

Examination Questions and Answers

Question 1

Pip wished to acquire a state of the art mobile telephone so as to be like all his friends but could not afford one. He saw Victor using a desirable telephone one day whilst standing on a bridge. When Victor refused to hand it over, Pip threw him from the bridge to the river below. Pip knew that Victor could not swim but thought the river was shallow because there had been little rain that summer. Victor hit his head on a rock in the river and drifted whilst unconscious for a few hours before dying from hypothermia. Amy, Victor's next-door neighbour and an off-duty police woman, saw Victor float by as she jogged along the river bank. She did nothing to assist him. At Pip's trial, he stated that he had only intended to frighten Victor. The judge directed the jury that if Pip had realized that drowning was a substantial risk then he must have had the necessary intent to kill. Pip was convicted.

Discuss the liability of Pip and Amy for the death of Victor.

Pip:

- *Homicide: AR – is the chain of causation broken by Amy (no - an omission won't break chain) or the hypothermia (no – Pip's act remains operative & substantial cause)?*
- *MR for murder: Direct intent unlikely. Consider oblique intent. If judge's direction resulted in conviction, appeal inevitable on basis of Woollin. Cannot be conclusive without knowledge of all the facts and circumstances (e.g.: height of bridge). Therefore, consider recklessness/unlawful act manslaughter.*

Amy:

- *Any offence will depend on her liability for an omission in breach of duty to act: Dytham.*

Question 2

Akim and Clemi aged 13 were out one evening in the local park. They planned to make a camp fire in order to cook some sausages. They found some newspapers which they piled up and set alight with matches. Whilst they were looking for something to use as a pan, a gust of wind fanned the flames of the fire and caught an overhanging tree alight. The fire then spread to the roof of an adjacent shop. Clemi ran to the nearest telephone booth to call her mother.

The telephone was not working. Angrily, she slammed the telephone onto the handset, breaking it. Akim and Clemi then decided to run away. Unfortunately, Bessie, an employee of the shop, was in the basement of the premises when it caught fire. The shop owner, Minerva Limited, had failed to install fire alarms or proper emergency escape exits in breach of health and safety regulations. By the time Bessie became aware of what was happening, she was unable to escape because of the ferocity of the blaze. She burned to death and the whole building was destroyed in the fire.

Advise Akim, Clemi and Minerva Limited on their liability for the various offences committed in this question.

Akim & Clemi:

- *Criminal Damage on building and phone – MR: subjective recklessness.*
- *Manslaughter: reckless? Unlikely had foresight re Bessie (RvG). Constructive – positive unlawful act? Objectively dangerous? Causation – does Minerva’s negligence break chain?*
- *Minerva: Corporate homicide/gross negligence manslaughter.*

Question 3

Arnold was a member of an anti-capitalist organization committed to the violent overthrow of society. He made a telephone call to a police station in which he threatened to release a toxic gas into the underground rail system of a city within thirty minutes. The authorities closed the system down but some gas was released, killing a police officer, Bill, and injuring a passenger, Carl. An ambulance worker, Dan, attempted to assist Carl but ran away from the scene when it was time to go off duty. Carl was eventually taken to hospital but he refused a potentially life-saving blood transfusion. Within hours he experienced extreme breathing difficulties and to cut short his agony he took out his penknife and slit his throat. He died within seconds.

Discuss whether any offences have been committed by Arnold or Dan.

Arnold:

- *Murder of Bill: AR seems satisfied.
MR – direct/oblique intent? Recklessness?*
- *Murder of Carl: AR - is the chain of causation broken by Dan (omission so unlikely) or Carl’s own suicide? Again, MR requires examination.*

Dan:

- *Any offence will depend on whether he was in breach of a relevant duty to act.*