

Examination Questions and Answers

Question 1

Fred met Amrit in the street one day. Amrit owed Fred £300 and when he refused to pay his debt Fred grabbed Amrit by the arm and reached into his pocket. At that moment, Amrit collapsed and died as a result of a drug overdose taken half an hour earlier. Fred continued to search through Amrit's pockets and found £5000 which he took. Fred was a care-worker at a residential home for the elderly. He had befriended William, a naive, partially-sighted resident. Fred persuaded William to make him a gift of a cheque of £10,000 which Fred paid into his own bank account. The residential home overpaid Fred's salary one month with the result that he received double the usual payment. He said nothing about it. On arrest he stated that he did not think he had done anything wrong because anyone else would have done the same.

Discuss the property offences committed by Fred.

Main issues:

- £5000: Robbery: Theft accompanied by force. All elements of theft are satisfied except possibly dishonesty in relation to the £300 debt. Fred will argue that he honestly believed that he had a claim of right here. Regarding to whom the money belongs, see *Sullivan & Ballion*. The money must belong to someone even if it no longer belongs to the defendant. Fred knows, however, that it does not belong to him.
- £10,000: Gift, but if dishonest this could now become theft under *Hinks*. Discussion of appropriation of an inter vivos gift.
- Salary: Obligation to make restoration under s5(4). His defence of a lack of dishonesty is not likely to be genuine.
- Note that the two limbed test in *R v Ghosh* has been rejected by the court in *Ivey v Genting Casinos t/a Crockfords* [2017]. According to this decision, the prosecution will no longer have to prove that the defendant was aware that his actions are dishonest according to the standards of reasonable and honest people.

Question 2

Simon was unemployed and had no money but wished to apply to university to study for a career. He was offered a place at Southchester University but in order to afford the high cost of studying he needed to find a job which he did not

want to do. He decided to visit Beryl, his elderly aunt, whom he had not seen for five years. Beryl was extremely rich but naïve and careless regarding financial affairs. Simon told her how he would love to get better acquainted so that he could help her in her old age. Beryl was so grateful for his kindness that she instantly wrote him a cheque for £30,000 and said she hoped to see him the next day. Simon took the cheque but had no intention of returning at all. On the first day of term, Simon enthusiastically borrowed twenty text books from the library which he was due to return in three weeks time. On the second day he noticed some sandwiches in the kitchen purchased by his flat-mate, Ken, for lunch. Feeling hungry, Simon ate them whilst Ken was at a lecture. He also searched Ken's bedside cabinet for anything valuable inside but found nothing.

On the third day, he checked his bank balance and found that the bank had mistakenly credited his account with another £30,000. Simon immediately realized that the academic life was not for him and he set out to travel the world with his new found wealth, tossing the library books into a nearby dustbin on leaving the university.

Discuss.

Main issues:

- *£30,000 from Beryl: Hinks/appropriation of B's credit balance in her bank account/gift/dishonesty.*
- *Library books – s6 TA 1968.*
- *Sandwiches – Theft with no defence.*
- *Cabinet – conditional intent: attempted theft?*
- *Overpayment – s5(4) obligation to make restoration.*

Question 3

Megan, a student, was in financial difficulty and unable to afford all of the text books she required. One day, she saw Kyle, another student, working in the library and whilst he was not looking, she took four of his ten books. She thought that he would not mind her having them and, moreover, she intended to return them at the end of term. Later, at a supermarket, Megan picked up a box of Belgian chocolates wrongly priced at one pound instead of six pounds. She put the box in her trolley and hoped she would be charged the lower price. Next, she picked up a very expensive bottle of wine and placed it into her overcoat pocket. She made her way towards the cashier but changed her mind about the wine and replaced it on the shelf. At the check-out desk, she was charged the lower price for the chocolates. Next day, Megan realized that the books she had taken from Kyle were useless for her course and so she sold two of them at a very cheap

price to Alice, a second-hand book dealer. She then wrote a note to Kyle stating that he could have his other two books back if he promised to write her first coursework.

Discuss.

Main issues:

- *Books: appropriation/dishonesty: belief in consent/intention permanently to deprive – s6 in respect of two books offered back to K (ransom principle) and actual intention permanently to deprive in respect of those sold to A.*
- *Chocolates: appropriation/dishonesty/but possibility of ownership transferring to her under a voidable contract: Kaur.*
- *Wine: appropriation under s3/Morris.*

Question 4

Davita is the devoted care assistant to Edith, an extremely wealthy woman. Davita frequently tells Edith how much she would love to own beautiful objects but cannot afford to have them. Edith promises to leave Davita all her jewellery valued at £50,000 on her death. Davita has not been paid by Edith for several months and is owed more than £5000. One day, Edith asks Davita to deposit £1000 cash into Edith's bank account and to accept a small Picasso print as a token of her gratitude. Davita takes the print, banks £100 in Edith's account and decides to keep the rest. With the proceeds she buys a bottle of champagne at the local supermarket. The bottle is obviously under-priced at £2.00. She pays with a £20 note but Bert the cashier absent-mindedly hands her £50 in change which she decides to keep. On the street Davita suddenly notices Edith giving all her jewellery to a homeless young man named John. He accepts it with surprise and is about to walk off when Davita threatens to assault him unless he hands the jewellery to her. John is not afraid of the far smaller Davita but hands it all over anyway. A few days later Davita is informed that the print is, in fact, an original. She telephones Edith and says that she will return the Picasso in exchange for one million pounds.

Discuss the criminal liability of Davita and John for the offences in this question.

Main issues:

Davita:

- *Cash – appropriation and theft but dishonesty?*
- *Painting – appropriation/theft of gift but s6 intent to permanently deprive?*
- *Champagne – Dishonesty*
- *Change – s5(4) obligation to make restoration*
- *Jewellery – robbery but is fear necessary?/ dishonesty?*

John – gift of jewellery but dishonesty?

Question 5

Jessica sees a dress in the window of her favourite clothes shop which she really likes but she has no money. She goes home and sees her mother's purse on the kitchen table from which she takes £30, intending to pay her mother back next month. She also borrows her mother's Oyster Card which has been pre-paid to the value of £5. She returns to the shop and buys the dress for £21.00.

The shopkeeper mistakenly thinks Jessica has handed her two £20 notes, whereas in fact it is one £20 note and a £10 note. She gives Jessica £19.00 in change. Jessica realises what she has done and goes to a shoe shop to buy a pair of sandals to go with the dress. On her way home, she stops for a cup of coffee in a café and leaves before paying when the waitress goes into the kitchen. She then sees some roses growing in a neighbour's garden and picks five to give to her mother. On her return home, she says nothing to her mother, but secretly replaces the Oyster Card. Her journey to and from town on the bus cost £4.50 on the Oyster Card.

Discuss.

Main issues:

- *£30: Intention permanently to deprive/S6: Velumyl/subject to dishonesty.*
- *Oyster card: Intention permanently to deprive/S6: Lloyd/dishonesty?*
- *£10 change: s5(3) obligation to restore.*
- *Coffee: s3 TA 1978/s11 Fraud Act 2006/s2 Fraud Act 2006.*
- *Roses: s5: belong to another.*