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504 CRIMINAL LAW
Semester I, 2000-2001

UNM School of Law
Final Exam
Three Credits

Professor James Ellis
Friday, December 15, 2000
1:30 p.m. to 5:00 p.m.

INSTRUCTIONS

This is a 3½ hour in class examination. The question is designed to be answered in 3 hours. There is an additional one-half hour for reading the question carefully, and for organizing and preparing your answer.

In preparing your answer, you may consult your casebook, class handouts, class notes, and any outlines you have prepared yourself or in collaboration with your classmates.

The question includes a statutory appendix. Be sure to use the correct statutes, citing to the relevant section where appropriate. Assume that the facts set forth in the question are uncontested.

Check to see that there are 4 pages in your copy of the exam including this page.

Please write in ink, legibly, and only on one side of each page of the bluebook, leaving a margin at the left side of each page (e.g., "1 of 5;" "2 of 5;" etc.). If you are hand writing your answer, please identify your bluebooks similarly. Make sure your exam number is on every bluebook or every typed page.

GOOD LUCK!

[All essay exams will be filed in the library.]

QUESTION

Unfortunately, confusion reigns in the State of Chaos. It began when a simple business partnership turned acrimonious. For a period of time, Al and George had conducted a profitable business manufacturing and selling plastic soundbites, a seasonal novelty item popular with consumers in the state who were over the age of 18. But in the late autumn, our entrepreneurs found that the fickle Chaotians had tired of these gimmicky items, which were no longer selling at a profit. This turn of events produced heated arguments about the future of the business and about what to do with the considerable inventory of unsold merchandise. After a particularly acrimonious discussion, Al and George concluded that they could no longer be business partners and that it was time to dissolve the company. But they could not agree on a plan to dispose of the soundbites that were still in the company's warehouse. Each of the former partners thought he was the best person to recycle the now-stale merchandise.

Finally, they agreed to divide the inventory 50-50, with each of them free to dispose of his half as he saw fit. They hired Katherine, who was a certified appraiser, to divide the merchandise evenly. But Katherine secretly favored George, and knowingly produced a division that actually awarded him 537 more of the soundbites than she gave to Al. When Al discovered Katherine's duplicity, he demanded a recount. He enlisted his friend, Dimples, to conduct the recount. But Katherine knew of Al's relationship with Dimples, and refused to recognize the recount. Al insisted on the correctness of Dimples' count.

Al's friend, Chad, worked with Dimples in conducting the recount. In the course of this protracted and tedious task, a friendship developed between Chad and Dimples, which in time blossomed into romance. But before they progressed to consummating this relationship, they agreed that each should agree to take a blood test to ascertain whether either carried the HIV virus. Chad's test results came back negative, but Dimples' test revealed, not only that she had the virus, but also that she was pregnant. Chad was appalled when Dimples told him of these facts, but his feelings turned to outrage when she tearfully told him that the father of her child (and presumably the person who transmitted the virus) was George, with whom she had a brief sexual encounter a few weeks earlier. Chad was enraged at George, and immediately proceeded to confront him. George denied any involvement with Dimples, asserting that he had not committed any youthful indiscretions since his 45th birthday. George's denial only infuriated Chad more, but he chose to disguise his anger and pretended to accept George's explanation. But Chad secretly began to formulate a plan to seek revenge on Dimples' behalf.

The first person Chad approached to help him was his brother, Jeremy. Jeremy shared Chad's sense of outrage, and thought seriously for a couple of days about joining the effort. But eventually he decided against participating, telling Chad "I admire your courage, and I wish you well, but I'm just too afraid of getting caught."

Chad next turned to Butterfly, a friend of Dimples, who eagerly agreed to help. Butterfly believed that it was absolutely necessary to kill George, since otherwise he would infect other women with the virus and a greater number of people would die.

The final recruit was Joe, whom Chad told about a fabricated plan to retrieve from the warehouse the 537 soundbites that they both believed were rightfully his. Chad knew that Joe, while loyal and adventurous, had a strict moral code, which would never permit him to participate in a murder. So Chad told Joe that this was merely a mission of self-help and restitution, and that he was only taking what was rightfully Al's. Chad acknowledged that "technically" he needed court approval to get the items back, but argued that court action could take forever, and that they should just go in and take the items. Joe's moral principles were tested by this explanation, but he concluded that this was a mere moral misdemeanor, and therefore that he could participate. Joe's job would be to drive the getaway car.

Chad's plan, which he did not confide fully to his associates, was to lure George to the warehouse and shoot him there. So he instructed Butterfly to call George and ask him to meet her at the warehouse at 6:00 on Friday evening, claiming that she had evidence that Dimples was lying. George, who was eager to obtain such evidence, hurried to the warehouse, accompanied by his corporate vice president, Lon. When the pair arrived, they were startled to see Butterfly and Chad aiming guns at them, and Lon suffered a fatal heart attack. Butterfly was unnerved by this development, shouting that she had merely intended to kill George, and she dropped her weapon. As George jumped forward to grab the gun, Chad instantly fired his own gun at George to prevent George from shooting him. But alas, Chad's aim was adversely affected by his emotional reaction to this chaotic series of events, and his bullet missed George entirely and killed McGuffin, an innocent passerby. Unnerved, Chad and Butterfly ran out of the warehouse where they expected to see Joe's car. But Joe had left before any of the gunfire, because sundown was the beginning of his religion's Sabbath, and he was not permitted to drive an automobile after that hour. As Joe had departed, he had shouted to Chad and Butterfly, "It's sundown and I'm outta here; you're on your own." Unbeknownst to Joe, the walls of the warehouse were soundproof and they could not hear him.

Police investigation has revealed all this facts, which you may assume to be true, plus three others. First, it is now clear that Al had "exaggerated" the extent of his contribution to the "invention" of "the soundbite" (and of "the warehouse"). It has also become evident that George was indeed innocent of any sexual involvement with Dimples, which was actually the act of his evil twin, Snippy. (Snippy was killed in his attempt to flee from Chaos when he was run over by a convoy of heavily laden Ryder trucks on their way to Tallahassee, and thus he plays no direct role in your analysis.) Finally, it is now clear that Butterfly has long had a previously undiagnosed bipolar mental illness, and that she only agreed to participate in Chad's scheme because, in the euphoria of the manic phase of her condition, she believed she was invulnerable and would never be caught. Medication has since alleviated all symptoms of her mental illness.

Crowds of suspiciously choreographed demonstrators have gathered around the prosecutor's office, intent on "hanging" Chad. But the state has no death penalty on the books.

You are an assistant to the prosecutor in Chaos, who has asked you who, if anyone, can be prosecuted successfully for crimes listed in the appendix to this examination. Provide her with a memorandum explaining both the prospects for success and the analysis that has led you to your conclusions. (You should be aware that the Model Penal Code sometimes influences Chaotic law.)

APPENDIX

CHAOS PENAL CODE (portions)

Section 876. Principals. Whoever commits a felony or aids, abets, counsels, commands, induces, or procures its commission, is punishable as a principal.

Section 877. Accessories. Every person who, after a felony has been committed, harbors, conceals or aids a principal in such felony, with intent that such principal may escape from detection and conviction of such felony, having knowledge that said principal has committed such felony or has been charged with such felony or convicted thereof, is an accessory to such felony. [Accessory to a felony is punishable as a misdemeanor.]

Section 893. Conspiracy. If two or more persons conspire to commit any felony or misdemeanor, they are guilty of the felony of conspiracy.

Section 894. Attempt. Any person who, acting with the kind of culpability otherwise required for commission of a crime under this Code, purposely engages in conduct that would constitute the crime if the attendant circumstances were as he believes them to be, or who purposely does or omits to do anything which, under the circumstances as he believes them to be, is an act or omission constituting a substantial step in a course of conduct planned to culminate in his commission of the crime, is guilty of attempt, which is punishable at the level of half the punishment prescribed by law for the completed offense.

Section 901. Robbery. A person commits the offense of robbery when, with intent to commit theft, he takes property of another from the person, by use of force, by intimidation, or by sudden snatching. Robbery shall be punishable by imprisonment for not less than one nor more than twenty years.

Section 996. Murder. Murder is the unlawful killing of a human being with malice.

Section 997. First Degree Murder. Murder in the first degree consists of murder by means of poison, lying in wait, or any other willful, deliberate, and premeditated killing, or murder committed in the perpetration of, or attempt to perpetrate, arson, criminal sexual conduct in the first or second degree, child abuse in the first degree, robbery, breaking and entering of a dwelling, extortion, or kidnapping. First degree murder shall be punished by life imprisonment.

Section 998. Second Degree Murder. All other kinds of murder shall be murder in the second degree, and shall be punished by imprisonment for life, or for a term of years from twenty years to life.

Section 999. Manslaughter. Manslaughter is an unlawful killing without malice or under extreme emotional disturbance resulting from serious provocation, and shall be punished by imprisonment for a term of ten to twenty years.

END OF EXAMINATION

Comparative and Historical Legal Perspectives

Semester I, 2000

UNM School of Law
Final Examination
Two Credits

Professor Fritz
Friday, December 8, 2000
1:30 p.m. to 3:30 p.m.

Instructions

1. This is a **LIMITED OPEN BOOK EXAMINATION**. You may use the course materials, handouts distributed during the course, or any notes or outlines that you have participated in creating.
2. There are two parts to the exam. Part One consists of two focusing-like questions and Part Two consists of one broader essay question.
3. All three questions are equally weighted, so you should allocate approximately forty (40) minutes for each question.
4. On each blue book, write the subject, professor's name, and your exam number. **DO NOT WRITE YOUR NAME ON THE BLUE BOOKS.**
5. For students typing their exams: Type or write the information that would appear on the front of the blue book at the top of the first page of your answer. Put your exam number on each typed page.

Good luck and have a Happy Holiday season!



Historic note: Until his life's destiny was further clarified, Robin Hood spent several years robbing from the rich and giving to the porcupines.

Part One (one hour and twenty minutes)

1. **What was the background, process and rationale for the emergence of the Court of Equity (or Chancery) in the common law tradition?**
2. For a considerable portion of this course, we have examined the interrelationship between perceptions and understandings of “law” and the place or role for lawyers. **What is your sense of the traditional role of American common law lawyers, what does it seem based on, and to what extent might it be undergoing a change?**

Part Two (forty minutes)

3. It's just before the Fall semester 2001 and Dean Desiderio has a major problem. The two instructors who usually teach Comparative and Historical Legal Perspectives (Em Hall and Chris Fritz) are unavailable—Hall decided a sabbatical was so much fun he's not coming back for another year and Fritz is in the hospital still recovering from the injuries he received when he ran into a desk, tripped and fell while teaching Property II in the Spring semester.

Desi is committed to teaching CHLP (particularly since so many first year students have been besieging him to expand the credits for the course, “since there's never enough time” to do justice to all the ideas and questions raised) and he wants you to take over the course.

You've accepted the task and decide to use the same materials, including starting with a study of the three judicial opinions from France, Germany, and Michigan.

What insights about the nature and the particular characteristics of the common law tradition do you hope to convey to the new first year class by virtue of a comparison of the three judicial opinions? Specifically, how might that comparison help beginning law students understand what they're doing in their other classes in terms of the American legal and judicial system?

End of Examination