

UNIVERSITY OF FORT HARE
NELSON R. MANDELA SCHOOL OF LAW
East London

CRIMINAL LAW

LCL 213

EXAMINATION

JUNE/JULY 2023

TOTAL: 100

TIME: 3 HOURS

Internal Examiner: Ms S.J Stal

Internal Moderator: Dr T Shumba

INSTRUCTIONS

- 1. Answer ALL questions.**
- 2. Refer to case law and other authorities where applicable.**
- 3. Write legibly.**

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QUESTION 1 [25 Marks]

"I am prepared to accept that an accused person should not be held criminally responsible for an unlawful act where his failure to comprehend what he is doing is attributable ... to a combination of drink and other facts such as provocation and severe mental or emotional stress."

Diemont AJA, at 17F-H, in S v Van Vuuren 1983 (1) SA 12 AD [15]

Write an essay in which you provide a critical account of the development of the defence of non-pathological incapacity and explain how it is currently viewed.

QUESTION 2 [25 Marks]

Write an essay in which you discuss the application of *mens rea* by the courts.

QUESTION 3 [25 Marks]

On the 20th of March 2018, a protest action takes place against the electricity crisis in South Africa. The group consists of approximately 25 people and they demand the attendance of the mayor at the town hall at 14:00 in order to hand over a letter setting out their grievances. After waiting for two hours, the crowd reaches the limits of their patience and they decide that they will march to the mayor's private residence. The mayor, who was busy gardening, is grabbed out of the blue by two men, Julius and Caesar, and carried towards a river. They subsequently throw him in the river. The mayor, who did not know how to swim, swiftly drowns and dies. Two other people, Tristan and Isolde, subsequently chant songs and encourage Julius and Caesar to burn down the mayor's house. Julius and Caesar, feeling peer pressured, go into the house, constructs a petrol bomb, but ultimately decides not to light the bomb.

QUESTION 4 [25 Marks]

A national power outage occurs on the 1st of June 2018 at 20:00, leaving most of the country completely dark. Mr Beyoncé's son, Blue Ivy, is a fitness enthusiast and takes a certain vitamin supplement every evening at 20:30. Due to the fact that it is completely dark and the Beyoncé household has no alternative means of lighting, Mr Beyoncé mistakenly takes tablets from the incorrect container, which was placed right next to his supplements on the kitchen counter. Shortly after Blue Ivy consumes these tablets, at about 20:20, the electricity supply returns to the country. Mr Beyoncé immediately notices that his container of ecstasy tablets has been opened. He sees several crumbs of tablets next to the container and also that two tablets are missing. As no one else was in the house at that time, he immediately comes to the conclusion that his son mistakenly

consumed the ecstasy tablets instead of his vitamin supplements. Without much explanation, he rushes his son to the car. Mr Beyoncé becomes panicked about the impact the drug might have on his fourteen-year-old son and speeds to the nearest hospital, averaging 125 km/h during this trip. The doctor subsequently pumps Blue Ivy's stomach and indicates that Mr Beyoncé is fortunate that he brought his son in so quickly as he developed serious heart palpitations and could have suffered a heart attack. Mr Beyoncé is consequently charged with various traffic offences, but wants to challenge these charges, feeling that his conduct can be excused due to this emergency.

You are Mr Beyoncé's legal representative. Identify on which ground of justification Mr Beyoncé can rely and discuss whether he can successfully rely on this defence.

END
