

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
["C" Answer]

ISSUE #1

COMMON LAW

Issue: Whether Ringo should be acquitted of removing the storage tank without a permit because he mistakenly believed that his removing the tank without a permit was legal.

Rule: A defendant should be acquitted of a criminal charge if he relied on an official interpretation of the law, later determined to be invalid or erroneous, found in any of the following: (1) a statute or other enactment; (2) a judicial decision, opinion or judgment; (3) an administrative order or grant of permission; or (4) an official interpretation of the public officer or body charged by law with responsibility for the interpretation, administration or enforcement of the law defining the offense.

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 was allowed to rely on it.

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

MODEL PENAL CODE

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

ISSUE #2

Issue: Whether Ringo should be acquitted of removing the storage tank without a permit because he mistakenly believed that his removing the tank without a permit was legal.

Answer: Because Ringo will be acquitted due to his reliance on the E.P.A. official's interpretation, it doesn't matter whether Ringo's reliance on his own misinterpretation provides a valid defense.

Analysis of "C" Answer

There are several differences between this answer and the “B” answer. In discussing the first issue, the student failed to note that mistake of law is generally not a defense. This is relatively minor, but it cost the student some points by not demonstrating that she knew the overall context in which the “reasonable reliance” rule falls. In the student's rule statement, at first glance it appears she provided a better and more complete statement than in the “B” answer. In fact, she wasted space by listing all four types of reliance, when only one is relevant to the answer.

This is a very common error in exams by first-year students. The temptation is strong to do a “brain dump” on an exam by writing down everything the student knows about a particular rule - after all, that's where the

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The most important mistake in this answer is that the student believed - erroneously - that she did not need to analyze the second mistake of law defense, because Ringo would win on the first defense. Avoid this kind of error at all costs! First, you may be wrong in your analysis of the first issue. Second, professors want to see that you understand all of the issues raised by a fact situation, including alternative ways of getting to the same result, or (as here) both winning and losing arguments. This student also missed the opportunity to impress the professor by showing that she understands the policy reasons for having different rules in these two different mistake of law scenarios.

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