

Criminal Law
Professor Donald Stone
604-419
Fall Semester Evening 2020
Evening: Tuesday/Thursday 745-900 PM

Assigned Text - Criminal Law: Cases and Comments, 10th Edition, Ashdown, Bacigal and Gershowitz, Foundation Press, 2017 ISBN# 978-1-63460-530-4

First Class Assignment:

Class One: Please enroll in Westlaw's TWEN Criminal Law as soon as possible. For first year day students, you should receive TWEN login information during Orientation. For second year students enrolled in the evening, you should already have your TWEN ID and password. If not, TWEN representatives will be available during orientation to assist you.

- (1) Please also read the text, Criminal Law, 10th Edition, Ashdown, Bacigal and Gershowitz, pages 3-17 and come to the first class prepared to engage in class discussion.

- (2) Please read a newspaper article describing the death of Rayshard Brooks in Atlanta on June 12, 2020. Be prepared to discuss the following: As a prosecutor, what crime would you charge the police officer. What facts and legal theory would you emphasize to the jury? What is the mental state of the defendant? As a defense attorney, what is your case theory for the police officer not being criminally responsible? As the judge, of what crime would you find the defendant guilty? What legislative changes in the law would you recommend for addressing this particular legal matter?

Class Two: please read the text, pages 19-41.

Course: Criminal Law 604/419 – Fall 2020

Instructor: Donald Stone
Phone: 410.837.4651 – Email: dstone@ubalt.edu

Office Hours: Please email me in advance to schedule an appointment during Zoom office hours. Office hours will be held on Wednesday Noon-1PM and 5-6PM. Feel free to discuss criminal law, career choices, or anything else. You must email to schedule an appointment, especially if the scheduled office hours do not work with your schedule and we will find a mutually convenient time to talk. I also will remain in the Zoom classroom after each class is over to answer any questions you may have on the materials covered. I am, however less available immediately prior to class for questions.

Days/Time: Tuesday/ Thursday 7:45-9:00 PM

Location: All classes will be taught online at our designated meeting time with Zoom. Please register and to sign on to each Zoom class hit Ctrl + Click, at <https://ubalt.zoom.us/meeting/register/tJAKd-iopzovG9NetVEtEIBqhMlvuRyO69Fe>

Zoom classes and policies: If you have any technical issues with Zoom please contact OTS at (410) 837-6262, ext. 3. If you require a loaner laptop please contact the Office of the Academic Dean. All classes will be taught on the Zoom platform at the designated class times. Here are the rules to follow; (1) Please be logged on 5 minutes prior to the start of class at the Zoom address listed above. (2) Please turn your video on and mute yourself, except when talking. (3) Please remain on the Zoom class the full length of class. (4) Please conduct yourself according to proper decorum as an attorney would behave. (5) For each class, be sure you indicate your attendance when signing in. (6) Classes will be recorded and posted on Panopto. Panopto recordings can be found at: <https://ubalt.hosted.panopto.com/Panopto/Pages/Sessions/List.aspx?folderID=2a0ed89c-a7c2-47b3-978c-ac090119705b>

Class Participation During Class: Starting in week 2 and running throughout the semester, select students will be responsible for answering questions posted by me. These questions will come from the readings assigned including cases, statutes and hypos. I will call on students alphabetically, so be prepared to be an active participant during your designated classes.

Course Description:

Sources and interpretations of and constitutional limitations on substantive criminal law; criminal jurisdiction; criminal act and mental state requirements; burdens of proof; criminal capacity; justification and excuse (defense); accomplice liability; inchoate crimes; crimes against property; crimes against persons; crimes against habitation; punishment.

Course Materials:

All assignments are in the book, ASHDOWN, BACIGAL AND GERSHOWITZ, CRIMINAL LAW: CASES AND COMMENTS (10th edition) (Foundation Press, 2017). ISBN# 978-1-63460-530-4

Each student is to read and brief the entire case beginning at the assigned page, come to class prepared to discuss the case, and also read the notes immediately following the case. Students are responsible for: (1) all assignments in the casebook, as listed below; (2) the Maryland Statutes specifically discussed in class; and (3) those additional materials on criminal law covered during class discussions. Announcements and class assignments are available on the TWEN Nexis web course.

Student Learning Outcomes:

Learning Outcomes: At the completion of the course, students will be able to:

A. Explain legal concepts of criminality and legal elements of crimes and defenses

- B. Identify legal issues by applying the facts to the law
- C. Construct legal arguments on behalf of both the prosecutor and defense
- D. As a judge, assess the strengths and weaknesses of legal claims and defenses in criminal law
- E. Propose the legal resolution to a criminal law dispute

Exams and Grades:

Criminal Law is subject to the Law School's mandatory grading range. The class-wide average is to be in the range of 2.670 and 3.000. Your grade will be based primarily on the final exam and if a mid-term is given, a combination of final exam and mid-term. I will advise you of my intention regarding a mid-term in a timely manner. In the past, I have given a mid-term exam, which I count 20% of the final grade and the final exam counts 80% of the final grade. The final exam will be a three hour closed book exam. Each class you will also be required to complete a written hypo on TWEN, due immediately prior to the start of class in which the topic will be discussed. Assignments are posted on TWEN, starting with week 2. TWEN hypos, class participation and physician assisted suicide "talking points" are also considered in determining your grade. If your class participation or "talking points" assignment is extraordinary and your exam grade is between two grades, I may bring you up to a higher grade. Students are permitted to use computers to type their exam.

Course Website:

This course has a TWEN page that links to this syllabus, announcements, class assignments and other class reading materials. You are responsible for self-enrolling in TWEN and for checking it regularly for course information.

Computers:

Students may use laptop computers in class for class related purposes.

Course Expectations:

American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work for each credit earned in a class. You are expected to complete all reading assignments before class and to participate consistently in class discussion to demonstrate that you have read and reflected on the issues raised in the assignment.

Attendance Policy:

My approach as to class attendance is that a student should make a reasonable effort to attend all classes within the semester. You are all adults and do make choices, such as attending or missing class. If you are unable to attend, for illness or any other reason, you may miss a maximum of 5 classes within the semester (See Attendance-General Policy which can be found at <http://law.ubalt.edu/academics/internal/policies-procedures/attendance.cfm>). It's not necessary for you to advise me *why* you missed class. One exception is with respect to religious holidays (See Attendance-Religious Policy which can be found at <http://law.ubalt.edu/academics/internal/policies-procedures/attendance.cfm>).

I would also ask you to make all reasonable efforts to sign onto Zoom 5 minutes prior to the start of class and remain attentive throughout the full class. Attendance includes being present for our full live Zoom class and complete TWEN hypo assignments.

Class Cancellation:

If the instructor must cancel a class, notices will be sent to students via email. If there is inclement weather, students should visit the University of Baltimore web site or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should presume that classes are running on the normal schedule.

Academic Integrity:

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic

integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at http://law.ubalt.edu/academics/policiesandprocedures/honor_code/.

Course Evaluations

It is a requirement of this course that students complete a course evaluation. The evaluation will be available later in the semester and is entirely anonymous. Faculty members will not have access to the feedback provided on course evaluations until after all grades are submitted.

Title IX Sexual Misconduct and Nondiscrimination Policy:

The University of Baltimore's Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

Disability Policy:

If you are a student with a documented disability who requires an accommodation for academic programs, exams, or access to the University's facilities, please contact Keri Hickey, Director of Student Support in the Office of Academic Affairs, at khickey@ubalt.edu.

Part 1. The Criminal Justice System Legal Concepts of Criminality

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| Week 1 | Current Events: First Class Assignment | |
| | Chapter 1: Overview of Criminal Procedure | 3 |
| | Chapter 2: Essential Concepts of Criminality | 19 |
| | • Prohibited Conduct-“Actus Reus” | |
| | ▶ Voluntary Act | |
| | › <i>State v. Hinkle</i> | 19 |
| | ▶ The Act of Possession | |
| | › <i>State v. Fox</i> | 26 |
| | ▶ Inaction | |
| | › <i>State v. Miranda</i> | 32 |
| Week 2 | Chapter 2: Essential Concepts of Criminality | |
| | • Mental State - “Mens Rea” | |
| | ▶ Specific and General Intent | |
| | › <i>State v. Trinkle</i> | 42 |
| | ▶ Specific and General Intent | |
| | › <i>State v. Rocker</i> | 44 |
| | ▶ Model Penal Code Approach - Section 2.02 | 50 |
| | ▶ Transferred Intent | |
| | › <i>Sagner v. State</i> | 52 |
| Week 3 | Chapter 2: Essential Concepts of Criminality | |
| | ▶ Recklessness & Criminal Negligence | |
| | › <i>Santillanes v. State</i> | 56 |
| | ▶ Strict Liability and Lack of Criminal Intent as a Defense | |
| | › <i>State v. Loge</i> | 62 |
| | › <i>State v. Guminga</i> | 68 |
| | › <i>Morissette v. United States</i> | 74 |
| | ▶ Mistake and Ignorance | |
| | › <i>People v. Hernandez</i> | 84 |
| | › <i>United States of America v. United States District Court for the Central District of California</i> | 90 |
| | Model Penal Code – Ignorance or Mistake | 101 |
| Week 4 | Chapter 2: Essential Concepts of Criminality | |
| | • The Causal Connection | |
| | › <i>People v. Dlugash</i> | 111 |
| | › <i>People v. Rideout</i> | 123 |
| | › <i>State v. Grose</i> | 127 |
| | › <i>Velazquez v. State</i> | 131 |
| | Chapter 3: The Power to Create Crimes and Its Limitations | |
| | • Problems in Defining Criminal Conduct: | 251 |
| | ▶ “Public Hearing”- see instructions for details | |
| | ▶ Suicide & Assisted Suicide | |
| | › <i>Washington v. Glucksberg</i> | 251 |
| | Chapter 5: Homicides | |
| | ▶ Euthanasia: “Mercy Killings” | 501 |
| | › <i>People v. Kevorkian</i> | 503 |
| | 1-2 Page Written “Talking Points” handed in class | |

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| | ▶ "Statutory" Rape | 647 |
| | › <i>Garnett v. State</i> | 647 |
| | ▶ Acquaintance Rape- Does Acquiescence Equal Consent? | |
| | › <i>State v. Rusk</i> | 653 |
| | › <i>Commonwealth v. Berkowitz</i> | 669 |
| | › <i>State of New Jersey In the Interest of M.T.S.</i> | 679 |
| | ▶ Withdrawn Consent | |
| | › <i>State v. Bunyard</i> | 691 |
| | ▶ The "Spousal Exception" | 696 |
| | › <i>People v. Liberta</i> | 697 |
| | • Special Issues of Proof in Rape Cases | 701 |
| | ▶ "Rape Shield" Statutes | |
| | › <i>State v. Johnson</i> | 702 |
| Week 10 | Chapter 7: Misappropriation and Related Property Offenses | 735 |
| | • Larceny and Theft | 738 |
| | ▶ The Elements of Larceny | |
| | Mens Rea : Intent to Deprive | |
| | › <i>Hugo v. City of Fairbanks</i> | 739 |
| | › <i>United States v. Donato-Morales</i> | 747 |
| | Actus Reus: Taking and Carrying Away | 755 |
| | › <i>State v. Donaldson</i> | 756 |
| | › <i>Lee v. State</i> | 760 |
| | ▶ Property of Another | 767 |
| | What is Property of Another? | |
| | › <i>In re the Personal Restraint of John Tortorelli</i> | 772 |
| | ▶ Grades of Larceny | 781 |
| | › Notes on Valuation: <i>State v. Jacquith</i> | 784 |
| | • Taking: Larceny by Trick | 786 |
| | › <i>State v. Bugely</i> | 788 |
| | • False Pretenses | 792 |
| | › <i>People v. DeWald</i> | 797 |
| Week 11 | Chapter 7: Misappropriation and Related Property Offenses | |
| | • Embezzlement – | |
| | › <i>State v. Lough</i> | 807 |
| | • Receiving and Transporting Stolen Prop. & Related Offenses | |
| | › <i>People v. Rife</i> | 813 |
| | • Robbery | 834 |
| | ▶ Elements of Robbery | |
| | › The Mens Rea of Robbery- <i>Thomas v. State</i> | 834 |
| | ▶ Armed Robbery | 843 |
| Week 12 | Chapter 7: Misappropriation and Related Property Offenses | |
| | • Burglary: Common Law and Modern Statutes | 845 |
| | ▶ The Elements of Common Law Burglary | |
| | › "Breaking and Entering" | 845 |
| | › The Dwelling House of Another | 847 |
| | <i>State v. Wentz</i> | 849 |
| | › Nighttime | 855 |
| | › With Intent to Commit a Felony | |
| | › <i>Massey v. United States</i> | 856 |
| | • Arson | |
| | › <i>State v. Rogers</i> | 862 |
| | • Attempt | 951 |
| | ▶ Punishing Attempts | 951 |

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| | ▶ <i>Mens Rea</i> Issues in Attempt | |
| | › <i>Harrison v. State</i> | 955 |
| | › <i>State v. Hemmer</i> | 972 |
| | › Notes: What May Be Attempted | 976 |
| | ▶ The <i>Actus Reus</i> of Attempt | |
| | › <i>People v. Rizzo</i> | 978 |
| | ▶ Impossibility of Completion | |
| | › <i>Hix v. Commonwealth</i> | 998 |
| | ▶ Renunciation or Abandonment of Attempts | |
| | › <i>Gravens v. State</i> | 1006 |
| Week 13 | Chapter 10: Uncompleted Criminal Conduct | |
| | • Accessoryship: Aiding and Abetting | |
| | ▶ Evolution of Accessoryship | 1012 |
| | ▶ What <i>Mens Rea</i> Is Required of an Accessory? | 1013 |
| | › <i>Oates v. State</i> | 1014 |
| | ▶ The <i>Actus Reus</i> of Accessoryship | |
| | › <i>United States v. Ortiz</i> | 1029 |
| | › <i>State ex rel. M.B.</i> | 1033 |
| | ▶ Hindering Prosecution: Accessories After the Fact and Related Offenses | 1044 |
| | › Accessory After The Fact- <i>People v Zierlion</i> | 1045 |
| | › Misprision Of Felony | 1046 |
| | • Solicitation | |
| | › <i>State v. Disanto</i> | 1050 |
| | • Conspiracy | |
| | › <i>Krulewitch v. United States</i> | 1065 |
| | • The Overt Act | |
| | • Dateline Video Tape – To be shown in class | |
| | Part 3. Special Defenses to Criminal Prosecutions | |
| | Chapter 12: Compulsion, Intoxication, Automatism and Other Non- Controllable Factors | |
| | • Compulsion | |
| | ▶ Duress | |
| | › <i>State v. St. Clair</i> | 1183 |
| | ▶ Necessity | 1188 |
| | › Note: Cannibalism | |
| Week 14 | Chapter 12: Compulsion, Intoxication, Automatism and Other Non- Controllable Factors | |
| | • Intoxication | |
| | ▶ Voluntary Intoxication | |
| | › <i>People v. Langworthy</i> | 1213 |
| | • Automatism | |
| | › <i>Fulcher v. State</i> | 1242 |
| | • Syndrome Defenses | |
| | › <i>State v. Stewart</i> | 1249 |
| | • Juvenile Justice Overview | |
| | Chapter 13: Insanity at Time of the Prohibited Act and Competency to Stand Trial | 1267 |
| | • The M’Naghten (Right-Wrong) Test | |
| | › <i>Daniel M’Naghten Case</i> | 1268 |

Exam discussion