

CRIMINAL LAW

Professor Alexander

Required Readings:

Dressler, Chs. 14-15
Model Penal Code § 2.03.

Problem Set 9

1. Satanic Cult sets up 100 rifles sticking through an opaque screen, each pointed at a single spot on the other side of the screen. It loads 99 rifles with blanks and one rifle with a live bullet. It invites 100 individuals who are applying to be members of the Cult to take part in the following grisly initiation ritual:

The 100 each take one of the rifles. A hapless victim is kidnapped and chained to the spot where the rifles are aimed. The 100 are then told to pull their triggers in unison. If they do, they will be admitted to membership. If they don't, they won't. The Cult is indifferent about whether they become members. They all do pull the triggers when told to. The victim dies from the one live bullet.

It is impossible to determine from ballistics which rifle held the live shell, and there is no other way to determine this. Assuming that there is insufficient collusion to make the 100 members into joint participants, should we prosecute all for "attempted homicide" or "reckless endangerment" and none for "homicide," or should we prosecute all for "homicide," and if so, for knowing homicide or for reckless homicide? How should the causation doctrine work here?

Write one page.

2. Mark, a Hertz mechanic, is homicidal. One day he tampers with the brakes of a rental car so that they don't work at all. He does so hoping that, as a result, someone will be killed.

Dan rents the car Mark tampered with, and as he is leaving the Hertz garage by descending a narrow ramp, he sees Vinnie, his worst enemy, walking on the sidewalk where the ramp enters into the street. Dan decides not to hit the brakes and coasts into Vinnie, killing him. Had Dan hit the brakes, they wouldn't have worked.

Mark and Dan are charged with causing Vinnie's death. What result? Write one-half page.

3. An article in the N.Y. Times, Feb. 7, 1968, stated:

PHOENIX, Ariz., Feb. 6 (AP) – Linda Marie Ault killed herself, policeman said today, rather than make her dog Beauty pay for her night with a married man.

"I killed her. I killed her. It's just like I killed her myself," a detective quoted her grief-stricken father as saying.

"I handed her the gun. I didn't think she would do anything like that."

Problem Set 9

The 21-year-old Arizona State University coed died in a hospital yesterday of a gunshot wound in the head.

The police quoted her parents, Mr. and Mrs. Joseph Ault, as giving this account:

Linda failed to return home from a dance in Tempe Friday night. On Saturday she admitted she had spent the night with an Air Force lieutenant.

The Aults decided on a punishment that would “wake Linda up.” They ordered her to shoot the dog she had owned about two years.

On Sunday, the Aults and Linda took the dog into the desert near their home. They had the girl dig a shallow grave. Then Mrs. Ault grasped the dog between her hands, and Mr. Ault gave his daughter a .22-caliber pistol and told her to shoot the dog.

Instead, the girl put the pistol to her right temple and shot herself.

The police said there were no charges that could be filed against the parents except possible cruelty to animals.

Were the police correct that Mr. and Mrs. Ault could not be charged with causing Linda’s death? Compare the case of the Aults with that of paparazzi pursuing a celebrity whose car is traveling dangerously fast in order to flee them and crashes, killing the celebrity. And compare these cases to that of a drag racer whose competitor crashes into an oncoming car, killing both drivers. Write one page.

4. Defendant, wishing to kill her husband, places a glass of poison by his bed. A clap of thunder knocks the glass to the floor during the night. As the husband gets up in response to the thunder, he slips on the spilled liquid, hits his head, and dies. Is defendant guilty of causing his death? Write one page.

5. Defendants assaulted victim, intending to kill him. Afterwards, thinking him dead, Defendants pushed him over a cliff. Victim was in fact not dead at the time, nor was he likely to die from his wounds. However, he did die from being pushed over the cliff.

Write a one-half page memo discussing whether Defendants committed murder defined as intentional killing.

6. Alex and Bob are camping in the forest when a grizzly bear enters the campground. Alex begins hastily lacing up his Nikes. Bob says, “What are you doing? You know you can’t outrun a bear.” Alex replies, “Yes, but I only have to outrun you.”

Assume that if Alex and Bob remained still, the bear would likely kill one of them, but only one. If one of them runs, however, then it is highly likely the bear would kill the one who either ran more slowly or who remained still. If Alex runs and the bear kills Bob, is Alex’s running the *cause* of Bob’s death? Write on-quarter page.