Law 12 2018

**Elements of a Crime**

Describe each of the following terms.

Actus Reus \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mens Rea \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Use this information to answer the questions regarding each of the brief cases below.

a) Thomas, who is blind, believing that there was an intersection, crossed a street and was charged with jaywalking.

Actus Reus

Mens Rea

Guilty or Not Guilty

b) Mario, who was trying to shoot birds, which were siting on a parking meter, with his BB gun, accidently hit a nearby pedestrian, seriously injuring them.

Actus Reus

Mens Rea

Guilty or Not Guilty

c) Alexander, who is jealous of his neighbours new motorcycle, steals and crashes it while joyriding.

Actus Reus

Mens Rea

Guilty or Not Guilty

d) John buys a stereo from a stranger who sells them out of the trunk of his car. He pays only $200 for the $1000 stereo and the stranger asks him not to tell anyone where he got it. The police later charge John with possession of stolen goods.

Actus Reus

Mens Rea

Guilty or Not Guilty

e) Mrs. Long, an 85 year-old, could not bear to see her ill and aged husband suffer any longer, so she gave him an overdose of sleeping pills.

Actus Reus

Mens Rea

Guilty or Not Guilty

**R v. Chapin (1979) C.R. (3d) 225 (S.C.C.)**

Chapin was charged under the federal Migratory Birds Convention Act. This law states that it is illegal to hunt for game birds within 400 meters of where bait has been left.
A conservation officer heard shots and went to investigate. As he approached Chapin, he saw a pile of grain about 30 cm long and 7.5 cm wide. He testified that he was almost on top of the grain before he noticed it. Chapin was shooting from a blind about 50 meters from the bait. Even when the bait was pointed out to her she did not know what it was.

**R v. Desmond (1981) 22 C.R. (3d) (N.S.C.A.)**

A man named Lawrence robbed Hart’s Grocery Store. He was driven to the store by the defendant Desmond. After the robbery, Desmond drove Lawrence about five miles (8.0 km) to a woods near New Glasgow. Lawrence left the car and entered the woods where he was apprehended by the police. Desmond testified at his own trial that he did not know Lawrence intended to rob the store until after he had done so. There was evidence that Lawrence gave Desmond money to drive him to New Glasgow.

1. Describe Lawrence’s part in the crime.
2. What should Desmond be charged with? Explain.
3. Should Desmond be convicted?

**R v. Benolkin et al. (1977) Saskatchewan**

Benolkin and two friends were skinny-dipping on a sand bar in a remote section of the South Saskatchewan River, not far from Saskatoon. It was a hot summer day.
The young men were standing nude on the sand bar when other people came along to swim on the river bank. One of the people complained to the police. The young men were charged with an offence under Section 170(1)(a) of the Criminal Code, namely being nude in a public place without lawful excuse. Each was found guilty and sentenced to a fine of $200 or three months’ imprisonment in default. The young men appealed this decision to the Saskatchewan Court of Appeal.

1. Did a criminal offence containing both essential elements exist in this case? Explain.
2. What decision do you think the appeal court reached? Give reasons for your answer.

***R v. O’Brien (1954) 110 C.C.C. 1 (S.C.C.)***

O’Brien was convicted of conspiring with Walter John Tulley to kidnap Joan Pritchard. Tulley was not charged and was a Crown witness. He testified at the trial that he and O’Brien had met several times to plan the kidnapping. He said that he had never intended to go through with the plan but was just fooling O’Brien. Tulley was told by O’Brien that he would be paid $500 for helping. Tulley received payments of $10, $190 and $40. He and O’Brien looked for a house to hold Mrs. Pritchard in. At one point, he led O’Brien to believe he had located a house for this purpose. When O’Brien began pressing him to do the kidnapping. Tulley told Mrs. Pritchard and her husband, and the police were contacted.

1. In this case was there an agreement to do an unlawful act?
2. What effect does the fact that Tulley never intended to carry out the offence have on the conspiracy?
3. What is the mens rea of the offence?
4. Should O’Brien be found guilty?