



THE HONORABLE SOCIETY OF KINGS INNS

ENTRANCE EXAMINATION

AUGUST 2018

Examination: Criminal Law

Date: Tuesday 14 August 2018

Time: 10.00 a.m. – 1.00 p.m.

Internal Examiner: Mr Tom O'Malley, NUIG

External Examiner: Mr Mícheal P O'Higgins SC

INSTRUCTIONS:

Candidates **MUST** attempt Question 1 and any other TWO questions.

Question 1 carries 50 marks. All other questions carry 25 marks each.

This paper is 4 pages long including the cover sheet. You should check that you have all the pages and inform the invigilator immediately if any are missing.

QUESTION 1

The office of the Director of Public Prosecutions has received a file from the Gardai setting out the results of their investigation into complaints made against John Browne who is 35 years of age. The complaints relate to incidents that are alleged to have occurred on 15 and 18 July 2017. There are two complainants, Joanne Greene who was then 16 years of age, and her cousin Mary Greene who was then 17 years of age. At the time, the complainants were staying with their aunt, Mrs Kelly, who lived in a seaside town in the west of Ireland. Mr Browne lived nearby and was a frequent visitor to Mrs Kelly's house. It is alleged that on 15 July 2017, Mr Browne brought Joanne Greene to a concert which she was very keen to attend in a nearby town and that, on the way home, they began to engage in sexual intimacy which culminated in them having sexual intercourse. It is also alleged that late in the evening of 18 July 2017, Mr Browne met Mary Greene in a café and offered her a lift home which she accepted. However, instead of driving straight back to where they lived, Mr Browne drove to a remote area and asked Mary to have sexual intercourse with him. She refused. He then told her that he was aware that she was a cannabis user and that she had recently sold cannabis to other young people in the area. He reminded her that this was a serious criminal offence for which she could go to prison. He then told her that he would report her drug dealing activities to the Gardai unless she had intercourse with him. On hearing this, Mary (who had, in fact, been selling cannabis) reluctantly had sexual intercourse with him. On being interviewed by the Gardai, Mr Browne accepted that he had sexual intercourse with both complainants in the circumstances just described, but he claimed that both had consented. He also said that he was sure that Joanne Greene was 17 years of age at the time, because Mrs Kelly had recently told him that both girls were the exact same age, and he was aware that Mary had celebrated her 17th birthday a few months earlier.

On the basis of these facts, you are asked to advise the DPP as to the charges, if any, that should be brought against Mr Browne, and also of any defence (s) he may have in the event that he is charged.

[50 Marks]

QUESTION 2

On the evening of 17 March 2017, John entered a café which was open to the public at the time. He was heavily intoxicated, having consumed a great deal of alcohol as well as some drugs during the afternoon. All of the tables in the café were occupied, so John went in behind the counter and asked a staff member, Andrew, to give him cup of coffee. Andrew ordered him to leave the premises. John refused to do so, whereupon Andrew called the Gardai. Two Gardai, Garda Jones and Garda Murphy, soon arrived and they ordered John to leave. John responded by taking up a sharp knife that was lying on a counter behind him, holding it up to Garda Jones's face and saying: "Either I get a cup of coffee or you'll be needing plastic surgery." Garda Murphy managed to wrestle the knife from him, though he (Garda Murphy) suffered a stab wound in the process. John was then arrested.

On the basis of these facts, you are asked to advise as to any offence(s) with which John may be charged and any defence(s) he may have in the event that he is charged.

[25 Marks]

QUESTION 3

One evening in January 2018, Michael and his girlfriend Susan went to a local pub for a drink. As the evening progressed, Michael noticed that Susan was spending a good deal of time talking to Jimmy, a mutual acquaintance of theirs. Michael eventually approached Jimmy and said to him: "Why don't you get a girlfriend of your own?" Jimmy replied that he would talk to whoever he liked. Michael responded by hitting Jimmy a blow on the head which caused him to lose his balance and hit his head against a marble-topped counter. He lost consciousness as a result. He was rushed to hospital where he died five days later. The immediate cause of his death was pneumonia. Shortly thereafter, Michael was charged with murder and is currently awaiting trial. In the meantime, his defence lawyers have obtained hospital documents describing the treatment given to Jimmy between the time of his admission to hospital and his death. An independent specialist who examined this documentation has offered the opinion that the treatment given to Jimmy was inappropriate in the circumstances. More precisely, the specialist claims that Jimmy was injected with an excessive dose of a particular substance that caused him to become dehydrated, that inadequate steps were taken to counteract the dehydration and that this would have led to Jimmy getting pneumonia.

Michael's defence lawyers have sought your advice as to whether, in these circumstances, their client is likely to be found guilty of murder. Advise them.

[25 Marks]

QUESTION 4

Some weeks ago, Kevin attended a meeting of his residents' association where the main topic of discussion was a planning application that had been made by a business consortium to build a hotel adjacent to the estate where the residents lived. Some of the residents were supportive of the application but others, including Kevin, were vehemently opposed to it and were advocating that the association should lodge an objection. At one point during the discussion, Kevin said that if the hotel were built on the proposed site it would attract all sorts of undesirable characters, including prostitutes, into the locality. When he made this remark, another resident, Peter, replied: "Well, in that case, we'll be seeing your mother a bit more often." On hearing this, Kevin became so incensed that he left the meeting, went to his house which was about 100 yards away, got a legally held shot gun which he kept there, brought it back to the meeting and shot Peter at point blank range, causing his immediate death. On being arrested and questioned by the Gardai, Kevin expressed remorse at what he had done, but said that he had "boiled over" when Peter made the remark about his mother. He said that his mother, to whom he was deeply attached, had just been diagnosed with terminal cancer (although he accepted that Peter would not have known about that) and that this factor, more than anything else, had probably caused him to react as he did.

Kevin has now been charged with murder and you are asked to advise as to whether, in these circumstances, he has any defence available to him.

[25 Marks]

QUESTION 5

Mark is a drug addict who, in early June 2018, was released from prison where he was serving a sentence for theft. By this time, he owed a significant amount of money to Barry who had been supplying him with drugs. One night, shortly after his release, he had a visit from Barry who demanded payment of the money that was owing to him. Mark explained that he did not have any money. Barry then told him that he wanted him instead to "do a job" for him. He gave Mark a firearm and told him that he was to use it the next evening to shoot Roddy, a rival drug dealer. He made clear that he did not want Mark to kill Roddy but that he was to "knee cap" him instead. Mark protested strongly, saying that he had never used violence against anybody, and did not wish to do so now. Barry replied that if he did not do as he was told, he would be a dead man himself within a matter of days. Mark very reluctantly did as he was told. The following evening, he lay in wait for Roddy and shot him in the legs as he was approaching his house. Roddy survived the attack, though he suffered serious injuries and had to have one of his legs amputated. Mark was soon identified as the assailant and was arrested. He has now been charged with causing serious harm contrary to section 4 of the Non-Fatal Offences Against the Person Act 1997.

You are asked to advise him as to whether, in these circumstances, he has any defence available to him.

Would your advice be different if Roddy had died as a result of the shooting?

[25 Marks]