

Examination Questions and Answers

Question 1

Ahmed was in dispute with his neighbour, Farouk, over the boundary between their gardens. One morning, on seeing Ahmed in his garden, Farouk let his fierce pit-bull terrier dog jump over the fence to give Ahmed a fright. In fear, Ahmed ran through his house and out of the front door to escape. However, Farouk had dug a deep hole outside Ahmed's house and Ahmed fell straight into it, fracturing his left arm. Whilst he was attempting to climb out, Farouk waived an axe at him but Ahmed did not notice. Later that night, after three whiskies to calm his nerves, Ahmed looked into his garden and thought he saw Farouk climbing over the fence. He took loaded rifle from a drawer and fired one shot at Farouk's right shoulder. The intruder was not, in fact Farouk, but Kip, a local juvenile.

Discuss ignoring any offences concerning dangerous dogs.

Farouk:

- *Dog: Intentional assault*
- *Arm: s47 ABH (original assault plus ABH)/possibly s20 GBH despite harm not having been directly applied to A: Ireland/Hayward.*
- *Axe: since F did not apprehend immediate violence there was no assault.*
- *Rifle: s20, s18 GBH. Defence: Mistaken belief in self-defence but was his belief in the need for immediate force honest and was the amount of force reasonable or excessive given that he was defending his property (Burns; s 76(2)(aa) and s 76(5A))?*

Question 2

Russell, a cannabis user, was confronted one night by George, his drug supplier who had a reputation for violence. George forced Russell to break into a house, drove him to the address and supplied him with a knife. George threatened Russell that unless he took at least £5000 worth of jewellery, Russell's family would be injured. Russell forced open a ground floor window with the knife and just as he was climbing through, Eli, the owner of the house, opened the front door. George shouted to Russell to knife Eli in the arm or he would shoot Russell in the back. Russell, who was terrified, did as he was told and then dropped the knife and ran away. As he did so, George produced a gun and aimed it at Russell's back but the gun jumped and fired into the next door conservatory, breaking a pane of glass. However, Eli collapsed from shock and

believing him to be dead, George and Russell drove Eli's unconscious body to a river. They threw him in and he drowned.

Discuss. You may ignore any drugs or firearms offences.

Russell:

- *Aggravated burglary/murder/manslaughter given his intention to cause GBH by stabbing and/or disposal of the body.*
- *Defence: duress/limitations/Howe/Hasan*

George:

- *Procuring/abetting aggravated burglary and murder/manslaughter/ two verbal assaults on R by threats/attempted murder of R by aiming a gun at his back/reckless criminal damage.*

Question 3

1. (a) Linda has a violent partner, Winston, who has beaten her up on many occasions. At his trial for armed robbery she gives a false statement supporting his alibi. Linda is subsequently convicted of perjury and wishes to appeal against the decision. Discuss her defence/s.

- *Duress: Subjective test – was she in fear of immediate or future harm? If the latter, the defence may not apply (Hasan). However, she may genuinely believe harm to be immediate (David Martin).*
Objective test: Will her characteristics of being an abused woman assist? (Bowen). However, is she consorting with a known criminal and thus be denied the defence? (Hasan).

(b) Richard has been banned from driving for five years after being convicted of causing death by reckless driving. His wife goes into labour in the middle of the night. In a panic he uses his wife's car to drive to the hospital maternity unit, but is stopped by the police en route.

- *Duress of circumstances: Was his action a reasonable and proportionate response to avoid serious physical harm? (Willer).*

(c) Sonia and Sandra go on a climbing holiday together in the lake district. During a dangerous climb for which they are roped together, Sonia slips and falls. The weight of Sonia's body begins to drag Sandra off the rock face. Sandra cuts the rope. Sonia drops to her death.

- *Necessity: limitations in respect of murder – Howe/Re A.*

(d) Edwina and her daughter, aged 3, are very hard up and have not eaten for two days. This is because Edwina has spent most of her benefit money on getting the washing machine repaired. In desperation Edwina goes into Safarbury's supermarkets and puts a loaf of bread and two cans of beans into her shopping bag. She then leaves without paying.

- *Theft/Necessity: unlikely to apply – L. Denning in Southwark.*

(e) Members of the Istrian Liberation army state say they will kill Boris's wife and family unless he drives a van and parks it outside the Lusitanian Mission in Kensington. He follows their instructions and the van explodes killing several passers by.

Consider the defence(s) available in each of the above situations and refer to the relevant legal authorities.

- *Limitations of duress in respect of both murder and voluntary association.*

Question 3

A and B are shipwrecked sailors drifting in a life raft in the South Atlantic. V, a fifteen year old cabin boy, is with them. They have had no food for 10 days and no water for 5. V is weak and close to death. A and B decide to kill him so that they might live. They do so and feed off his body. Four days later they are saved. Have A and B committed an offence? If so, do they have any defence?

- *Murder*
- *Necessity/Re A/Judgment of Brooke LJ. (Differentiate from older case of Dudley & Stephens)*