

Discuss the offences committed and any defences that may be considered

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The first offense is when D severs the brake cable on the first victim's moped. According to s1(1) Criminal Damage Act (1971), "a person who without lawful excuse destroys or damages any property belonging to another intending to destroy or damage any such property or being reckless as to whether any such property would be destroyed or damaged shall be guilty of an offence". When D smashes the bottle, she establishes the intent to do damage. The Actus Reus (AR) was when she severs the brake cable belonging to the first victim's moped, she unlawfully and without excuse damaged property belonging to another. The Mens Rea is present, as the defendant has the intent as soon as she picks up the glass bottle, which means she could be charged with criminal damage. Furthermore, according to s1(2) Criminal Damages Act (1971) states "A person who without lawful excuse destroys or damages any property, whether belonging to himself or another—
(a)intending to destroy or damage any property or being reckless as to whether any property would be destroyed or damaged; and
(b)intending by the destruction or damage to endanger the life of another or being reckless as to whether the life of another would be thereby endangered; shall be guilty of an offence". The Actus Reus was when the defendant cut the brakes, damaging property belonging to another with reason. The Mens Rea is present, as she recklessly endangered the first victim's life, meaning she could be charged with aggravated criminal damage. If the defendant wishes to plead 'insane' at the time of the offence, she must show she was suffering from a defect of reason caused by a disease of the mind, meaning she did not know the nature or quality of her actions or didn't know what she was doing was wrong. If she can prove this she will be found not guilty [R v Sullivan 1984].

The second offense occurs when the Defendant uses the glass ashtray and smashes the second victim over the head with it, causing the victim to die instantly. Murder is defined as unlawfully killing someone under the King's Peace. The AR occurs when D kills the second victim unlawfully. The MR occurs when the Defendant picks up the glass ashtray and raised her arm above her head. She had either the intent to inflict grievous bodily harm, or murder. However the defendant may use Diminished responsibility as a defence, as the Coroners and Justice act (2009) states "In section 2 of the Homicide Act 1957 (c. 11) (persons suffering from diminished responsibility), for subsection (1) substitute—
"(1)A person ("D") who kills or is a party to the killing of another is not to be convicted of murder if D was suffering from an abnormality of mental functioning which—
(a)arose from a recognised medical condition,
(b)substantially impaired D's ability to do one or more of the things mentioned in subsection (1A),
and
(c)provides an explanation for D's acts and omissions in doing or being a party to the killing.
(1A)Those things are—
to understand the nature of D's conduct; to form a rational judgment; to exercise self-control.
(1B)For the purposes of subsection (1)(c), an abnormality of mental functioning provides an explanation for D's conduct if it causes, or is a significant contributory factor in causing, D to carry out that conduct."
The defendant suffers from schizophrenia, a recognized medical condition, meaning if she proves her abnormality of mind, she can have her murder charge dropped to a voluntary manslaughter charge instead.

Refence list

Coroners and Justice Act 2009
Criminal Damage Act 1971
Homicide Act 1957

R v Sullivan [1984] AC 156