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504 CRIMINAL LAW
Semester I, 2002-03

UNM School of Law
Final Examination
Three Credits

Professors James Ellis & Norman Bay
Wednesday, December 4, 2002
1:30 p.m. to 5:30 p.m.

INSTRUCTIONS

This is a 4-hour in-class examination. The question is designed to be answered in three hours. There is an additional 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. You may not consult commercial outlines or treatises.

This exam contains one question and 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 six pages in your copy of the exam not including this page.

Please write in ink, legibly, and only **one side** of each page of the bluebook, leaving a margin at the left side of each page. If you are typing your answer, please identify 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.

This is a musical question, so if you find the melody entering your thoughts, please, as a courtesy to your fellow students, try to refrain from humming. Thank you.

GOOD LUCK!

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

QUESTION

*Attend the tale of Sweeney Todd.
His skin was pale and his eye was odd.
He shaved the faces of gentlemen,
Who never thereafter were heard of again.
He trod a path that few have trod.
Did Sweeney Todd,
The Demon Barber of Fleet Street.*

Sweeney escaped from prison, after serving 20 years of a 40-year sentence based on a wrongful conviction, which had been engineered by the corrupt Judge Turpin. Sweeney returned to town, secretly vowing revenge. But our gruesome, yet somehow operatic, tale begins much earlier.

Judge Turpin had not known Sweeney, but had seen his beautiful and naive wife, and desired her for himself. So with the connivance of his law clerk, the unctuous Beadle, he trumped up a false charge that Sweeney had stolen money from the customers in his barbershop, and then in his role as trial judge, sentenced Sweeney to forty years' imprisonment at hard labor. With Sweeney out of the way, Beadle and Turpin lured Mrs. Todd to the judge's home with a false promise that he would consider reducing Sweeney's sentence. When she indignantly resisted Turpin's sexual overtures, he raped her and locked her away in the cellar of his home. In her agony and distress, she committed suicide by taking poison. (Beadle had willingly participated in the ruse of luring her to Turpin's home, but had not known of Turpin's plan to rape her. When Mrs. Todd killed herself, Beadle helped Turpin bury her body in the cellar.)

Sweeney knew of none of this during his imprisonment. But he had brooded about the injustice of his false conviction, for which he (correctly) blamed Turpin and Beadle, and anguished over the fact that there had been no communications from his wife. Over the years, his brooding turned into rage and obsession, and he resolved to escape in order to find his wife and protect her from the world's evils. After a previous unsuccessful attempt, for which he had been convicted and punished, he eventually succeeded and returned to town in disguise. But he was unable to find any trace of his wife, which further unsettled his mind.

*Inconspicuous Sweeney was,
Quick and quiet and clean 'e was.
Back of his smile, under his word,
Sweeney heard music that nobody heard.*

Sweeney had difficulty finding lodgings within his price range, and inquired about the room advertised for rent over the shop of Mrs. Lovett, an amoral seller of meat pies. Learning that he was bent on revenge, but having amorous designs on Sweeney and also hoping that a successful business on the premises would help her own business, Mrs. Lovett provided him with a set of razors, and urged him to set up a barbershop upstairs from her store. He agreed, and quickly gained a reputation as the best barber in town.

But Sweeney's true intent was to lure Judge Turpin into his barber's chair, and, once he was there, to slit his throat. He confided this scheme to Mrs. Lovett, who wasn't sure whether to take him seriously, but fearing that he would leave her, told him she would help.

As he plotted his revenge, Sweeney continued to draw numerous customers. One was Pirelli, a competitor in the tonsorial trade, who made the mistake of disputing Sweeney's professional superiority while being shaved. Enraged by his rival's comments, and delusionally imagining that it was Judge Turpin in the chair, Sweeney instantly killed Pirelli by slitting his throat.

He then calmly went to Mrs. Lovett to inquire what he should do with the dead body. She was quite surprised to be confronted with this particular dilemma, but reassuringly told Sweeney that she would "take care of it," and together they carried the body to her kitchen. Sweeney returned to his barbershop and gave no further thought to the question of the corpse's disposal.

But Mrs. Lovett, who had been unable to pay the bills of her meat supplier, decided that she could solve both of her problems by blending, shall we say, Pirelli's remains into the next day's menu and serving him to her unsuspecting customers. Also unsuspecting was her baking assistant, a simple but kind-hearted lad named Tobias Ragg, who assisted in preparing the pies (without knowing the source of their ingredients), and stole and consumed one, mistakenly thinking the meat to be mutton. The resulting (mislabeled) meat pies proved wildly popular, and her business was suddenly thriving. Emboldened by this success, she casually mentioned to Sweeney that if he should ever face a similar problem, she would be

glad to help again. Unaware of her implication (or recipe), Sweeney responded noncommittally.

Sweeney's long-awaited opportunity for revenge came soon, because Judge Turpin had heard of the extraordinary skills of the town's new barber and decided to see for himself. Not recognizing Sweeney as the defendant from long ago, Turpin sat in the chair to get a shave and haircut. Casually asking the judge whether he remembered a woman named Mrs. Todd, Sweeney was startled when Turpin admitted having had sexual relations with a woman of that name. Enraged by the image of his beloved in the arms of his archenemy, Sweeney shouted that he would have his vengeance at long last, and killed Turpin. He then casually inquired of Mrs. Lovett whether she could assist him again, and she took the body to her kitchen and added the jurist to the next day's fare, again without Sweeney's knowledge.

*He kept a shop in London town,
Of fancy clients and good renown.
And what if none of their souls was saved?
They went to their Maker impeccably shaved,
By Sweeney Todd,
The Demon Barber of Fleet Street.*

But Mrs. Lovett's previously undiscovered conscience began to bother her and she told Sweeney that she would no longer help him dispose of any customers. He said that was all right with him, but in a threatening tone, elicited from her a promise to tell no one of the previous, um, indiscretions.

As fate would have it, the next customer to enter Sweeney's shop was Beadle. Sweeney immediately decided to make Beadle his next victim, but while he was savoring the opportunity for revenge for his false conviction, the despicable clerk recognized Sweeney, threw a razor at him intending to kill him, but missing him and fatally injuring M'Naghten, a passerby on the street. Beadle fled from the shop before even getting in the chair. Beadle beckoned a police officer, charging Sweeney with trying to kill him. But in the resulting investigation, all the facts listed above emerged, and Sweeney, Mrs. Lovett, Ragg, and Beadle were arrested.

You are the clerk to prosecutor A. Lansbury, who has asked you for a memorandum on the legal issues raised by these sordid events. Please analyze for her which defendants can be convicted for their participation in various offenses. Assume that all acts described are proven and took place in the State of Sondheim.

Please limit your consideration to offences included in the appendix to this examination, as well as any applicable common law defenses, and assume that there are no problems raised by statutes of limitations.

*Attend the tale of Sweeney Todd.
He served a dark and a hungry god.
To seek revenge may lead to hell,
But everyone does it, and seldom as well,
As Sweeney Todd,
The Demon Barber of Fleet Street.*

[End of question; see statutory appendix]

APPENDIX

STATE OF SONDHEIM PENAL CODE (portions)

Section 86: Murder Defined. Murder is the unjustified taking of the life of another person with malice aforethought. Murder may be of the first or second degree.

Section 87: Degrees of Murder. Murder perpetrated in a willful, deliberate, and premeditated fashion is murder in the first degree. First degree murder is punishable by life in prison. All other murders are second degree murder, which is punishable by imprisonment for a period of 20 to 30 years.

Section 88: Manslaughter. Manslaughter is the unlawful killing of another human being without malice, or under the influence of extreme emotional disturbance. Manslaughter is punishable by imprisonment for a period of 10 to 15 years.

Section 91: Complicity. Any person who aids and abets another in the commission of a crime is an accomplice. Accomplices are punished as if they were principals in the commission of the offense.

Section 92: Conspiracy. Conspiracy is the agreement by two or more persons to commit an unlawful act. Conspiracy to commit murder is punishable by imprisonment for a period of 20 years. Conspiracy to commit other felonies is punishable by imprisonment for a period not to exceed on half the sentence available for the felony that was the object of the conspiracy.

Section 93: Attempt. A person is guilty of attempt to commit a crime if, acting with kind of culpability required for the commission of the crime, he tries to commit it. Attempt to commit a felony is punishable by imprisonment for not more than 10 years.

Section 97: Rape. A person who has unconsented sexual intercourse with another person is guilty of rape, which is punishable by imprisonment for a period of 10 to 15 years.

Section 145: Cannibalism. Any person who consumes the flesh of a human being or causes another person to consume such flesh is guilty of cannibalism.

Cannibalism is a misdemeanor, punishable by confinement in jail for not longer than six months.

Section 166: Kidnapping. Whoever unlawfully seizes, confines, or abducts by trickery another person is guilty of kidnapping, a felony punishable by imprisonment from 20 years to life.

Section 202: Prison Escape. Escape from a prison to which a person has been sentenced by a court of law is a felony punishable by imprisonment for up to five years.

Section 505. Theft of Foodstuffs. Theft and consumption of any foodstuff that is the property of another constitutes a petty misdemeanor, punishable by confinement in jail for a period not to exceed 30 days.

[End of examination.]