

Cases

R v Jobidon-deals with consent (classic case), cannot consent to bodily harm.
Individuals decided to fight in the back of a pub.

R v King-drove after dentist appointment, was under some sort of substance and argued that not his fault because he was not warned.

R v Parks-sleep walking (automatism) and killed mother in law and assaulted father

R v Chase-deals with sexual assault (what it is)

R v Dorash -colour of right
-traded vehicle, but the car did not work. He got his car back, but charged. He believed it was his vehicle.

PapJohn-Ennachuk: Both got charged with sexual assault, believed they got consent

Drainville-priest believed aboriginal people had right to land

Levee Case-could not argue you were induced by an official. But, after case you can.

Oshawa Wholesale-booking of hotel and other in bulk, is was ruled that the strict liability offence can go to jail

Homicide (1st degree to 2nd degree)

-premeditation, prove subjective intent to kill

When looking at homicide

i.intentional

ii.negligence

Taunton v Taunton is an example of negligence

-mother and father stopped giving meds. to child, child died and they were charged with crim. negligence causing death

Greighton Case

-administered drugs to friend, friend died. Even though consent was given, he knew it would kill her because of his experience.

Martineau

-two guys go to store to rob store. One stays in car and other killed the cashier. Both knew there was a gun, but the guy in car did not know he had bullets. Held that because he did not know there was bullets in gun, he could not be charged with subjective intention

The defence of infanticide-the defence for a woman who just gave birth, who kills her child who is under 1 year old.

Manslaughter-no intent to kill the person
-it is less of a penalty

Sexual Offences

- no definition in the Criminal Code
- known by studying CASE LAW

3 sections not in sexual assault

- s.151-sexual interference: directly or indirect with body or object under the age of 16
- s.152-invitation to sexual touching: sexual touching invitation to individuals under age of 16 with body/ object
- s.153-sexual exploitation: position of trust or authority towards a young person in a dependency exploits the person with body/object a person under 16 and invites to touch

R v Mills-upheld the rape shield law

R v Sansregret

-sexual interaction broken off, but male continued. Threatened female with a weapon. She argued that due to fear she agreed. She reported but police did nothing. He did it again with a knife, this time he was convicted.

*Intoxication is not a defence, section 33.1: not a defence of self induced intoxication

*Extreme case of: Davio-intoxicated and committed sexual assault

Assault and Robbery

Assault-the general intent is only needed

Robbery-intent to deprive of property

- committing act then rob with specific intent of depriving person of money (important in early English law due to consequences)

R v Beard

- deals with the intent to rob while committing assault

General intent v Specific intent

- specific intent contains general intent

Fraud-must prove all elements

- i.non disclosure of honest facts (dishonesty)
- ii.deprivation or risk (deprive of property)

iii.false representation of facts

Justice Spenser in Parna talks about fraud s.380 of C.C

Self defence

- when person going to harm you and you take a preemptive strike.
- remember proportionality to the harm
- limitation of force

-battered spouse syndrome

*R v Lavallee (abusive common law relationship, and one day she was threatened with death, she killed him before he killed her)

Police-lawful duty defence (for their job)

Incapacity-2 types

- i.age
- ii.diplomat

Discipline-ability to punish child

Diminimus-trivial matters

Consent-got the green light ;)

Self defense-had to do it to defend oneself

Defence of property

Automatism-spontaneous behaviour that resulted in something

Duress-s.17

Entrapment-police agent inducing a person to do a crime

Necessity-had to do the crime

Battered Spouse Syndrome

Intoxication-section 33ed so not

Enfantasy-women and child under 1 year

Policy defences-violation of charter rights (no counsel/ procedure)

No criminal responsibility(insanity): not fit for trial, onis on defence to prove it

Provocation-sudden loss of control

*classic case is the man who knows his wife is cheated -he used this defence to kill her and try to get away with it

Regulatory Offences and Corporate Crime

Corporations (not human): Civil Liability

-22.-negligence: mark departure from a reasonable person (Craighton)

-22.2-subjective fault (omission): subjective intent to do wrong (knowingly)

Roach-the case of the truck driver in a corporation (he had no authority to do what he did)

Parliament changed law above law due to West-ray mine disaster (collapsed mine)

-corp. subject to criminal code

-company can be put under suspension

-individuals can be targeted, board of directors and down the line (aggregate responsibility)

*du diligence and beyond a reasonable doubt is for criminal code

Ocean Ranger

-oil platform caused oil spill

-bad procedures

Gulf of Mexico oil spill

-use of short cuts

Other types of companies may be targeted

-municipalities (sink hole last year), banks, partnerships

Advantages and disadvantages of using C.C

-money, time, relationship, etc...

Criminal law power

Security certificates-allow to detain individuals not from country on country soil

Emergency act (replaces war measures act)-suspension of civil liberties until problem is solved and under control

Public works act (protection of water sewage act)-used in g-20 to get people to identify themselves

Breach of peace-if felt you will do something, can detain you

Anti-terror provisions-exportation of people

US v Nadarajah

- court of appeal decision to extradite him to US to face charges

- legit legislation under s.1

- * Canada will not extradite if there is reason to believe individual will face death

Essay Question

Maybe specific and General Intent:

- R v George (guy attack elderly who had money, took the money after the assault, but had no intention to do that)

- concerned with the 2 tier high overlay in same offences

- serious crime needed intent

- mention classic law and how it is important

- don't forget examples!

Duress: What it is, situations, public policy, R v Ruzic