

VIOLENT AND PROPERTY CRIMES: MAKE-UP TAKE-HOME TEST

This make-up test is meant to help you improve the grade you got in the midterm. If you missed the midterm, you need to do this test.

This test is a take-home test for you to do at home (or computer lab, or library) during the week of Nov. 13. During that week you will work on the test. We will not meet in class. We will meet in the classroom again on Nov. 20.

Analyze the following case to determine if Nelly is criminally liable for: (i) the death of the security guard; and (ii) Paul's death according to Canadian Criminal Law. Follow the format that appears at the end of the case, which was extensively discussed in class. Make sure that you don't make up or infer facts from the case. If there is not enough information about a fact in the case, say so. If you do make an assumption on a factual situation, because information is not enough or because there is an ambiguous factual situation, then be sure to state that you are making that assumption. You are not permitted to consult with anyone about the case or its analysis. You should be able to do very well on this test without doing any outside research. Do not ask me questions about the test, once the review class has ended. As a matter of fairness, I do not want to give answers to some students that others do not have the benefit (or detriment) of hearing. You will simply have to use your own judgment about how to handle any possible difficulties, which you have discovered once the time for asking questions has passed.

Submission: You need to hand in this evaluation personally on November 20, 2017 at 4 pm IN CLASS. There are no other submission dates or places. That day we will analyze the case in class.

Nelly is a drug addict who is dependent on her supplier, Paul, for her drugs. Paul has decided to expand his business interest but he needs some finance to launch his next illegal venture. In order to secure the necessary funds, he decides that Nelly should rob a bank on his behalf. He tells Nelly that she must rob the local bank, and that he will drive her there and drive the getaway car. If she does not do what she is told, he will withhold her drugs. The next day, Paul drives Nelly to the bank and says that he will wait outside. He says, 'I've got a gun here, and I'll be watching you. You come straight out of the bank and into the car, and if you screw up, I'll kill you.' Nelly believes him.

Nelly then enters the bank, points her gun at the teller and demands money, which is duly handed over. As she is leaving, a security guard –Alex- intervenes and tries to arrest her. During the struggle, Paul calls out, 'Hurry up.' Nelly renews her efforts to get the bag and in doing so, her gun discharges, hitting the security guard. Then, she leaves the bank and gets into Paul's car.

When they return to Paul's home, Paul turns to her and says, 'You stupid bitch, why did you have to shoot that guy, now the cops will be all over us.' He starts to beat her about the head. When they get to Paul's house, he gets out of the car, comes to Nelly's door, and drags her from the car, heading towards his garage. Nelly has heard stories on the street of Paul's violence and has heard that he used his garage as a torture chamber to kill people who upset him. Nelly remembers that she still has a gun. She points it at Paul and says, 'Let me go.' Paul is surprised that anyone could challenge him. He

looks at her and says, 'You don't have the guts' and reaches for the gun. Nelly says, 'You bastard' and shoots him and continues to shoot him until the gun runs out of ammunition. Paul is clearly dead. Nelly is eventually arrested. The police tell Nelly that Alex, the security guard was rushed to hospital and operated on and that when Alex was recovering in intensive care, a blood clot developed in his leg (as a result of his injuries), travelled to his head and caused a stroke requiring him to be connected to a life support machine. In due course, the medical practitioners decided that there is no possibility of his recovery and disconnected the ventilator, and he died.

You must use the following headings:

- A. The death of the security guard
 - i. Relevant facts
 - ii. Rule
 - a. Voluntary act
 - b. Causation
 - c. Social harm
 - d. Mens rea
 - e. Possible defence
 - b. Fact pattern
 - a. Voluntary act
 - b. Causation
 - c. Social harm
 - d. Mens rea
 - e. Possible defence
 - iii. Conclusion

- B. Paul's death
 - i. Relevant facts
 - ii. Rule
 - a. Voluntary act
 - b. Causation
 - c. Social harm
 - d. Mens rea
 - e. Possible defence
 - iii. Fact pattern
 - a. Voluntary act
 - b. Causation
 - c. Social harm
 - d. Mens rea
 - e. Possible defence
 - iv. Conclusion