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Criminal law

BMPL4009

this assignment will look at both sides of the argument of dishonesty in theft

The theft act 1968 was made to obtain property of deception. Section 1 of this law says that “a person guilty of theft if they dishonestly appropriate property belonging to another with intent of permanently depriving the other of it.

First, what is dishonesty? To be convicted of dishonesty in theft you will have to prove beyond a reasonable doubt that the person has acted dishonestly.

www.noblesolicitors.co.uk/about/indepth-theft

Section 2 ta 1968 states that a person is not being dishonest if:

They have the rights or legal ownership of that property.

If property was found and u cannot find whom the property belonged to.

Even tho the ta 1968 does not explain the full meaning of dishonesty.

Section 5 of the ta 1968 states property belonging to another:

If the property is in possession or control to another person

If property has been giving to the defendant

If the properrty has been giving to restore etc.

www.cps.gov.uk/legal-guidance/theft-act-offences

What is the actus reus of theft

The theft act 1968 can be split into 2 half actus reus and men's rea. Appropriation of the physical act is to find out if the offender thought about his or her actions before the crime

was committed. assumption of any person where he or she gained the property or came across the item(s) without stealing it may deal with the item as the owner until its rightly said so.

<https://blog.criminaldefencesolicitors.co.uk/the-actus-reus-of-theft-act-1968>

In the case of *r v Morris* 1983 the facts are that two defendants walk into a supermarket. Defendant 1 switched labels on an item to obtain a lower price and was caught before he left the shop, Defendant 2 was shortly caught after. The actus reus of this theft is the defendant approaching the item with intentions to permanently deprive the owner of a loss. The outcome of this case was that the price of the item was label it's what it would be sold for. So, there it was made by the house of the lords that as soon as the item is removed off the shelves this is the price it should be sold for.

R v Morris (1983)

In the case of *r v Ghosh* 1982 the appellant was a surgeon who tried to steal the money from a victim for operations which he did not perform. He said the money he received was for consultation fees and which accumulated to the same amount. The jury were directed to make their decision on what they think honesty and dishonesty was and was the surgeon being dishonest. the conviction was upheld.

R v Ghosh (1982)

What is the men's rea of theft

The men's rea of theft act 1968 states that a person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving another of it. So, what is dishonesty in theft? Let us say Lyndsay gets an over payment from the dwp by an extra £200 and does inform them that they have overpaid her and keeps it. This would be classed and dishonest in theft if she knows about the over payment and decides to spend it. But proving it may differ whether the defendant was dishonest that this has been a problem for many juries in the past. What is classed as honest if he or she appropriates another person's property knowing full well that the persons whose property its is would have given them full consent to the individual taking the property.

www.criminaldefencesolicitors.co.ukthe-mens-rea-of-theft-act-1968

In the case of Ivey v Genting casinos 2017 involves professional gambler Phil Ivey. This case law involves Crockfords club casino in London. Mr Ivey visited the casino to play a game of punto Blanco, a type of baccarat. Over a 2-day period Ivey won a total of 7.7 million from this game. The casino then started to suspect that mr Ivey had been cheating by using a technique called edge sorting. Edge sorting is a type of technique that involves identifying certain card numbers and suits by the patterns on the back of the cards. The casino refused to pay mr Ivey due to this complication. The main issue was doing mr Ivey broke the rules under the gambling act 2005 And was their dishonesty in his actions to contest under the r v Ghosh 1982 case. The supreme court held that Ivey's actions were in fact classed as cheating and dishonest. they also overruled the Ghosh test for dishonesty and replaced it with an easier straight forward test.

Ivey v Genting (2017)

Thier are so many diverse types of theft which can range from shop lifting the online bank frauds to burglary.to get a successful conviction it has to be proved by the prosecution that the defendant had dishonest intentions to deprive.

Burglary

This offence can take place in residential or commercial grounds. It is class as burglary when the defendant enters a property with intent of stealing, damaging, or causing harm to another individual.

Robbery

Robbery is a profoundly serious offence and is committed when a person's uses threatening behavior or violence to gain another person's possessions. This can be committed with or without a weapon.

Fraud

Thier are so many types of fraud ranging from bank fraud to home insurance to investments the list is endless. This is where another person is being dishonest to another person all to make a financial gain for themselves.

How to prove these types of theft is all about gathering evidence. from long and extensive police investigations. Building a case which could include cctv, DNA, internet history whatever the police need to prove beyond reasonable doubt. If u are asked to be

interviewed by the police regarding a dishonesty offence it is important to obtain legal advice from early.

www.haskellsolicitors.com/dishonesty-robbery-theft-offences/

In the case law of *Lawrence v MPC* 1972 an Italian student was to take a short trip in a taxi the end fare was to accumulate to 50p. He offered the defendant a 1-pound note and a 5-pound note from his wallet. The defendant was later charged with theft for the dishonest taxi price which he later tried to appeal, which was unsuccessful. The defendant's argument was that it was not theft as the student consented to give him the money.

Lawrence v MPC 1972

In the case of *Oxford v Moss* a student at the university of Liverpool borrowed an advanced version of the exam paper wrote down all the questions and returned the paper to where he found it., the divisional court saw that he was not guilty of theft on the fact that information could not be stolen. There was no evidence that he permanently deprived the university of it.

So, it is fair to say that to understand dishonesty in theft is a tricky and complicated method and certain guidelines have been set to make it more understandable once you put it into case laws. The taking of one's property with no legal obligation or rights and to deny the fact that you did deprive the individual of that item will be classed as theft.

www.studysmarter.co.uk/explanations/law/uk-criminal-law/theft/

Reference list

www.noblesolicitors.co.uk/about/indepth-theft

www.cps.gov.uk/legal-guidance/theft-act-offences

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