

Examination Questions and Answers

Question 1

Afzul was a drug addict who shared a room with Brad. Brad was inexperienced in the use of drugs but one day asked Afzul for some heroin 'to make him sleep'. Afzul injected himself with heroin and then prepared a syringe which he gave to Brad for immediate injection. Brad injected himself. After a short while his breathing was affected and he collapsed. Afzul ignored him as he was hallucinating and absorbed in a television programme. He did not call an ambulance for three hours and the journey to the hospital was delayed because the driver lost his way. At the hospital, Brad's breathing became infrequent and he appeared to be in great distress. On the assumption that he was unlikely to survive, Faruk the doctor injected him with a triple dose of pain killer so that he could end his life peacefully. Brad died within the hour. Faruk was diabetic and had worked for 36 hours without a break having forgotten to take any insulin.

Discuss the criminal liability of Afzul and Faruk.

Afzul

- *Unlawful and dangerous act manslaughter: there is no unlawful act (no administration of a noxious thing under s23 OAPA 1861) and no causation: Kennedy No 2.*
- *Gross negligence manslaughter – does A owe a duty to B? Khan, Ruffel, Evans (probably yes);*
 - *is there a break in the chain of causation owing to: self-injection (not according to Evans); the ambulance delay/Faruk? (The latter is the stronger argument).*

Defence: Automatism but this would be self-induced by drugs and would not therefore apply to offences of basic intent. Manslaughter is such an offence.

Faruk

- *Potential murder of B depending on whether the diagnosis of approaching death was correct but the doctrine of double effect avoiding MR may offer a defence. [If Re A is followed, then F probably intends to kill but necessity might provide a defence.] If F has been negligent in his assessment of the seriousness of B's condition, then possibly gross negligence manslaughter.*

Defence: Diabetes = insanity. This case should be contrasted with one in which the defendant has taken insulin but has then forgotten to eat.

Question 2

Nigel, a diabetic 14 year-old youth of low intelligence, went to Betty's first floor flat. Nigel was feeling angry because Betty had been spreading rumours about him. He had taken medication but had not eaten all day. Before calling at Betty's flat he had drunk half a bottle of vodka. Nigel broke down Betty's door and shouted that he was going to break her neck if she continued spreading rumours. In a highly distressed state, Betty jumped from the window, 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 Conrad fired three bullets in response and killed Betty.

Discuss.

Nigel:

- *ABH (broken wrist) AR: Did B break the chain of causation by jumping? (Roberts). MR of assault/battery: Would N's low intelligence prevent him from foreseeing the risk of harm from his actions?*
- *Homicide: given that the chain of events he began led to B's death, should N be regarded as culpable? AR: Peter would probably be regarded as a Novus Actus Interveniens (NAI) given that he was acting voluntarily, deliberately and unlawfully with foresight of at least GBH (Pagett). MR: Again, N would in all probability lack the necessary MR for GBH/death.*
- *Defences: N - Insanity/intoxication which would not apply to basic intent offences, as here.*

Peter:

- *Under Pagett, P would probably be regarded as the cause of B's death. PC C would not break the chain of causation having acted in pursuance of a duty/self-preservation. Provided P foresaw death/GBH he would satisfy the elements of unlawful and dangerous act manslaughter.*

PC Conrad – Unlikely that he would have committed gross negligence manslaughter because P would have been the cause of death.