

Unit2criminal

Law



Unit 2 criminal Task The paper gives an overview of a case of a fatally injured woman who was knocked down by a drunken driver. The incident occurred during a night in a city in California. The victim denied the process of blood transfusions on the premise that she was a Jehovah Witness believer, and that her faith did not allow her to inject other people's blood into her body through the process of transfusion. The incident comes to the attention of the jury who must give a ruling on whether the driver or the victim who denied blood transfusion was on the wrong. The court has the responsibility of deciding whether the victim, Leah Russel, contributed to her own demise by downplaying the process of transfusion.

Judgment of the case

According to section 189 of the California Penal Code, it states that all murder cases perpetrated by ways of destructive explosive, a weapon of destruction, use of ammunition to penetrate metal or armor, premeditated and deliberate killing, perpetration of, mayhem, robbery, rape, burglary, carjacking, kidnapping, arson, or any murder committed by using a firearm from a vehicle, intentionally at someone outside the vehicle, with the intention of inflicting death, is what is referred to as murder of the first degree. All the other forms of murders are of the second degree.

According to this case, it is a second degree murder in that the drunken driver did not plan to kill the woman. In order for someone to be judged guilty of first degree murder, the state must prove that the person murdered another person with malice aforethought, and the murder was premeditated.

On the other hand, the victim cannot be blamed on her take for transfusion because she believes in the church doctrines and that an individual's

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recklessness of drunken driving cannot influence one's religious rights. It is imperative that the driver faces the force of the law for committing second degree murder, which entails unlawful killing of an individual without premeditation. In a court of law, manslaughter entails killing with no intention. The driver had not planned to knock down the lady, but circumstances culminated in the death. Legally, the rights of the woman denying transfusion are self-determining in the logic that it is preserved in the doctrines of religion and that the lady had the right to exercise her spiritual beliefs at the expense of death. The spirit of law recognizes the importance of the other subordinate laws such as the religious law (Purrington, 1998). If the victim were alive, the proof as to whether the accident was as a result of negligence or carelessness was of considerable importance to establish the exact basis of the accident.

The California penal code states that any individual judged guilty of second degree murder will have to face fifteen years imprisonment. A key element of negligence concept is that of a specific standard of care not being adhered to. As a second degree murder case, the driver of the vehicle stands out as a wrongdoer because it was within his mandate to offer the duty of care. It is because of this shortfall that led to the injuries that befell the victim. The basic argument here indicates that the driver bears the entire burden in terms of killing the woman through the accident, therefore, deserves a jail sentence of 15 years for breaching traffic regulations, hence causing the accident. It is possible that the driver was speeding and not capable of a full control in the process of driving, and this enabled the occurrence of the accident.

As fate would have it, the driver has got several questions to answer in that <https://assignbuster.com/unit2criminal/>

the victim is dead and apparently there is no any other witness to rely upon for information. Nobody is available to substantiate the said allegations of the accident and that the possibility of the driver giving false information would be high. The authenticity of the matter is not adequately stated and this calls for the arrest of the driver for having caused murder. In conclusion, the matter is weighty and has to be resolved through adequate investigations. Cases involving manslaughter are always extremely delicate and must be handled with a lot concern.

Reference:

Purrington, W. A. (1998). *Manslaughter: Christian Science and the law*. New York.