

The law of intention

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The law of intention, following the cases of Woollin [1999] 1 AC 82 and Matthews [2003] 3 Cr App R 30, is now satisfactorily defined in the criminal law. Intention, normally means desire to aim at something. However, in criminal law, mens rea known as 'guilty mind', it requires two distinguishable intentions which are direct intention as well as oblique intention, and apart from, also recklessness. Direct intention means the consequences of the action is desired specifically, just like murder. Defendant is purposed to achieve the death or the grievous bodily harm (GBH) of the victim R v Mohan [1975].

Oblique intention also known as foresight intent, means the consequence which the defendant is not desired, however, it is going to happen when he goes ahead with his acts (Lawteacher, 2012). An unsurprising side-effect would result when defendant is achieving some other consequences R V Nedrick [1986]. Under these situations, the court will remind the jury to consider how probable the consequence was foreseen by the defendant. Generally, recklessness means to take an unjustified risk. It covers the case of harm such as manslaughter or criminal damage.

Objective and subjective test will be applied respectively in different cases. In other words, intention could be the worst culpability in mens rea. Follow up would be the recklessness. In the case of R v Woollin [1999], the defendant loose temper with his three-month-old son, and picked the baby up and thrown him to a hard surface. The baby's skull was fractured and dead afterwards. The defendant was convicted for murder, however, the court quashed and convicted of manslaughter substituted. In this case, the

court of appeal upheld that there was a substantial risk, which the child could suffer from serious bodily harm.

Substantial risk means the act of the defendant made a strong and significant cause to the death of the victim. The judge directed the jury that the consequence of the act is foreseeable by throwing the child to a hard surface. However, the defendant appealed that 'the court of appeal had widened the definition of murder and should have referred to virtual certainty instead of the jury must find the intention' (e-lawresources, n. d.). The appeal was rejected. Virtual certainty is defined as 'the result will occur unless something completely unexpected occurs' (Herring, 2012 p. 41). The House of Lord held that the jury is not entitled to infer the intention but only if the defendant realized and the death or the grievous bodily harm was a virtually certain result. Therefore, the appeal allowed in House of Lord and the conviction of manslaughter substituted. Parliament stated clearly that when defendant could foresee the death would be the result of the act did not represent that the defendant intended for murder R v Moloney [1985]. By following this case, the oblique intention can be said to being satisfactorily defined in the criminal law.

In the case of R v Matthews and Alleyne [2003], the victim was thrown to the river after robbing by the defendants. Before being thrown into the river, the victim had stated that he was not able to swim as he lost his glasses in the attack. However, the defendants ignored what the victim's said and thrown him to river and watching him drown. Two of them are convicted of murder. As similar as the Woollin case, the judge had directed the jury that to

consider whether the consequence of act was foreseeable in order to find out the intention to kill.

The court upheld that finding of intent would be 'irresistible' (Herring, 2012 p. 141). Defendants appealed against their conviction. However, the Court of Appeal affirmed the conviction. In English law, there is no strict definition on intention is, also there is no direct link between the foresight of consequence and intention. Foresight of consequence must not be an intention. It is clear that jury was not entitled to infer intention unless the death or the serious bodily harm was a virtual certainty.

Obviously, in the above case, the result which may not be the defendants' aim at, that is the death of the victim, may not be the defendants' final willingness. The result may not be the virtually certain result of their actions. Moreover, the defendants even did not realize that the result was not a virtually certain result of their actions, and therefore, they did not intent the result. That is, this case would be another example to explain oblique intention can be said to being satisfactorily defined in the criminal law.

Apart from those examples of oblique intention, the law of intention has also satisfactorily defined in the case of DPP v Smith [1960]. The defendant was asked to drop off from the car after stolen goods. However, he refused to do it and the police jumped onto the bonnet of the car. Defendant drove with high speed in order to get the police off. He swerving from side to side and until the police was thrown and killed. Defendant was convicted of murder (e-lawresources, n. d.). The court held it was clear that he had intent to cause serious bodily harm or even intent to kill.

The judge directed the jury that if they are satisfied that GBH or the death of the victim would be the result in the consequence of his act. Therefore, the jury convicted him of murder. The defendant appealed against the conviction with the reason that 'subjective test' should apply. However, the House of Lord affirmed the conviction and held that the objective test was applicable. Generally, if the result of defendant's act is virtually certain which can cause grievous bodily harm or death, the jury is entitled to find that he intended the result.

The verdict would be guilty of murder or manslaughter, depends on different circumstances. In English Law, there is no strict definition in explaining what intention is. Intention can be distinguish in two aspects, which are direct intention and oblique intention. As mentioned before, both intentions are desire to aim at something. The main difference between them could be unsurprising side-effect would result in the oblique intention. Depends on different circumstance, the judge would convict different level of penalty.

In general cases, the jury are not entitled to infer the intention of the defendants, however, apart from two situations, firstly, the result was a virtually certain result of the defendant's acts, secondly, the defendant must realize that the result was a virtually certain result of the his act. Otherwise, the jury is not entitled to infer the intention of the defendant. Therefore, the case of R v Woollin and R v Matthews and Alleyne [2003] had clearly explained the law of intention in the criminal law. Table of cases

DPP v Smith [1960] R v Matthews and Alleyne [2003] R v Mohan [1975] R v Moloney R V Nedrick [1986]. R v Woollin [1999] Reference Law teacher. (2012). Men's Rea Lecture-Intention. Retrieved 4 Nov, 2012, from: <https://assignbuster.com/the-law-of-intention/>

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