

LAW STUDY SYSTEMS

A New Approach to Learning the Law and Preparing for Essay Exams

TUTORIALS

These interactive hypotheticals (supported by flow charts and other visual devices) reinforce the memorization of the plain meaning of the rules.

Question # 1: Multiple Acts

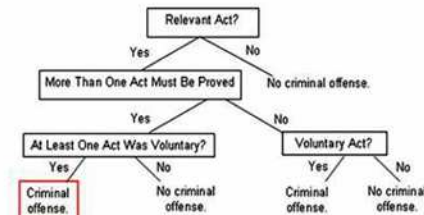
Mr. Martin was validly arrested in his home (where he had become drunk) for an offense unrelated to drinking. The police officers took him outside, where he acted in a boisterous and indecent manner. He was charged with violating this statute: "Any person who, while intoxicated or drunk, appears in any public place ... and manifests a drunken condition by boisterous or indecent conduct ... shall, on conviction, be fined...etc."



Would convicting Mr. Martin violate the voluntary act requirement?

Wait a Minute! Is That Fair?

Many students, feeling that the Martin decision is unfair on policy grounds, resist applying the rule as represented by the flow chart and are thus unable to conclude that a criminal offense (boxed in red) has occurred.



When you are faced with a fact pattern whereby (i) more than one act must be proved, (ii) one of the acts must be voluntary, and (iii) you find one or more voluntary acts, you must resist the temptation to "fight the facts." The tool on the next screen will help you do that.

Annotation: Ringo Conflict Pairing

Within the portion of the Ringo conflict pairing, the boxed text confirms one of the five types of actus reus that arise from an omission—the creation of a risk and the failure to render assistance.

created risk & fail to assist = omissions actus reus; mens rea – no utterances? Infer?
 Ringo had been located. John, who began running as soon as he saw the fire, makes it to the sidewalk across the street before being knocked to the ground by the explosion. John, only partially conscious, crawls away and ends up behind a bush, shielding him from view. Ringo, who by now has emerged from the hole, flees the scene in a panic. He jumps over the bush and sees John lying on the ground seriously injured but still breathing. Ringo continues to run. John would have survived had he received medical attention promptly, but he is dead by the time a passerby notices him an hour later.

The marginalia (a) wisely spot the issue of mens rea, which many students overlook once they have spotted the actus reus of an omission, and (b) anticipate a level of complexity in the mens rea analysis that would be difficult to organize effectively without—as we will do in the next lesson—sketching a graphic organizer / outline.

Ringo's Omission: Actus Reus—Application Discussion

Application Discussion—The third step is to develop the Application Discussion:

	Yolo	Ringo
Issue	Whether the act of creating a risk and failing to assist is sufficient to establish actus reus for an omission.	Whether Ringo had a duty to aid John because he created the risk.
Rule	Under the MPC, actus reus for an omission is established if the defendant creates a risk and fails to assist.	Under the MPC, actus reus for an omission is established if the defendant creates a risk and fails to assist.
Application	When Ringo created the risk by causing the explosion that injured John, Ringo continued to flee and therefore failed to fulfill his duty to aid John. To satisfy the actus reus for omissions liability, this is all we need to know. We do not need to decide whether Ringo was negligent, reckless, or intentional in creating the risk, because even non-negligent conduct gives rise to a duty to aid. Ringo's mens rea does matter, however, in determining what type of homicide he may be liable for (see discussion of issue #2 below).	When Ringo created the risk by causing the explosion that injured John, Ringo continued to flee and therefore failed to fulfill his duty to aid John. To satisfy the actus reus for omissions liability, this is all we need to know. We do not need to decide whether Ringo was negligent, reckless, or intentional in creating the risk, because even non-negligent conduct gives rise to a duty to aid. Ringo's mens rea does matter, however, in determining what type of homicide he may be liable for (see discussion of issue #2 below).
Conclusion	Yes, if it's established that Ringo created a risk and failed to assist, then the actus reus for an omission is established.	Yes, Ringo did have a duty to aid John and failed to satisfy that duty.

Below are the "A" answer reply and alternative, common blunder replies:

TEST PREP MODULES

This interactive simulation teaches the skills needed to organize, plan and write effective essay answers, based upon the IRAC model.

STUDY BYTES

Consisting of Professor's Tips, study shell outlines (with embedded flow charts), and quizzes, these synthesize the tutorials and the test prep module.

PROFESSOR'S TIPS: VOLUNTARY ACT REQUIREMENT

Should I use the same approach under the Model Penal Code as under common law? Yes. The voluntary act requirement plays out the same way under the Model Penal Code as under the common law. This is one of several areas in which the drafters of the MPC decided to adopt the common law approach without any significant changes.

What should I do if the application of the voluntary act rule seems unfair? Some common voluntary act scenarios lead to results that seem unfair to many students. If your professor asks you to discuss the voluntary act requirement from a policy or theoretical perspective, it's fine to discuss these kinds of fairness issues. But if a voluntary act issue comes up in an issue-spotter question, most professors want you to focus primarily on the rule and its application, not the related policy issues. Even if the result seems unfair, you should conclude that the voluntary act requirement is satisfied if at least one relevant act is voluntary.

How do I know if I'm engaging in a "brain dump"? Students often waste valuable time giving the professor everything they know about a particular rule rather than focusing on the particular aspect of the rule that is raised by the question. You need to avoid that error and spend the bulk of your time on applying the rule to the facts given in the question. On a voluntary act question, you may be engaged in a "brain dump" if you find yourself listing each of the several kinds of involuntary acts given in Model Penal Code section 2.01 (and especially if you find yourself giving examples of each kind), or discussing the application of the rule to a multi-act statute when the exam question does not involve that type of statute.

Flash Quiz: Omissions Liability

Jim Jerk is a medical doctor. While walking down a secluded street, Jim notices a stranger lying face down in a puddle. Jim can see that the man is still alive but is incapable of helping himself. Jim knows that he can save the man's life by simply pausing and turning him over on his back, but Jim is worried about being late for a movie - so he does not stop. The man dies as a result of Jim's failure to help.



Is Jim liable for a criminal offense?

- Choose a. No, Jim is not criminally liable because he had no actus reus answer.
- b. Jim is criminally culpable under the omissions theory of liability because he failed his statutory duty as a medical doctor to help.

Omissions Liability – Study Outline

- Omissions Liability - The General Rule
 - Rule: A person is not criminally liable for failing to do some act, but only for affirmative acts.
 - Exceptions: There are five important categories of exceptions to this Actus Reus liability rule.
 - The rule and its exceptions are the same under both common law and the Model Penal Code.
- The Exceptions
 - Rule: A failure to act can be the basis of criminal liability only when the defendant had a legal duty to act, and didn't.
 - Five types of situations in which liability can be based on this legal duty exception:

