

Penal law

Law



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You're 04 November 2005 Criminal Law Before this research can actually approach the incident that occurred between the two adolescent's, (Ian and Fred) there first must be an understanding concerning the theory of Criminal Law. This form of the legal system could really be considered the backbone of the cause and effect process of crime. Criminal Law or Penal Law, shall we say, is made up of a set of systematic ideas and processes which are most always theorized to come up with a logical conclusion as to how the investigating incident occurred and whether it can be considered criminal or civil law. First, a criminally implied act or intent has to be proven in order to be dignified as a crime. This is especially true in a case, such as the current one, when juveniles are involved (Hall & Merrill 1960, p. 1).

Penal theory is what defines an action of being intentionally criminal or whether it is just a horrible accident, resulting from reckless, and unabashed behavior. This type of negligent behavior though, is what normally leads to the cause of the victim getting hurt or killed, due to the other progressive factors involved (Hall & Merrill 1960, p. 1). For example, according to the Criminal Law Handbook (2005), there is exploration into the view of 'Unintentional vs. Intentional Conduct'. In this debatable theory of Criminal Law, consideration is given to the possibility that perhaps the offender (which would be Ian) misperceived Fred's' intentions and reacted out of a judgment he made that was false. Therefore, because of the offenders' lack of perception, maybe he should not be charged with a crime at all because he made a mistake.

Upon further theorizing, it is found this theory just might have worked for Ian except for the fact that his actions were premeditated and calculated; therefore he would not stand a chance in utilizing this cause and effect

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theory in a court of law.

Often enough offenders' intentions in the crime are normally how they are handed down their punishment in the judicial process. Considering this, would Ian deserve a harsh penalty due to his actions, which have proven to be criminal. Of course he deserves to be punished as his crime should fit the punishment because he knew exactly what he was doing before hand and after which is what "actus reus and mens rea" is depicted as. Since it's clear, Ian was the one involved in the actual physical act or termed the "actus reus", he should of course have to answer for his actions, as previously stated. This is especially true when considering the fact that Fred's injury, lead to medical attention, which because of this treatment, lead to his untimely death (Wikipedia Encyclopedia 2005).

As research goes further in this specific case, to determine Ian's state of mind and intent it will continue to utilize the idea of "actus reus" and "mens rea" (Wikipedia Encyclopedia 2005). Closer examination of Ian's thoughts gives the obvious indication of "mens rea" when he deliberately considered picking up the bat and hitting Fred with it. Following this, he rather meticulously planned out the act, and with deliberation picked up the bat and when Fred approached striking distance, he hit him with it. This proves the theory of, "actus reus" or in other words, the actual physical act. Though Ian meant to deliberately hurt Fred he never intended to kill him but because of his malicious thoughts and actions, the situation spiraled out of his control resulting in the accidental but criminal death of Fred.

In concluding this research it has been found that the "mens rea" has a very serious effect on the outcome of any problematic situation. The offenders' state of mind is the mental line drawn between actually perpetrating the act,
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and just having the criminal thoughts of doing so. Once that line is crossed and "actus reus" (physical action) occurs there is no question that criminal intent was the deciding factor in the situation, such as with Ian and Fred.

Reference Page

1. Criminal Law Handbook (2005) 'Know Your Rights, Survive the System' 7th Edition, Nolo Publishing
2. Hall, Jerome & Merrill, Bobbs (1960) 'General Principles of Criminal Law' p. 1-642
3. Wikipedia Encyclopedia (2005) 'Criminal Law' [online] Available from: URL http://www.en.wikipedia.org/wiki/Criminal_Law