

Discussion of rights and laws – jameela and of leah

Law



June 2012 Question 4 Discuss the criminal liability of Jameela and of Leah arising out of the Incidents in the town. First of all there is a battery with the initial contact that Jameela has on Ken. The AR of battery is "infliction of unlawful violence". Battery is defined as being the slightest touch without permission as in the case of *Cole v Turner*, the knocking into Ken is this touch without his permission. When she knocked into Ken this led to him to fall. This is an ABH as this battery led to further damage with Ken falling down.

The AR of ABH is "common assault occasioning actual bodily harm". Miller defines this as "any hurt or injury calculated to interfere with the health or comfort of the V", in which the falling down would cause Ken to experience some discomfort with falling to the ground. However this fall resulted in Ken breaking his hip. This is a GBH S20 as this break would have caused him to go to hospital. The AR of GBH S20 is "causing wound or GBH". There is not a wound and therefore there is only grievous bodily harm.

The case of *Smith* defines grievous as meaning really serious harm which includes broken bones. The case of *Bollom* states that the seriousness of the harm scales with the age of the victim, as Ken in this scenario is an elderly man the seriousness of the fall was serious as his body is weaker and therefore there is more damage that is done, affecting the gravity of the injury. Therefore the AR of GBH S20 has been established. Then there is the liability of the heart attack the Ken's wife (Iris) suffered when he got knocked down.

Again this is a GBH S20 and the AR is stated above. It is a GBH S20 as the harm that was caused was serious as it caused Iris many weeks to recover.

Again the case of 30110m help as the age of Iris comes in to play when affecting the seriousness. There isn't any causation issues as the chain isn't broken as the thin skull rules that defects that weren't known to the D, Haystead doesn't break the chain and therefore it doesn't matter that Iris may have had a bad heart there is still a chain of causation.

Even though Jameela didn't directly inflict the GBH S20 the case of Martin states that it can be caused indirectly in which watching her husband fall and get hurt indirectly caused her to have a heart attack. The AR of GBH S20 has been established for Iris. The MR of GBH is "direct intention or subjective recklessness causing some harm", defined by the case of Mowatt. Some harm can be interpreted as anything as small as a battery. For the GdH s20 on Ken, subjective recklessness can be used as in the case of Cunningham. It states that first there has to be an unjustified risk and that the D had taken this risk anyway. In this case Jameela was in a large crowd and started lashing out knowing that there would be a risk that she would hit someone and cause some of the harm. Jameela would have perceived this risk as she was in a large crowd knowing that this would make her panic because of the delusions that she has due to her paranoid schizophrenia.

Transferred malice can be used as a way of proving the MR of G8H S20 on Iris as well. Transferred malice can only be used on person to person with similar crime, in which this scenario is and therefore it can be used. The case of Mitchell can be used as it is similar to this case as the D as in a busy place and the action that they took led to an old person breaking a hip. Transferred malice would be used if the husband hurt on the floor and therefore the MR of the offence on Ken is transferred over to Iris as well.

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Therefore there is the MR of GBH S2 established for both Ken and Iris. When Leah intervened she would have first committed a battery as she would have had to grab hold of Jameela in some form. The AR of battery is stated above. The case of Thomas states that the slightest touch even of clothing is enough for a battery, in which Leah may have grabbed Jameela by the top as a way of trying to control her on which would be a battery. Then there is an ABH, again stated above, as