

Criminal law exercise assignment

Law



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Module Five Team Assignment: Criminal Law and Procedure Group 5 Ohio University Law and Society BUSS 255 Facts 1 . Savoring Pharmaceutical Institute has developed a cancer treatment that is extremely promising and profitable. The treatment involves “ salting” cancerous tumors with tiny metallic particles, and then exposing them to high intensity radio waves that cause the metallic pellets to heat up and destroy the tumor without harming the healthy tissue.

Although studies have been positive (95% of all cases), researchers have also noted an extremely adverse, and potentially lethal, side effect in 5% of patients tested, and they do not know why. 2. Nevertheless, the Institute has decided to market the cancer treatment. In order to prevent the public and the government from learning of the adverse side effects, the directors of the hospital placed the original documents in a warehouse, falsified the research findings (making all results appear successful), and submitted the altered documents to some very prominent medical Journals that published the information. 3.

Also, the directors of the hospital then instructed the project managers involved in the studies to keep silent. Each manager was given \$1 , 000 in cash for his or her silence. 4. Dr. Gregory House, a project manager and doctor, ignores the director’s threats and refuses the \$1, 000 bribe. After taking the original documents from the warehouse in which the directors of the hospital stored them, Dr. House releases the information to the press. 5. In response to Dr. House’s revelation, Dr. McCoy, a company director, panics. He obtains gasoline and uses it to start a fire, destroying the remaining contents of the warehouse.

In the process, he unintentionally kills an employee who has fallen asleep in the warehouse. 6. In an attempt to impede Dry. McCoy from escaping, Mr.. Sulk, an innocent passerby, tries to stop the doctor. Dry. McCoy lashes out and intentionally hits Mr.. Sulk in the Jaw with his fist. The blow renders Mr.. Sulk unconscious. Criminal Law Exercise By brinks that the directors made and obtained a search warrant. In reviewing the Institute's documentation that they obtained with the search warrant, they discover that Dry. Spook, a project manager, has been siphoning some project money for his own personal benefit.

Crimes Committed These are the criminal charges that could be brought against each individual in this case: 1. The Directors: . Issue: Did the offering of a \$1 , OHO. O cash payment to each project managers in exchange for their silence regarding the treatment's negative results constitute a charge of Bribery of Public Officials (an officer of a corporation or business)? Rule: Bribery of Public Officials is criminally defined as influencing any public official to do something that serves your own interest (Miller & Jennet, 2010, p. 179).

Analysis: In order to influence the project managers to remain silent, the hospital directors intentionally offered money (something of value) in exchange for hiding the true results of the research. Conceiving the idea to pay off the project managers was the requisite men's rear, and paying each of the project managers \$1000 in cash for their silences was the requisite cactus reuse. Conclusion: According to the facts and analysis, the directors did commit Bribery of Public Officials, and the two essential elements for

criminal liability, men's rear (intent) and cactus reuse (guilty act), have been met. B.

Issue: Did the directors commit forgery when they copied and altered the records of the experiments to show that all of the experiments had been successful? Rule: Forgery is the fraudulent act of making or altering any writing, such as aligning public records or altering a legal document, in a way that changes the legal rights and liabilities of another. (Miller & Jennet, 2010, p. 174). Analysis: The director's intentionally falsified the research records to show that no adverse effects had been reported with patient treatment. By altering these records, the directors changed the liabilities with respect to this treatment.

Planning to alter the documents was the requisite men's rear, and the actual changing of the documents meant that they had the requisite cactus reuse. Forgery and the two essential elements for criminal liability, men's rear (intent) and cuts reuse (guilty act), have been met. C. Issue: Did the directors commit mail documents to prominent medical Journals which were eventually published. Rule: Mail and wire fraud is a crime in which the perpetrator develops a scheme using the mails to defraud another of money or property. This crime specifically requires the intent to defraud, and is a federal offense governed by section 1341 of title 18 of the U.

S. Code. (Farley, Inc. , 2010) hiding the true results of the research Altering the documents was the requisite men's rear, and allowing the falsified documents to be mailed or causing someone else o mail a writing – something written, printed, or photocopied – for the purpose of executing a

scheme to defraud was the requisite cactus reuse. Conclusion: According to the facts and analysis, the directors did commit mail and wire fraud, and the two essential elements for criminal liability, men's rear (intent) and cactus reuse (guilty act), have been met. 2. Dry. House: a. Issue: Did Dry.

House commit larceny by removing the records from the warehouse and presenting the document to a third party (I. E. The press) without approval from the board? Rule: Under common law, larceny occurs when a person takes another arson's personal property intentionally in order to deprive them of their possession indefinitely. More simply put, larceny is stealing or theft, and force is never involved (Miller & Jennet, 2010, p. 173). Analysis: Based on the facts, there is no indication that Dry. House unlawfully broke into the warehouse to retrieve the documents. Therefore, a charge of burglary is not applicable.

He did, however, take records that were not his own and gave them to a third party (I. E. The press), which deprived the previous owner (I. E. The directors) of their possession indefinitely. Although Dry. House committed a criminal act (I. E. Requisite cactus reuse), he did not do it with criminal intentions or requisite men's rear. His goal was to protect the general public by exposing the director's scheme. Conclusion: According to the facts and analysis, Dry. House did commit larceny with intent and completion of the act. He displayed the requisite men's rear and cactus reuse to support criminal liability. 3. Dry. Mccoy: a.

Issue: By Dry. Macy's purchase of gasoline and subsequent act of setting the Rule: Arson is defined as the intentional and hateful act of burning a building

owned by another. Some statutes have expanded this to include any real property regardless of ownership and the destruction of property by other means. (Miller & Jennet, 2010, p. 174) Analysis: In order to destroy the documents in the warehouse, Dry. McCoy intentionally obtained gasoline to set the warehouse on fire. Also, according to the rule, Dry. McCoy deliberately burned down the warehouse owned by the Institute. Conclusion: According to the facts and analysis, Dry.

McCoy did commit arson. His purchase of the gasoline indicates requisite men's rear, and the burning down of the warehouse he did not own met the requirement of requisite cactus reuse. . Issue: Does the death of the employee asleep in the warehouse – that warehouse that Dry. McCoy intentionally burned down- constitute a charge of involuntary manslaughter? Rule: Involuntary manslaughter occurs when there is no intention to kill or cause serious injury, but death occurs due to recklessness or criminal negligence. The individual committing the crime was aware of the risk of injury and willfully disregarded it (Involuntary Manslaughter, 2010).

Analysis: The facts indicate that Dry. McCoy was unaware of the employee's presence in the warehouse, and therefore Dry. McCoy had no intention to kill him. However, he was aware of the risks associated with arson and disregarded any consequences that may occur. Conclusion: The death of the employee would meet the criteria for involuntary manslaughter based on the facts and analysis. Dry. McCoy intended to burn down the warehouse (requisite men's rear) and committed the act that killed the employee (requisite cactus reuse) even though that was not his intention. C. Issue: Does the fact that Dry. McCoy intentionally struck Mr..

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Sulk in the Jaw show sufficient evidence to constitute a charge of battery?

Rule: Battery, a violent crime, constitutes physically harming another individual intentionally and in an unexcused manner (Miller & Jennet, 2010, p. 108). Analysis: As Dry. McCoy was running away from the burning warehouse, Mr.. Sulk, an innocent passerby, tried to stop him from escaping. When they met, Dry. McCoy lashed out and intentionally hit Mr.. Sulk hard enough in the Jaw to render him unconscious. Not have hit Mr.. Sulk had he not had a requisite cactus reuse to get rid of the man who was trying to catch him, and the intentional physical contact of hitting Mr..

Sulk was Dry. Macy's requisite men's rear. 4. Dry. Spook: a. Issue: Did Dry. Spook commit embezzlement when he siphoning some of the reject money into his own bank account? Rule: Embezzlement is the action of fraudulently taking another person's property or money (Miller & Jennet, 2010, p. 175). Analysis: As a project manager, Dry. Spook had access to the project funds entrusted to him. He intentionally took a portion of these funds without the Institute's authorization and invested them in his personal bank account and business venture. Conclusion: According to the facts and analysis, Dry.

Spook intentionally took funds that were not his and used them for his personal gain, which would constitute embezzlement. His intention to take some of the project's money for himself was his requisite men's rear, and actually transferring the funds into his own bank account and investments was his requisite men's rear. Criminal Defenses These are the criminal defenses that would be available to each individual in this 1 . The Directors a. Issue: Could the directors claim duress from the other directors to commit forgery and bribery of a public official as a criminal defense to avoid liability?

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Each director could testify that he or she was forced to comply with the other directors, which under normal circumstances the person would not have otherwise done. Rule: Duress only excuses a crime when a person is unlawfully threatened with serious bodily injury or death if they do not commit the criminal act (Miller & Jennet, 2010, p. 185). Also, the crime they are forced to commit must be less severe than the ramifications of not committing the crime, and the defendant must have believed that the danger was imminent.

Analysis: The facts of the case do not document that any of the directors were faced with unlawful threats of serious bodily injury or death when they choose to forge research documents and bribe the project managers with \$1,000 in cash for their silence. Also, there were no ramifications if they did not commit these crimes. Forgery and bribery of public official. Therefore, there is no legal defense for their actions. B. Issue: Could the directors claim that they were all ignorant of the law and made a mistake when they forged official documents and bribed public officials?

Would this be a valid criminal defense to avoid liability their crimes? Rule: In order for mistake or ignorance of the law to be a criminal defense, criminal defendants must prove that they either (1) honestly did not know that they were breaking a law or (2) relied on an official statement about the law that was untrue. The instance must be a mistake of fact, in which there was with no criminal intent to break the law (Miller & Jennet, 2010, p. 184). Analysis: The case clearly specifies that the directors of the hospital met together and intentionally decided to suppress research findings.

Their deception betrays them. It is clear that they had full knowledge of the law; otherwise they would not have felt it necessary to bribe the project managers. Conclusion: Ignorance of the law and mistake are not a sufficient defense to void liability for the charges of forgery and bribery of a public official. Therefore, there is no legal defense for their actions. 2. Dry. House a. Issue: Could Dry. House plea duress based on the fact that under normal circumstances, he would have not otherwise stolen the documents? Analysis: Dry.

House was threatened with the loss of his Job if he revealed the truth about the research results, but the hospital directors never threatened his defiance with serious bodily injury or death if he did so. Conclusion: Although the doctor only acted as he did to protect public well- Ewing, duress is not a sufficient defense to avoid liability against the charge of larceny in this case. There were no physical threats of violence or death against Dry. House's life that would justify the legal definition of duress. His decision to steal the research documents from the warehouse (I. E. Arcane) was a more severe crime than the threat of being fired. Therefore, there is no legal defense for his actions. A. Issue: Could Dry. McCoy plead duress as a criminal defense for committing arson? Analysis: Dry. House did create a stressful situation for Dry. McCoy and the other erectors by leaking the real research documents to the media. However, stress would not constitute duress under law. There are no threats of serious bodily injury or death involved in what Dry. House did. Conclusion: A criminal defense of duress would not be a sufficient defense to avoid liability for arson in this case.

Therefore, there is no legal defense for his b. Issue: Could Dry. McCoy plead insanity as a criminal defense for committing arson based on his comment, “Beam me up, Scotty - no Jail time for me!?” Rule: Two standards exist to establish insanity. The first is the Model Penal Code, which is used in almost all federal courts and some state courts. If a defendant is going to claim insanity as a defense, he must prove that he has either a mental disease or defect that renders him unable to both decide what is right versus what is wrong and understand the requirements of the law.

Another rule is the Management test, which voids responsibility if, at the time of the offense, the person did not know the nature or quality of the act or that the act was wrong. There is also the irresistible-impulse test, where a person knows that their actions are wrong, but cannot resist doing it. In spite of all of the tests, proving insanity is extremely difficult, and therefore is rarely used as a defense and typically not successful (Miller & Jennet, 2010, p. 184). Analysis: Dry. McCoy did appear to be acting insanely as he cried out, “Beam me up, Scotty - no Jail time for me! While he lit the fire.

However, Dry. McCoy’s comment also reveals that he knew what he was doing. He sanely concluded that burning the real research documents in the warehouse would clear him from lawful punishment for forgery and fraud.

Conclusion: Dry. McCoy plea of insanity, therefore, would not be sufficient to void liability. The case reveals that he did know that his actions were wrong, and that he was not blind to his crime or its consequences. Therefore, there is no legal defense for his actions. Involuntary manslaughter associated with burning down the warehouse?

Rule: Mistake of fact occurs when a person commits a crime, but did not have the mental state necessary to commit that crime (Miller & Jennet, 2010, p. 184). Analysis: Dry. McCoy did kill someone when he burned down the warehouse on top of the unconscious employee inside. However, he did not know that the man was inside, and therefore did not mentally intend to kill him. Conclusion: Dry. McCoy can successfully plead mistake of fact as a criminal defense for the charge of involuntary manslaughter and avoid all criminal liability for the employee's death. D.

Issue: Is a plea of self-defense a Justifiable criminal defense for Dry. Macy's charge of battery against Mr.. Sulk? Rule: Self-defense is a Justifiable privilege that is recognized under law as long as the use of force is in defense of one's self or one's property. The act of defense must also be reasonably necessary (Miller & Jennet, 2010, p. 185). Analysis: Dry. McCoy struck Mr.. Sulk and knocked him unconscious when Mr.. Sulk tried to stop him from escaping the scene of the crime. The case does not indicate that Mr.. Sulk was trying to harm either Dry.

McCoy or his property. Conclusion: A criminal defense of self-defense would not be sufficient to avoid liability for battery in this case. Dry. Macy's use of force was not needed. Mr.. Sulk was not trying to harm the doctor or his property according to the details of the case. Therefore, there is no legal defense for his actions. E. Issue: Is a plea of duress Justifiable defense against Dry. Macy's charge of battery against Mr.. Sulk? Analysis: Dry. McCoy was under no unlawful threat of serious bodily injury or death when he struck Mr.. Sulk, rendering him unconscious.

The case also does not disclose any facts that make Dry. McCoy appear to be in imminent danger from Mr.. Slums action to stop him. Liability for the battery of Mr.. Sulk in this case. The given information clearly does not have any legal standing according to the lawful definition of duress. Therefore, there is no legal defense for his actions. 4. Dry. Spook a. Issue: Could Dry. Spook use the criminal defense of mistake of fact to prove hat the embezzlement charge was not true – that he did not mean to siphon the Institute’s money into his account and investments?

Analysis: Dry. Spook could have accidentally placed the money in his account, but an intentional mental state would have been necessary to invest the Institute’s money into his investments with a disposable diaper company. Conclusion: Mistake of fact is not a sufficient defense to avoid liability for embezzlement. It is clear that Dry. Spook intentionally placed the money in the disposable diaper industry. B. Issue: Is insanity a criminal defense that Dry. Spook could plead to avoid all ability for embezzlement?

Analysis: It is hard to validate the fact that Dry.

Spook did not know what he was doing or that he could not have resisted the act of embezzlement when he intentionally invested the money in his own investments – a disposable diaper company. The action proves intent that he did not resist. He also did not make public the fact that he had been siphoning money, so it appears from the case that he knew the action was wrong. Lastly, Dry. Spook could prove that he had a mental illness at the time of the embezzlement, but this is a hard claim to support when you are a high ranking project manager. ability when Judged by lawful facts.