

## Automatism

CRM2300

November 8, 2016

### Introduction:

Definition: a state of **impaired consciousness** in which an individual, though capable of action has no voluntary control over that action

- you have the ability to walk, but! You are completely unconscious

Common Law Based

Actus reus and mens rea?

Accused committed the actus reus, and at some point had the mens rea

Five categories of automatism

1. Caused by normal condition
2. Triggered by external trauma
3. Involuntary induced by alcohol and other drugs
4. Voluntary self induced by alcohol and other drugs
5. Caused by mental disorder

Actus reus lacking: voluntary action is missing

**Crown cannot prove in the cases elements of actus reus (an obv mens rea missing bec u need one to have the other)**

Automatism caused by 'normal' states

Normal: not the result of mental disorder

### **Parks (1992)**

History of sleep walking, been to fam dr about what to do in regards to that. Gets into his car (23 km) to his in laws, stabbed and beat them both, while sleep walking.

Woke up: covered in blood. Charged with second degree murder

Not convicted: defense lawyer had an expert testimony: when one sleeps, once in state of low frequency that is in a complete state of coma.. no voluntary control of his action: reflexes; acquitted.

automatism triggered by an external trauma

a situation in which an external blow to the head causes an episode of impaired consciousness, during which the accused engages in conduct that would otherwise be considered criminal

### **bleta (1965)**

falls during brawl, hits head pretty hard, gets up: dazed position, not walking properly, follows victim, picks up knife and stabs the guy. Victim dies, charged with manslaughter. Got up went into the state of automatism. Psychologist confirmed it was not a proper stare  
acquitted.

### Automatism involuntarily induced by alc or other drugs

Accused through no voluntary action on his/her part, becomes severely impaired by alc and or drugs and falls into a state of automatism

**King (1962)** charged with impaired driving  
Allergic to anesthetic that he had in his tooth  
Accused lacks the foreseeability of impairment and  
State was induced involuntarily

Difficult to claim today  
Consent form required today

### Automatism voluntarily induced by alc or other drugs

General rule: not available: I was drunk and I didn't know what I was doing!  
Once you pick up the first glass of wine, you have a mens rea, the car, actus reus  
'acting involuntarily at the specific moment: committing the conduct  
Charter challenge  
Impaired driving offence can't use this defense  
Intoxication produce a state of mind 'akin to automatism or insanity'  
Violation of section 7

#### **Daviault (1994)**

Alcoholic, drank a bottle and half of brandy in a short period of time. Sexually assaulted a 60 yr woman who was also paralyzed. Gets out of state, cooperates with police  
Charged w/sexual assault, went to court  
Convicted, but expert testimony said: lifetime user..yes you can go into state of automatism.  
Not guilty. No proof of actus reas, acted involuntary.  
SCC: not guilty  
Amendment to the criminal code: section 33.1  
Defense of automatism not available to individuals who voluntarily induce a state of extreme intoxication  
Not available if they committed a sexual offense.  
That defense basically not available.

#### **Chaulk (2007)**

Appt building. Hears daughter screaming, sees another man, (Chaulk and other person) grabs daughter and neighbor to go into the room. Chaulk breaks down the door, threatens that he will kill him and daughter. Then: undresses himself, starts grabbing the female neighbour. Police take him to emergency room, he was at a party, took some acid ecstasy and weed. But then changed his view, and said no beer and a joint. Drugs he took, put him in a state of automatism.

The test to apply to decide whether an accused person's state of automatism/extreme intoxication was self-induced w/ the meaning of S. 33.1  
The accused voluntarily consumed a substance which s/he knew or ought to have known was an intoxication and  
Risk of becoming intoxicated was or should have been within his/her contemplation  
Yes if self-induced, you can use a default case  
The crown does not have to prove that the accused person knew exactly what the substance was

Automatism caused by a mental disorder  
If the accused's condition is caused by a mental disorder could s/he raise the defense of automatism instead of NCRMD?  
Cannot go w/ automatism. (why: you can get acquitted and walk out)  
Why?

Psychological Blow Automatism  
When a person goes to a dissociative state  
Defence available to the  
Protection of society \*\*

External factor  
'average normal person' test: both decided to go on a hunting trip, she starts teasing him, laughing at him, she said he has a lack of sexual arousal?  
Got out of car, picked up hunting knife, stabbed her 47 times. State of automatism  
How do you apply this test?

**Stone 1999**

charged w/ murder of his wife  
dissociative state: disease of the mind?  
Acting not knowing, the conduct  
Not able to use this.

SCC: an extremely shocking trigger: not your wife making fun of your sexual ability  
Trigger: such an intensity that would put any person in this state  
Very difficult to raise a defense of psychological, if the defense is still available then it's out there. Traitor itself: extreme shocking, and then subjective disposition of the person.

DO NOT FORGET: you have to look at the greater protection of society. NCRMD: yes?  
Treatment