

Law exam review

Law



Or the victim choosing not to have a blood transfusion? * Court Ruling: * Guilty. Thin skull rule Those who use violence against others must take victims as they find them Blaue had to take the victim as a Jehovah's Witness * The defendant is not responsible if the victim dies as a result of an unrelated event If his actions led to the event, he is still guilty R v Hummel (Stare decisis- lower courts must follow higher courts) * Summary: Judge Perkins did not follow a binding decision of a higher court (contravening the doctrine of stare decisis) * Perkins struck down a section of the criminal code, in favour of the defendant * The crown appealed, and judge Clements disagreed with Perkins, allowing the appeal * Shortly after, Perkins had another ssimilar case, and refused to follow Clement's judgment. He once again adopted his own reasoning as in the previous case. * Legal Principle: * Decisions of a higher court must be followed because that is what holds common law together.

Their decisions are “ binding decisions” * It doesn't matter that Perkins could have been more intelligent than Clements * Rulings of higher courts bind lower courts R v Ladue (Does mistake negate mens rea?) * Summary: * Woman at a party died from drinking too much alcohol * Forensics showed that Ladue had sex with her after he died * He couldn't be charged with sexual assault because he was dead * He was charged with doing an indignity to a dead body * Used the defense that he did not know she was dead, so he had no mens rea

R v Bird and Bolduc (Doctor allowed friend to examine patient) * Summary: * doctor told a female patient that his friend was a medical intern * she gave consent for the friend to observe a medical examination * The fraud was as

to the identity of the onlooker, not as to the act, of which she knew and understood. * Legal Principle: * Was consent obtained fraudulently as to the nature and quality of the act? * Court Ruling: * Bolduc did exactly what the victim understood he would do.

There was no fraud on his part as to what he was going to do * Victim knew that Bird was present and consented to his presence * Innocent: the fraud had nothing to do with the act, but with Bird's identity * If he touched her, it would have turned into an assault R v Campbell and Mlynarchuk (Stripper case, mistake of law) * Summary: * Campbell was convicted of dancing naked * Previously, Alberta supreme court made dancing naked legal * Campbell did not know that the Court of Appeal overruled it * Legal Principle: Mistake of fact is a defense to a criminal charge, mistake of law is not * Court Ruling: * Campbell's mistake was one of law She concluded that the decision of the judge correctly stated the law, which it did not * Although this is not fair, it is necessary in order to prevent ignorance of the law as a defense * Out of the sense of justice, (naked dancing is not a prevalent problem), Campbell got an absolute discharge * Mistake of fact is a defense to a criminal charge, mistake of law is not R v Keegstra (Freedom of speech vs hate speech) * Summary: Keegstra was a schoolteacher who taught his students anti-Semitism and expected them to use his teachings on exams. If they didn't, their marks suffered * A few months after a parent complained, Mr. Keegstra was dismissed * Legal Principle: * S. 319 bans promoting hatred against an identifiable group * Charter protects freedom of speech * Court Ruling: * Court of Appeal states it was protected under s. 319 2(b), which protects innocent and imprudent speech (people who think that

their hate speech is actually true) * Majority: Failed the Oakes proportionality test.

Hate propaganda contributes little to the quest for truth, or the protection and fostering of a vibrant democracy The infringement was justified R v Rabey (Automatism) * Summary: * Stabbed a woman after finding out that she doesn't like him * Used the defense of non-insane automatism, stating that he had a blackout due to his rage (powerful emotional shock) * Legal Principle: * Was his dissociative state due to a disease of the mind? * Court Ruling: * His automatism was insane * Ordinary stresses and disappointments of life do not explain the mind malfunctioning * Rabey's emotional stress from the girl's rejection is not reasonable It was due to his psychological or emotional make-up, thus constituting "disease of the mind" R v Ruzic (Duress) * Summary: * Ruzic landed in Pearson airport with 2 kilos of heroin and a fake passport * She used the defense of duress, because a man in Serbia would kill her mother if she didn't listen to him