

Chapter 3

Bill is suffering from a terminal illness and is in great pain. His doctor gives him a large dose of painkillers which cause Bill's death within 24 hours. Consider the following states of mind the doctor could have. Which would lead to a conviction of murder?

1. **The doctor wants to lessen Bill's pain by the pills, although she knows that the pills will hasten Bill's death.**
2. **The doctor believes Bill has suffered enough and wants to end his pain by killing him.**
3. **The doctor wants Bill to die because she knows Bill has left her a large sum of money in his will.**

1. This is a case where it is not the doctor's purpose to kill the patient. Rather the purpose is to ease the pain. However, it appears to be a case of indirect intent and so the *Woollin* direction could be used. This will allow the jury to find intention if it is shown that the pills were virtually certain to cause the death of the patient and the doctor realised this. Remember the *Woollin* direction leaves the decision of whether to find intention up to the jury. Presumably here the jury would decide not to find the doctor to have intention. However, some of the cases involving doctors giving lethal pain relieving medication (see P. Arlidge, 'The Trial of Dr David Moor' [2000] *Crim LR* 31; J. Smith, 'A Comment on Moor's Case' [2000] *Crim LR* 41) suggest that as a matter of law as long as the doctor is not intending death there can be no intention. In other words there is a special defence here which means that doctors cannot be found to have intention in such a situation.
2. This appears to be a case where there was an intention and so a murder conviction could follow. The doctor may try and argue that the primary intention was to relieve pain, but this is a case where his means of achieving his goal (death) is part of his intention. Of course, although this is the technical legal position a jury may decide to ignore the judge's direction on the law and decline to convict the doctor of murder.
3. This is a straight-forward case. Clearly the doctor intends to kill and can be convicted of the murder of Bill.

Peter believes that his enemy, Olive, may possibly be allergic to peanuts. He puts peanut oil on Olive's toothbrush, hoping to kill her. It turns out that Olive is allergic to the oil and after brushing her teeth suffers an allergic reaction and dies. Bob, Olive's friend, wants to terrify Peter to teach him a lesson. He sets fire to Peter's house. Peter dies in the fire. Did Peter intend to kill Olive? Did Bob intend to kill Peter?

Peter's case is straight forward. He acted for the purpose of killing Olive and so can be said to have intended to kill her. The fact he thought his plan unlikely to succeed is beside the point. Remember the *Woollin* virtual certainty test is only needed in

cases where it is not the defendant's aim or purpose to produce the result. In Bob's case the question is first whether it was his purpose to kill Peter.

It appears not because we are told his aim was to frighten Peter. We therefore need to use the Woollin test. It appears unlikely there is intention under the Woollin test either because it was not virtually certain that by setting fire to the house that Peter will die. It might have been very likely, but not virtually certain.