

THE HONORABLE SOCIETY OF KING'S INNS

DEGREE OF BARRISTER-AT-LAW

ENTRANCE EXAMINATION

CRIMINAL LAW

August 2022

DATE | Thursday, 11 August 2022

TIME | 3 hours

EXAMINER | Professor Tom O'Malley (UCG)

EXTERNAL EXAMINER | Mr Mícheál P O'Higgins SC

Instructions

A candidate must answer Question 1 (50% of marks) and **TWO** other questions (each 25% of marks).

This paper is 4 pages long including the cover sheet.

CRIMINAL LAW

Q1 | COMPULSORY QUESTION

50 MARKS

John has been charged with two counts of sexual assault that are alleged to have been committed in the following circumstances.

The first charge relates to an incident alleged to have occurred in a tennis club in April 2022. Mary, who had been playing tennis, decided to have a shower after a match in which she was involved. As she was approaching the women's changing rooms, she was approached by John who was also a member of the club and with whom she was slightly acquainted. He asked her if she would like to join him later for a drink, but she declined the invitation. She then proceeded to have a shower. As she was alone in the shower cubicle, John entered the cubicle completely unannounced. He was also completely naked. He told her that he had always fancied her. She began screaming at him to get out, but he refused to do so until other people were heard approaching the cubicle, at which point he fled. At no point did he touch Mary while he was in the cubicle, but she claims that she was petrified that he was going to sexually assault her.

The second charge relates to an incident alleged to have occurred in May 2022. Orla, a six-year-old girl, came to John's house on a playdate with John's daughter, Tara, who was also six years old. At one point, while the girls were playing hide and seek in the back garden, Tara complained that Orla was cheating. John, who was sitting on a chair watching them, said: "Yes, I think she has been cheating and that deserves to be punished." He called Orla over to him, pulled down her shorts and slapped her lightly three times on the bare bottom. On returning home, Orla told her parents what John had done to her, and they reported the matter to the Gardaí.

Advise John as to whether, on the basis of the above information, he can lawfully be convicted on either or both of the sexual assault charges.

CRIMINAL LAW

Q 2

25 MARKS

Describe the present Irish law on duress as a defence to a criminal charge, including in your answer the arguments you would make either for or against recognising duress as a defence to murder and attempted murder. (In relation to the latter part of this question, you should confine yourself to setting out any arguments you would make either for or against recognising duress as a defence to murder and attempted murder. You are not asked to make arguments in both directions).

CRIMINAL LAW

Q 3

25 MARKS

Peter had been in a relationship with Shona, who was a classmate of his in school. On 12 March 2022, Shona told Peter, who was then 15 years of age, that she could no longer see him because her father, Denis, had ordered her to end the relationship. She said that her father strongly objected to the relationship because Peter's father was serving a prison sentence for drug offences. Denis did not, therefore, consider Peter to be suitable company for his daughter. Peter was deeply hurt by this. In the early hours of the morning of 15 March 2022, he went to Denis's home with a can of petrol, some newspaper and a box of matches. He broke the front window of the house with the can, emptied the petrol into the living room, then set fire to the newspaper with a match and threw the lighted paper in on top of the petrol. This caused a fire in the living room which soon spread to the rest of the house. A fire alarm went off. Denis managed to escape as did Shona and her sister. However, Denis's wife, Hilda, was not so lucky. She died as a result of smoke inhalation. Peter has been charged with Hilda's murder. He says that he did not intend to kill or injure anyone. He just wanted to damage the house as revenge for Denis's action in breaking up his relationship with Shona. Advise Peter as to whether he is liable to be found guilty of murder in these circumstances.

CRIMINAL LAW

Q 4

25 MARKS

Margaret has been charged with the murder of her son Joshua who died in the following circumstances. He was 18 years of age and had a severe disability which left him almost totally dependent on Margaret, who was his sole carer. While she was at work, Joshua was cared for at a local residential centre for young persons with disabilities. In early January 2022, Margaret unexpectedly lost her job, and this left her very upset and depressed, especially as this would probably mean losing her house as well. She knew that, if this happened, it would prove extremely difficult, if not impossible, to find alternative accommodation for Joshua and herself. On the night of 22 January 2022, while Joshua was asleep, she smothered him, thereby causing his death. On later being questioned by the Gardaí, she said that she felt this was the best thing to do as she would no longer be able to provide Joshua with any comfort. There is psychiatric evidence, which will be tendered to the trial court, that Margaret, when she killed Joshua, was suffering from a condition known as reactive depression. This is a temporary condition brought about by some upsetting

or traumatic event such as a bereavement, the break-up of a relationship or the unexpected loss of one's job. While suffering from this form of depression, people know what they are doing and have some degree of control over their actions. In light of this information, you are asked to advise Margaret as to whether she has any defence to the murder charge which she now faces.

CRIMINAL LAW

Q 5

25 MARKS

On the evening of 3 May 2022, Brian entered a suburban dwelling house which he believed to be unoccupied. His purpose was to see if he could find any money there or any items that he might take away and sell. However, he was surprised when the occupier of the house, Stephen, who happened to be upstairs, confronted him and asked him to leave. He hit Stephen a heavy blow on the head, knocking him to the ground. He then took a mobile phone which was left on a table inside the front door and fled with it. Stephen managed to raise the alarm. He had to be taken to hospital where he was detained for three days while being treated for severe concussion resulting from the blow struck by Brian. Later that same evening (3 May 2022), Brian was walking along a quiet street when he met a woman who was carrying a laptop computer. Brian grabbed the laptop and started to walk away with it. The woman grabbed him in an effort to retrieve the laptop, but he hit her a blow, knocking her to the ground. She sustained minor injuries as a result. Brian made off with the laptop. On the basis of this information, you are asked to advise on the charges that may be brought against Brian.