

Criminal Law Final – Spring 2008
Professor Temple

Standard Instructions:

You have three (3) hours to complete this exam. Please note the point values assigned to each question. Please type or write your answers. If you are using a blue book, you should use the front side of each page. Please don't write on both sides of a page. You can write on each line of the blue book. You must write your exam number on each blue book. If you are using a laptop computer, please carefully follow the directions provided by the registrar/proctor.

You may use your textbook (Dressler) during the exam. You may refer to any marginal notes you have made in your textbook. You may not have class notes or any outlines/study aides in the exam. You are allowed to use any materials posted on the TWEN site during the exam. These answers should be in essay form. You do not have to format your answers in a court-type format (i.e. don't write the caption, etc.). Good luck and enjoy your summer.

Question #1 (5 points):

You are a judge presiding over an assault trial. The defendant is charged with repeatedly striking the alleged victim in the face. The alleged victim suffered a fracture to his nose. The defendant has filed a Notice of Self-Defense. Specifically, the defendant alleges he struck the alleged victim in the face with his fists because the alleged victim attacked him with a baseball bat. Please provide the jury with a self-defense jury instruction.

Question #2 (5 points):

You are a law professor teaching Criminal Law. Please set forth the two (2) primary elements of a crime. Additionally, please describe in detail the four (4) mental states associated with criminal offenses.

Question #3 (5 points):

A defendant in a homicide case has raised the issue of competency to stand trial. He alleges that certain depression and anxiety symptoms make him incompetent to stand trial. He also asserts that he suffers from visual and audio hallucinations. The defendant has refused to meet with his attorneys on several occasions because he feels they are part of a "judicial conspiracy." His attorneys have filed a motion raising the competency issue. Prior to the competency hearing, the presiding justice has assigned you to this case. As a law clerk to the presiding justice, please complete a detailed analysis of the applicable competency standard.

Question #4 (5 points):

You are a legislator in the State Senate. A bill is before you promoting "shaming" as an effective sentencing alternative for judges. It allows judges to force defendants to wear shirts with slogans like "I am a thief," "I drive drunk," and "I molest young children." These shaming slogans are just a representative sample of the legislature's approach to shaming convicted defendants. Please indicate whether or not you will vote for this shaming bill. In your answer, you must set forth the specific reasons for your vote.

Question #5 (5 points):

You have just been appointed to the Commission reviewing capital murder in New Hampshire. A new proposal to amend the death penalty is under consideration by the Commission. Under this proposal, if the defendant is convicted of knowingly causing the death of a police officer during the commission of a domestic violence offense, the judge is required to sentence the defendant to the death penalty. Since you are the only lawyer on the Commission, the other members have asked you to do a report to the Commission regarding the constitutionality of this new proposal. Please write a report to the Commission regarding the constitutionality of this particular proposal.

Question #6 (5 points):

On January 2, 2008, an inmate attacked a correctional officer at the Merrimack County House of Corrections. After the altercation began in the day room, the defendant (another inmate at the facility) ran from his cell towards the encounter. The correctional officer had dropped his taser on the floor in the day room as he struggled with the other inmate. As the defendant arrived at the scene in the day room, he grabbed the taser and ran towards the correctional officer. The defendant tripped over a chair about ten (10) feet from the correctional officer. As he began to get up with the taser in his hand, the defendant was tackled by two (2) other correctional officers who just arrived at the scene. You have been appointed to represent the defendant in this case. The defendant has been charged with attempted assault by an inmate. Please complete a direct and concise evaluation of the attempt charge.

Question #7 (10 points):

On May 1, 2008, John Enos and Tim Gray were roommates at NH College. During the course of the day, John consumed eight (8) 12 ounce Heineken beers. Tim drank three (3) 12 ounce wine coolers. At about 4:00 p.m., John and Tim discussed inviting Tory Pines to their room for a few beers. Tim told John that he wanted to “sleep” with Tory. John assured Tim that he could make arrangements for Tim and Tory to hook up in the room. He told Tim that the “dirty deed” is a done deal. Tory resided in the room right next to John’s room. John and Tory had dated during their first semester at NH College.

Tory accepted John’s invitation to come to his room. She drank two (2) beers with John and Tim. She told John she was not interested in any type of relationship with Tim. At about 1:00 a.m., Tory decided to leave for her room. At that point in time, John was impaired by a mixture of alcohol and prescribed medications. John suffers from severe depression and an anxiety disorder. He had taken Prozac and Klonopin during the course of the day on May 1, 2008. He begged Tory to stay to “talk.” He began sobbing and threatening to kill himself if Tory left the dorm room. Tory decided to stay to talk to John.

After about a half hour of talking to John, Tory decided to leave the room because John was incoherent and “passed out.” At this point, Tim locked the door to the dorm room and restrained Tory on a couch. After threatening to assault Tory, Tim engaged in sexual intercourse with her on the couch. Tory did not scream or yell because she feared that Tim would assault her. She did tell him to stop in a raised voice. Tory did not physically resist Tim’s conduct. During the sexual act, John woke up and encouraged Tim and Tory to “enjoy the ride.” John then passed out and did not wake up until 10:00 a.m. on May 2, 2008. He does not have any recollection of the events of May 1, 2008, in his dorm room after 11:00 p.m.

You have been assigned to prosecute John in this case. You just took over the case from a senior prosecutor who charged John with Accomplice to Forcible Rape and Conspiracy to Commit Forcible Rape. The mental state for forcible rape is purposely. Defense counsel has provided you with a Notice of Insanity Defense on John’s behalf. Please do a detailed memorandum evaluating the strengths and weaknesses of the charges in this case. As part of this analysis, you should also evaluate the insanity defense and any other applicable defense issues.