

Polly and Mohammed have been together for 10 years. Polly has Schizophrenia. During a social event at their local pub, Polly becomes paranoid and notices Mohammed flirting with the bar lady, Roxanne. Polly is upset by what she has seen so walks up to Roxanne, calls her a “bitch” and gestures her middle finger at her. Polly is asked to leave the pub.

When outside Polly notices Roxanne's moped and using a broken glass in the carpark, severs the brake cables. She then walks home, and Mohammed eventually follows. He is annoyed and embarrassed of the scene Polly caused in the local pub.

When Polly and Mohammed are inside the house, Polly accuses Mohammed of fancying Roxanne. Mohammed reassures Polly that this is not the case, but Polly gets increasingly angry and continues to question Mohammed about Roxanne, insinuating that Mohammed finds her more attractive than Polly. Mohammed eventually snaps and shouts “Yes, I'm having an affair with Roxanne and have been for the past 9 months, I love Roxanne and we are going to be together”. Polly bursts into tears, turns away and notices a glass ashtray which she picks up and smashes Mohammed over the head with. Mohammed dies instantly from the head injury.

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

Within this essay, to determine whether Polly is liable for basic criminal damage section 1 (1) 1971, from the information given, there needs to be a point where any offences and any defences need to be considered based on her relationship with Mohammed and any other valid points relating to the scenario. It is evident that we can see to address Polly's criminal liability, within this essay, there will be information broken down to satisfy the actus reus, mens rea + no defence to determine the criminal liability of Polly. Within this essay, establishing the actus reus, mens rea and no defence will be backed up with the cases that go under them and the definition of each section. To further this essay, there will be research brought into the sections of damage and property to be able to support the topic sentence. To conclude this essay after discussing and breaking down the information the conclusion will foresee whether Polly is liable for basic criminal damage contrary to section 1 (1) of the criminal damage act and whether she had a purpose or aim for doing what she did.

To determine criminal liability, you need to satisfy 3 points. These are actus reus, mens rea, and no defence, without all of these being present criminal liability cannot be determined. It is evident that from the information provided, Polly and Mohammed have been in a relationship for 10 years which can be seen as a defence against them because they love each other but what must be taken into consideration is that Polly suffers from schizophrenia which could affect the way she behaves. By having schizophrenia, Polly may act differently, and her mood will change even though having this condition does not make her violent but there will be a change having her partner Mohammed has an affair with Roxanne, Polly was sure she would cause trouble. Schizophrenia and loss of control must be taken into consideration as a defence, because of the violent way Polly acts, her loss of control under the Coroners and Justice Act 2009 is a partial defence to murder so she was set to do something to Roxanne. From the information the question, it is evident that Polly called Roxanne a “bitch” where she could be held liable for assault because she also gestures her middle finger which demonstrates that she has a loss of control. The definition of assault was highlighted in the case of *Collins v Wilcock*.

Section 52 of the coroners and justice act 2009, states whether the defendant was suffering from an abnormality of mental function which in this case, yes, she was Polly suffers from Schizophrenia. but all four points must be proved to determine the criminal liability if the defendant was suffering an abnormality of mental functioning if it had the nature of her judgements to exercise self-control and whether it provides an explanation for her conduct. Because Polly had seen the glass tray, she knew instantly what she would be doing with it therefore that determines her loss of control when smashed over Mohammed's head, Section 2 of the homicide act 1957, explains the conviction for manslaughter as he died instantly from the head injury. The definition of loss of control was highlighted in the case R v Dawes 2013. It is evident that from this information Polly was suffering from an abnormality of mental functioning with provides an explanation for D's conduct and the significant function in causing D to kill. The definition of abnormality of mental functioning was highlighted in the case of R v Byrne 1960.

The definition of schizophrenia was highlighted in the case CLARK v ARIZONA. From the information, there were plenty of offences committed which must be taken into consideration by Polly had done. As soon as Polly saw her partner Mo flirting at the bar with Roxanne it is evident that Polly had used verbal abuse towards Roxanne which is why she was kicked out of the pub however, it can be seen as a criminal offence for using this type of offence towards an individual. furthermore, it is evident that Polly was kicked out of the pub and foreseen Roxanne's moped, so she had every hope in mind that she was going to destroy her moped, Polly came across some glass in the car park and severed the brake cables. To begin with, it is evident that the actus reus was established in this which was Polly destroyed/damaging property which belongs to another without a lawful excuse, the definition of property was highlighted in the case of Mofizes V Salmon. From damage/ destruction where property under section 10 of the criminal damage act 1971 of a tangible item. The definition of damage was highlighted in the case of Hardman v Chief Constable of Avon 1986. The other part of the damage/destruction of the moped was belonging to another section 10 (2) criminal damage act 1971 where Polly intended to falter with Roxanne's moped as it was not hers but without lawful excuse.

Diminished responsibility is a defence in this case for the offence of murder, under the homicide act 1957 which was then later modified by the coroners and justice act 2009, having a defence of murder can significantly reduce a murder conviction to manslaughter. Section 2 of the homicide act which was later amended by the Coroners and justice act, legally states that the defence must demonstrate an abnormality of mental functioning from a medical condition, Polly has clearly stated that she suffers from Schizophrenia so in this case, would Polly be liable for the offence of manslaughter and not murder but was it accidental or purposely committed. To second this point Polly was liable for the offence of manslaughter reason being that it is evident that she had the rational decision to throw the tray over Mohammed's head despite cheating on her with Roxanne. It is evident that Polly did not think about the consequences therefore even though she has a recognised mental condition, she committed many offences. The definition of diminished responsibility was highlighted in the case of R v Copley 2021.

Secondly, it is evident that to establish the men's rea you need the intention to be reckless or destruction or damage to be present. The definition of destruction/damage was highlighted in the case of Steer 1987. Was it Polly's aim or purpose to damage or destroy the moped, this

information was highlighted as yes it was the direct intention from Polly as it was her aim and purpose to destroy and damage the moped, Polly had her mindset the intention to endanger Roxanne's life and she foresaw the risk of the brakes failing and putting Roxanne's life on the line. Was it direct intention because she's got an abnormality of mental functioning, Polly intended to do something towards Roxanne because it comes across as jealousy so she had the mindset to commit an offence, however once she found out from her partner Mohammed that he having an affair with the bartender so she hit Mohammed with the glass ashtray so D had the intention to commit the offence. To determine recklessness was its D's intention to commit the act when knowing it may create a risk of harm toward Mohammed. Recklessness is assessed whilst the person acts recklessly where D was aware of the risk that exists or what it will occur and in D's circumstances known to her, she would take that risk in this case Polly did take that risk because she found out her partner of 10 years Mohammed was cheating on her with another woman so she acted recklessly with the direct intention to cause harm or serious damage towards him. The definition of recklessness was highlighted in the case of Regina v G. On the other hand, there is involuntary Manslaughter where the defendant has an unlawful killing without the intention to kill or cause serious bodily harm to the suspect in this case the D would be charged with manslaughter not murder, a part of this case can be seen like that because maybe Polly didn't think that by hitting Mohammed over the head would kill him but knock him unconscious but it escalated and he died instantly. There are two types of involuntary manslaughter where the defendant's gross negligence was caused or by their unlawful or dangerous act. In this case, it was D's fault that potentially it was gross negligence caused by her unlawful or dangerous acts. The definition of involuntary manslaughter was highlighted in the case of R v Lamb as an unlawful act and R v Misra and Srivastava where Polly committed an act of manslaughter.

To conclude this essay, it is evident that Polly is liable to basic criminal damage contrary to section 1 (1) criminal damage act 1981 and aggravated criminal damage contrary to section 1 (2) criminal damage act 1971. Because Polly committed an act of criminal damage towards Roxanne's moped under section 1 (1) she is liable for the damage caused and committed an act of manslaughter reason being that it is evident that D was suffering an abnormality of mental functioning, so D's judgements explain her reason for her behaviour conduct.

Law Cases

CLARK v ARIZONA

Mofizes v Salmon

Hardman v Chief Constable of Avon 1986

Steer 1987

R v Byrne 1960

Regina v Gurpinar 2015

R v Lamb

R v Misra and Srivastava

Collins v Willcock

R v Cobley 2021