



THE HONORABLE SOCIETY OF KING'S INNS

ENTRANCE EXAMINATION

AUGUST 2020

Examination: Criminal Law

Date: Monday 24 August 2020

Time: 3.5 hour examination

Internal Examiner: Mr Tom O'Malley

External Examiner: Mr Mícheál 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 5 pages long including the cover sheet.

Question 1 Compulsory

John had worked for 25 years as a chef in a hotel owned by Edward. In late March 2020, the hotel, like all others, had to close because of the Covid-19 pandemic. John found the lockdown that followed a very difficult experience, as he was largely confined to his home where he lived alone. Matters got worse in early June 2020 when Edward contacted him and told him that, when the hotel re-opened, it would need fewer staff than previously and that, regrettably, he had no option but to make John redundant. John was very upset at this news, especially after he became aware that other staff members who had been recruited only within the past few years were being retained. In the early hours of 15 June 2020, five days after being told he was being made redundant, John went to Edward's house with which he was very familiar, having visited it several times in the past. He brought with him two petrol bombs and a cannister of petrol. He had made the petrol bombs with bottles of petrol according to instructions he found on the internet, and he took care to insert some metal in each of the bottles so that they would be heavy enough to crash through double-glazed windows. When he got to the house, it was in darkness but there were two cars, Edward's and his wife's, parked in the driveway. John threw the petrol bombs through a window into the front room where they exploded causing a fire. He then poured petrol in through the letter box of the front door and ignited it. He would have been aware that there was a wooden staircase in the hallway very close to the front door. The staircase caught fire and soon there was a major conflagration. Edward, his wife and their teenage son, who were sleeping upstairs, died in the blaze. There is psychiatric evidence, which will be available at any future trial, that at the time at which these events occurred, John was suffering from what is described as "reactive depression", meaning depression that can occur as a result of some upsetting or traumatic event such as the breakup of a relationship or the sudden loss of employment.

On the basis of these facts, you are asked to advise on:

- (a) the criminal charge(s) that may be brought against John, and
- (b) any defence he may have in respect of some or all of those charges.

[50 marks]

Question 2

Michael spent most of the afternoon of 17 March 2018 drinking in various public houses in the locality where he lived. By 6.00 p.m. that evening, he had drunk seven pints of beer over a period of about four hours and had also consumed some cannabis. Shortly after 6.00 p.m. he went to the house of a neighbour, Simon, who, he claimed, owed him some money. Simon admitted him to the house but, when Michael demanded the money, Simon ordered him to leave immediately. At that point, Michael took up a carving knife that was lying on a nearby table and stabbed

Simon several times with it. He then left the house. Some time later, Simon's wife returned home to find her husband lying on the floor in a pool of blood. He was declared dead by medical personnel who were immediately called to the scene. Michael was charged with Simon's murder and, following trial, was convicted of that offence by the jury. He had offered to plead guilty to manslaughter on the basis that he was heavily intoxicated at the time of the killing, but this offer was rejected by the prosecution. At the close of the murder trial, the trial judge agreed with defence counsel that the issue of intoxication should be left to the jury. When he came to charge the jury on the matter, the judge said:

"Now insofar as intoxication is concerned, the law is simply this. Intoxication, if sufficiently severe, can be a defence to murder, but only in very limited circumstances. You must be satisfied that this accused was so intoxicated as to be incapable of forming an intention to kill or cause serious injury at the time at which he stabbed the victim. Unless you are so satisfied, the intoxication defence is not available to the accused."

After deliberating, the jury found Michael guilty of murder. He has now sought your advice as to whether he should appeal against that conviction because of the manner in which the trial judge instructed the jury on the issue of intoxication. Advise him.

[25 marks]

Question 3

At 11.30 a.m. on 15 April 2020 Mary was coming out of a supermarket with a trolley of groceries. As she was approaching her car, she passed by a group of three men who she recognised as they lived in her neighbourhood. One of them, Matthew, called out to her, saying: "I'm surprised you can afford to buy anything these days." "Why is that?", replied Mary. "Well," said Matthew, "with the lockdown there isn't much work nowadays for prostitutes, is there?" All three men began to laugh loudly at that remark and walked away. Several other people in the carpark heard the exchange. When Mary arrived home at 11.45 a.m., she told her husband, Jamie, about what had happened in the carpark and about the remarks made by Matthew. Jamie became absolutely furious and declared that he would get even with Matthew, with whom he had rows in the past. At 5.00 p.m. that evening, Jamie took a shotgun which he legally held, loaded it with ammunition and went to Matthew's house. Matthew was outside his house cleaning his car. Jamie ran up to him and shot him several times in the chest and stomach. Matthew died from the gunshot wounds a short time later. Jamie has now been charged with murder and you are asked to advise as to whether, on the basis of these facts, he has any defence available to him.

[25 marks]

Question 4

In early March 2019, Peter, who was then 20 years of age, met with Una, having first made contact with her on an internet dating site. She was then just over 16 years of age. On the second occasion on which they met, 12 March 2019, they had sexual intercourse. When Una's parents discovered this, they reported the matter to the Gardaí and Peter was later charged with a defilement offence contrary to s. 3 of the Criminal Law (Sexual Offences) Act 2006, as amended. Peter claimed that he believed Una was at least 17 years of age when he met her. In May 2019, Peter met Rosalind, who was then 18 years of age, in a pub and she invited him back to her apartment. There they had sexual intercourse, but there is a conflict in their respective accounts as to the circumstances in which it occurred. Rosalind, in her complaint to the Gardaí, stated that she had made it clear to Peter that she did not wish to have sexual intercourse. Peter claims that he believed at the time that Rosalind was consenting. Peter was later charged with rape as a result of the complaint made by Rosalind.

Peter was recently put on trial for both the alleged rape and the alleged defilement offence. He pleaded not guilty to both charges. When the trial judge came to charge the jury at the conclusion of the trial, he instructed them as follows:

“Now in relation to the rape charge, the accused claims that he believed that the complainant (Rosalind) was consenting. It is indeed the law that a mistaken belief in consent can be a defence to a charge of rape. However, before you can acquit the accused on this ground, you must be satisfied that a reasonable person in the circumstances in which the accused found himself would have believed that the complainant was consenting to the act of sexual intercourse.

Insofar as the defilement charge is concerned, you must remember that consent on the part of the young person involved, Una in this case, provides no defence for the accused. However, he may have a defence if he was mistaken as to the age of the young person. You must acquit him of this charge if you are satisfied that a reasonable person in the circumstances in which the accused found himself at the time at which he had sexual intercourse with Una would reasonably have believed that she was 17 years of age or older.”

The jury convicted Peter of both rape and defilement. He was now sought your advice as to whether he should appeal against either or both of these convictions because of the manner in which the trial judge instructed the jury as set out in the passages quoted above. Advise him.

[25 marks]

Question 5

Paul, who is 22 years of age, lives with his mother in Cork. His father, William, who is divorced from Paul's mother, lives in Dublin. In July 2020, William phoned Paul and said that he was going to be in the west of Ireland on business for the following two weeks and that Paul was welcome to stay in his apartment in Dublin during that time. Paul accepted the invitation and his father arranged to leave the key to the apartment with a neighbour. Some days later, Paul and his girlfriend Shona, also aged 22, went to Dublin, collected the key and settled into William's apartment. Before leaving William's apartment at the end of their stay, they discovered what appeared to be a valuable collection of gold jewellery in a drawer. They took some of it and brought it to a jeweller, Seamus, who examined it and offered to buy it for €500 which they accepted. It transpires that the items in question were worth about ten times that amount. On William's return he noticed that some of the jewellery was missing and he alerted the Gardaí. Following an investigation, they discovered what had happened. They have now forwarded a file to the Director of Public Prosecutions who has sought your advice as to the charges, if any, that may be brought against Paul, Shona and Seamus. Advise the Director.

[25 marks]