

Notice: The “A” answer is one to which most professors would very likely give a grade of “A.” The grades assigned to the non-A answers indicate our opinion of their relative merit; however, given the great variation in grading practices, professors will almost certainly not universally agree on what grades they would give the answers. What is important is not the grade, but why the answers fall progressively short of the “A” answer.

Ringo's Criminal Liability Under the EPA Regulations [“A” Answer]

ISSUE #1

COMMON LAW

Issue: Whether Ringo should be acquitted of removing the storage tank without a permit because, as a result of his meeting with the E.P.A. official, he mistakenly believed that his removing the tank without a permit was legal.

Rule: Mistake of law is normally not a defense to a criminal charge. It will provide a defense, however, if the defendant reasonably relied on an official interpretation of the law, later determined to be invalid or erroneous, issued by an official responsible for interpreting, administering, or enforcing the law.

Application: It is undisputed that Ringo removed the gas tank without a permit in violation of the EPA's regulations. However, before he removed the tank, Ringo tried to find out if a permit was required. He met with the chief enforcement official in the E.P.A.'s regional office, who issued a letter to Ringo stating that a permit was not required. Although this determination was later found to be erroneous, Ringo's reliance on it appears to be reasonable, as the official was both high-ranking and in charge of enforcing the regulation, and there seem to have been no indications at the time that the official's interpretation was erroneous.

Conclusion: Ringo should be acquitted due to his reasonable reliance on the official's interpretation of the law.

MODEL PENAL CODE

Same issue, rule, and analysis as under common law.

ISSUE #2

COMMON LAW

Issue: Whether Ringo should be acquitted of removing the storage tank without a permit because, as a result of his own misinterpretation of the E.P.A. regulation, he mistakenly believed that his removing the tank without a permit was legal.

Rule: A defendant should not be acquitted of a criminal charge if his mistake was due to his own misinterpretation of the law, even if the law was ambiguous.

Application: In addition to visiting the E.P.A. official, Ringo also read the relevant regulation himself and concluded that he did not need to obtain a permit. A court later determined that, although Ringo's interpretation was wrong, the regulation was somewhat unclear. In order to win a mistake of law defense in this kind of situation, the law in question must actually authorize the defendant's conduct at the time (and later be declared erroneous or invalid B for example, by being declared unconstitutional). Although the regulation was ambiguous, it did not actually authorize the tank's removal without a permit B Ringo only thought that it did. We do not want to encourage people to rely on their own subjective interpretations of the law, so Ringo acted correctly by relying on the E.P.A. official's interpretation, but not by relying on his own interpretation.

If the ambiguity in the regulation's language is severe enough, there may be a void for vagueness problem.

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This is difficult to determine, however, without seeing the exact language of the regulation.

Conclusion: Ringo should not be acquitted due to his own misinterpretation of the law (although he should be acquitted due to his reliance on the E.P.A. official’s interpretation).

MODEL PENAL CODE

Same issue, rule, and analysis as under common law.

Analysis of “A” Answer

This student’s answer addressed all of the relevant issues in the right level of detail and made good use of the facts provided in the question. On the first issue, the student identified the issue succinctly and with the right level of detail, telling the professor that this involves a mistake of law and, more importantly, the specific type of mistake of law defense raised by the facts.

The statement of the rule correctly starts out by giving the general rule (mistake of law is usually not a defense), followed by all of the elements of the “reasonable reliance” exception that is at issue here: (1) defendant must rely on an official interpretation of the law, (2) the reliance must be reasonable, (3) the interpretation must later be found to be invalid or erroneous, and (4) the interpretation must come from an official responsible for interpreting, administering, or enforcing the law.

The application discussion (the most important part) then uses the facts to show how Ringo’s situation satisfies each of these four requirements (go back and re-read the application discussion now to see how the student did this).

On the second issue, the student’s issue statement and rule statement both track the language he used in answering the first issue, but with the crucial change that the focus is now on the defendant’s own misinterpretation rather than on his reliance on the E.P.A. official’s interpretation.

The rule statement also makes clear that, in this situation, the rule is different B the defendant’s own misinterpretation will not provide a defense. As with the first issue, the student uses the relevant facts to support this conclusion. The student also includes a brief discussion of the policy reason underlying the different results in issue #1 and issue #2 - why reliance on the E.P.A. official’s interpretation provides a defense, but reliance on Ringo’s own misinterpretation does not. Although you don’t want to discuss policy issues too much in an issue-spotter question, this kind of brief and to-the-point reference to policy can impress the professor - and earn you more points - by showing that you understand the “why” and not just the “what.”

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