

Examination Questions and Answers

Question 1

Clare and her boyfriend Dave, a six foot tall athlete, had an argument one night. Dave stormed upstairs and locked himself in the bedroom. In a jealous rage, Clare pursued him and banged on the door, shouting at the top of her voice, "You wait until I get my hands on you." Eventually, the lock gave way and Clare rushed into the room. At the sight of her, Dave jumped out of the window, landed awkwardly and broke his ankle. At that moment, James rode by on his bicycle and offered Dave a lift to the hospital. Dave accepted but James found Dave too heavy a passenger and they fell over twice going round corners. Eventually, James left Dave on a nearby beach whilst he went to find help. Dave waited for several hours but no help arrived. The temperature dropped to below freezing. His condition deteriorated to such a poor state that he was unable to move when the tide came in and he drowned.

Discuss the criminal liability of Clare and James.

Clare:

- *Unlawful act manslaughter – the unlawful act is unlikely to be the initial assault but more likely to be ABH – but has she committed the AR of ABH given that Dave may have broken the chain of causation by jumping? Discuss whether Dave apprehended violence given that he was a six foot tall athlete*
- *Secondly, is the chain of causation in relation to manslaughter broken by James?*

James:

- *Gross negligence manslaughter – but does James owe Dave a duty of care (omissions liability) and if so, has he been grossly negligent? Contrast this to ordinary negligence.*

Question 2

Naveed offered Betty a lift home after a dance. He was feeling angry because Betty had been spreading rumours about him. During the journey he shouted that he was going to break her neck if she continued spreading rumours. In a highly distressed state, Betty jumped from the car, fell to the ground and fractured her left wrist. At that moment, Betty was grabbed by Peter who was fleeing from some police officers. Peter took Betty hostage and dragged her to

the end of a long, dark corridor in the flats from where he fired one bullet at the approaching police. Police Constable Patel fired three bullets in response and seriously wounded Betty.

The only duty doctor in the hospital to which Betty was taken got ready to see her urgently but unfortunately he was so tired that he fell asleep. She died in the waiting room that night.

Discuss.

Naveed:

- *ABH for the fractured wrist - but did Betty break the chain of causation by jumping?*
- *Unlawful act manslaughter - but was the chain of causation broken by Peter, PC Patel or the doctor?*

Peter:

- *Manslaughter of Betty but was the chain of causation broken by PC Patel? If not, was it broken by the doctor?*

PC Patel:

- *Gross negligence manslaughter? Did he have a duty of care?*

Question 3

Diane is a railway enthusiast and volunteer at the London Steam Railway Society. She operates the gates at one of the level crossings on the railway during public open days, opening the gates when safe and closing them as trains approach. She is very annoyed that no-one has brought her any lunch one day and marches off to get a sandwich, leaving the gates open. A young child, Vicky, runs across the track as a train approaches and falls under the wheels. Olly, who lives next door to Vicky, sees the danger but fails to shout a warning. Vicky is taken to hospital and put on a life support machine which Ralph the doctor disconnects two weeks later because Vicky is in a coma and has no hope of recovery. She dies within days. Discuss.

Diane:

- *Gross negligence manslaughter – does she owe a duty of care to Vicky?*
- *Has the chain of causation been broken by Olly or Ralph?*

Olly:

- *Whether he will have committed an offence depends on whether he owes a duty to Vicky. Does he? It seems unlikely as he is only a neighbour and has not voluntarily assumed care along Stone and Dobinson lines. If not, is he likely to have broken the chain?*

Ralph:

- *Any offence will depend on whether he is in breach of a duty of care and, possibly, whether he commits an act or omission in withdrawing the treatment (Re A, it should be noted, doubts this distinction). Potential offences: murder/gross negligence manslaughter.*

Train Driver:

- *Possible offence related to dangerous driving but nothing suggests he was at fault.*