

# ["discuss committed voluntarily – meaning being able to](https://assignbuster.com/discuss-committed-voluntarily-meaning-being-able-to/)

“ Discuss the element of actus reus in relation to criminal liability” Kiran Mehdi – Year 1 L. L. B. in LawDefinitionActus Reus relates to the action of a crime, rather than thecrime’s mental element (the mens rea)In relation to criminal liability, Edward Coke states that “ Actus non facitreum nisi mens sit rea” – “ An act does not make a person guilty unless theirmind is also guilty”. The actus reus of each crime is specific to that crime. Examples of this would be taking something that belongs to another, whichequates to theft; or delivering a blow to someone’s head, which equates toassault. In almost every crime it is crucial for the prosecution to demonstratethat some action of the defendant resulted in that criminal act.

Elements of Actus Reus·        TheActus Reus must be voluntaryWhether the actus reus is committed by either act of omission, it must becommitted voluntarily – meaning being able to control one’s body/actions.·        ConductActs and omissions – crimes can be committed by either doing something or byfailure to do something.·        OmissionsFailure to do something or intervene if the offence in question is capable ofbeing committed by omission.

·        CausationConduct with a resulting effect. Typically an injury, i. e death or grievousbodily harm.

It is also important to note the concept of the chain of causation. This chain offers a connection between the act of thedefendant and the consequence which ensues. The initial act need not always be illegal, but the result (consequence) needs to be illegal or forbidden in order for itto be a crime. This consequently forms part of the actus reus. The crime mustbe caused by the defendant.

Case Examples·        R v Pagett, 1983The defendant, Pagett, was being pursued by armed forces. Inorder to avoid arrest, Pagett used his girlfriend (who was pregnant at the time)as a shield, whilst also shooting at the police. Police returned fire and thegirlfriend got caught in the crossfire and was hit by a fatal shot. Pagett argued that he caused no physical injury himself tothe victim. It was found that he prompted the chain of events that led to her demise.  He was held to be the legal cause of death.

His actions contributed heavily in resulting in her death as it would have beenconceivable for him to recognise that police would return fire if they werebeing shot at. Although he did not shoot the victim himself, he was accountable as his act wasthe most culpable in the events leading to her death.·        R v White, 1910White intended to kill his mother. He added potassiumcyanide to his mother’s drink, with the sole intent to poison and kill her.

That night, White’s mother died in her sleep of a heart attack. It was foundthat this heart attack was unconnected to the poison, even though she had dranksome of the drink. She had simply died of natural causes. It was found that White did not cause his mother’s deathbecause regardless of the poison in the drink, his mother would still have died. White was cleared of murder but was found guilty of an attempt to murder. Therewas no actus reus of murder present, as although the outcome was still the same(the defendant’s wish for his mother’s death) his action did not cause thedeath to occur.·        R v Miller, 1982  This is an English case relating to criminal law which demonstrateshow actus reus can be understood to be not only an act, but afailure to act.

Miller returned to his place of residence after heavyalcohol consumption on a night out. Shortly after returning home intoxicated, he smoked a cigarette and fell asleep on his mattress with the cigarette still lit. The smoke had woken Miller; he had awoken to see the fire started on themattress yet proceeded to leave this room and vacate another, doing nothingabout the small fire which was lit.

He proceeded to go back to sleep. Miller was found liable for creating a dangerous situationand failing to alert emergency services. He was therefore found liable for hisomission to call a fire brigade, to which he owed obligation.·        R v Dytham, 1979A police officer in uniform watched as a man was being hitand kicked to death in a gutter only a short distance away. The police officer witnessed the assault but made no attemptto intervene or beckon assistance for others (e.

g. police assistance) to cometo the victim’s aid. The officer was convicted of misconduct of an officer, under the common lawoffence. ConclusionActus reus relates to just one element of an offence. Theactus reus consists of prohibited conduct (by either act or by omission), prohibited circumstances and illegal results.

The elements as stated above demonstrate actus reus in itsdifferent forms. To recap, there are several elements that constitute actusreus – it must be voluntary, it can be committed by either doing something orby failure to act. Failure to do something or intervene if the offence inquestion is capable of being committed by omission. The conduct leaves aresulting effect which is typically a physical injury, i. e death or grievousbodily harm, amongst other results. BibliographyMcAlhone C, Huxley Binns R, Criminal Law: The Fundamentals (1st Edn, Sweet & Maxwell2007)Huxley-BinnsR, Crimincal Law (1st Edn, Oxford 2009)Fafinski S, Finch E, Criminal Law (1st edn, Pearson Education Limited 2007)