

"discuss committed
voluntarily – meaning
being able to



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" Discuss the element of actus reus in relation to criminal liability" Kiran Mehdi - Year 1 L. L. B. in Law Definition Actus Reus relates to the action of a crime, rather than the crime's mental element (the mens rea) In relation to criminal liability, Edward Coke states that " Actus non facit reum nisi mens sit rea" - " An act does not make a person guilty unless their mind 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, which equates to theft; or delivering a blow to someone's head, which equates to assault. In almost every crime it is crucial for the prosecution to demonstrate that some action of the defendant resulted in that criminal act.

Elements of Actus Reus · The Actus Reus must be voluntary Whether the actus reus is committed by either act of omission, it must be committed voluntarily - meaning being able to control one's

body/actions. · Conduct Acts and omissions - crimes can be committed by either doing something or by failure to do something. · Omissions Failure to do something or intervene if the offence in question is capable of being committed by omission.

· Causation Conduct with a resulting effect. Typically an injury, i. e death or grievous bodily harm.

It is also important to note the concept of the chain of causation. This chain offers a connection between the act of the defendant 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 it to be a crime.

This consequently forms part of the actus reus. The crime must be caused by the defendant.

Case Examples: R v Pagett, 1983 The defendant, Pagett, was being pursued by armed forces. In order 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 the girlfriend got caught in the crossfire and was hit by a fatal shot. Pagett argued that he caused no physical injury himself to the 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 been conceivable for him to recognise that police would return fire if they were being shot at. Although he did not shoot the victim himself, he was accountable as his act was the most culpable in the events leading to her death. R v White, 1910 White intended to kill his mother. He added potassium cyanide 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 found that this heart attack was unconnected to the poison, even though she had drunk some of the drink. She had simply died of natural causes. It was found that White did not cause his mother's death because 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. There was 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 the death to

occur. · R v Miller, 1982 This is an English case relating to criminal law which demonstrates how actus reus can be understood to be not only an act, but a failure to act.

Miller returned to his place of residence after heavy alcohol 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 the mattress yet proceeded to leave this room and vacate another, doing nothing about the small fire which was lit.

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

g. police assistance) to come to the victim's aid. The officer was convicted of misconduct of an officer, under the common law offence. Conclusion Actus reus relates to just one element of an offence. The actus 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 its different forms.

To recap, there are several elements that constitute actus reus - it must be

voluntary, it can be committed by either doing something or by failure to act.
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Failure to do something or intervene if the offence in question is capable of being committed by omission. The conduct leaves a resulting effect which is typically a physical injury, i. e death or grievous bodily harm, amongst other results. Bibliography McAlhone C, Huxley Binns R, Criminal Law: The Fundamentals (1st Edn, Sweet & Maxwell 2007) Huxley-Binns R, Criminal Law (1st Edn, Oxford 2009) Fafinski S, Finch E, Criminal Law (1st edn, Pearson Education Limited 2007)