanger or damage the public interest. The principles and procedures governing the prosecution and sentencing of criminals are outlined in criminal law (Norton and Jescheck, 2017). This work will investigate precedents in order to analyze the intricacies of criminal law with a particular focus on Paula's and Harriet's situations. Given the strength of the evidence in Paula's and Harriet's instances, it is crucial to carefully analyze the laws controlling criminal culpability. A more thorough understanding of the complex structure of criminal law and its application in real-world situations can be attained by looking at the actus reus, mens rea, and alternative defenses that apply in each particular case.

Paula's case

Under Section 1 of the Theft Act 1968 in the UK, Paula can be held criminally accountable for the crime of theft. The actus reus (physical factors) and mens rea (mental elements) of stealing must be examined in order to assess Paula's liability.

Actus reus

An act or omission that physically establishes a crime is referred to as the actus reus.

Appropriation: According to Section 3 of the Theft Act 1968, appropriation refers to Paula's act of stealing the luxury handbag without Christine's permission (Noble Solicitors, 2018).

Property: As a tangible object that belongs to Christine, the designer handbag meets the definition of property under Section 4 of the Theft Act of 1968.

Belonging to another: The handbag belonged to Christine, and Paula's unauthorized removal of it without her consent meets the criteria of being someone else's property.

Dishonesty: According to the objective criteria outlined in the case *R v Ghosh* [1982] EWCA Crim 2, Paula's conduct are seen as dishonesty. By the norms of rational and honest individuals, her acts would be considered dishonest, and she probably knew that. To determine this the jury can undertake the two part test; objective test where the act is dishonest by standards of ordinary

honest and reasonable people and if yes follows the subjective test, this is checking if the defendant must have realized that ordinary people would have perceived their actions as being dishonest (Collins, 2020).

Mens rea

The mental state or intention that motivated the act is known as mens rea. It can be categorized as either recklessness or intention, either specific or general.

Intention to permanently deprive: Paula must have intended to permanently rob Christine of her handbag and this does prove the mens rea for stealing where *R v Velumyl* [1989] Crim LR 299 sets precedence (GD Learn, 2015). The purse was taken by Paula, who then put it beneath her car with the aim to keep it, showing that she intended to permanently deprive.

Conditional intent: Considering Conditional Intent it could be used to interpret Paula's intent. Even if Paula planned to return the handbag eventually, the fact that she placed it under her car showed that she was prepared to keep it permanently if the situation allowed (Child, 2017).

Defenses

Claim of right: Paula might assert a defense under the claim of right doctrine as described in *A (a juvenile) v. R* [1978] if she truly felt she had a legal claim to the property. Since Paula's actions were motivated by envy rather than a sincere belief in a legal right, this argument is unlikely to be applicable in this case (E-Lawresources, 2023).

Consent: It might be a defense if Paula can show that Christine authorized permission to take the purse, either implicitly or explicitly. Paula would have to prove that consent actually existed, which from the information gathered this could be very hard.

Duress: Paula can claim duress if she felt pressured or threatened into taking the purse by another person. The facts, however, make no mention of any pressure or threats from without.

From this analysis, Paula has a generally weak case when taken to court as the actus reus and mens rea have all been satisfied.

Harriet's case

Based on her conduct during the party, Harriet might be held accountable for criminal acts such as assault and criminal damage. There is need to examine the actus reus (physical factors) and mens rea (mental elements) of the offenses in order to establish Harriet's liability.

Actus reus

Criminal damage: According to Section 1(1) of the Criminal Damage Act of 1971, Harriet's breaking of the glass panes is the actus reus of criminal damage. Christine owns the glass panels, and Harriet's activities resulted in property damage (CPS, 2019).

Assault: According to Section 39 of the Criminal Justice Act of 1988, Harriet assaulting Daniel by striking him in the face is an actus reus of assault. Her actions led to the use of force against Daniel without his permission.

Mens rea

Criminal damage: To prove the mens rea for criminal damage Harriet must have had the intent or recklessness to cause property damage. The standard for recklessness is laid forth in the case of *R v. Cunningham* [1957], where Harriet is required to have known that her conduct might cause harm but continued with them in as much as the risk was unreasonable. The mens rea for criminal damage via intention would be fulfilled if Harriet damaged the property with the intent to do so or knew there was a chance of damage as a nearly inevitable result of her conduct.

Assault: The act of consciously or carelessly making the victim fear the impending use of force is what constitutes assault. The mens rea for assault is established by the *R v. Venna* decision in 1975.

Defenses

Lack of mens rea: If Harriet can demonstrate that she lacked the mens rea necessary for the offenses, such as proving that she had no intention to harm or cause damage, then this may be used as a defense. To ascertain the validity of this defense though, the relevant facts and available evidence would need to be taken into account.

Intoxication: Harriet may use intoxication as a defense if she was so drunk that she lacked the mens rea required for the crimes. If she voluntarily drank alcohol, got careless, or purposely caused the damage and attack, this defense might not be successful but the information available indicates that there is a chance this defense will suffice. She did not voluntarily eat or ingest the chemical that made her intoxicated, making it clear that the intoxication was actually unintentional. The drink had been spiked without her knowledge or approval, and this was the external source of the intoxication. She was so intoxicated that it significantly hindered her ability to think clearly such that she was unable to discern the proper motives or mental states for the crimes she committed. According to the court's ruling in R v. Lipman [1970], the defense of involuntary intoxication may be used if the defendant really thought he was in immediate danger - as Harriet thought- as a result of the drug-induced state and his acts were motivated by that perception (Laver, n.d.).

Automatism: If Harriet's actions were unintentional as a result of circumstances outside of her control, she might contend with automatism, which is used when deliberate action is required. The information at hand suggests that her actions were motivated by hallucinations brought on by the laced beverage (Laver, n.d.).

Looking at the possible defenses for Harriet, it is quite possible that she will be vindicated as the mens rea is lacking.

Conclusion

This work has been able to offer a better comprehension of criminal law by looking into the cases of Paula and Harriet. It is clear that for one to be charged in criminal law, the prosecution needs to prove the actus reus and mens rea which are the physical factors and mental elements of the crime. Based on this two, possible defenses can then be looked into and argued in a court of law. Precedents are considered in such cases where they offer guidance in deciding cases. The complexity of these cases underlines the demand for a careful analysis of personal control and intent in the context of criminal acts. In order to achieve just outcomes that strike a balance between society interests and specific circumstances, the law must address questions of ability, causation, and personal responsibility.

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