

Criminal Law
Professor Donald Stone
604-329B
Fall Semester Day 2023
Tuesday/Thursday – 1:30-2:45 PM

Assigned Text - Criminal Law: Cases and Comments 11th Gershowitz, Ashdown, Bacigal and Finegan, Foundation Press 2022, ISBN 9781647081126

First Class Assignment:

Class One: Please check **Canvas** for updates, assignments and announcements.

- (1) Please read the text, Criminal Law, 11th Edition, Gershowitz, Ashdown, Bacigal and Finegan, pages 3-20 and come to the first class prepared to engage in class discussion,
- (2) Please also read a newspaper article describing the death in Baltimore of Timothy Reynolds, allegedly by Tavon Scott, age 14 in July 2022. The events occurred at the corner of Light and Conway Street, and Tavon Scott was squeegeeing when a conflict occurred. Be prepared to discuss the following: As a prosecutor, what crime would you charge defendant Tavon Scott? 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 Tavon Scott not being criminally responsible? What, if any relevance is the defendant's age as to culpability? As the judge, of what crime would you find the defendant guilty? Should the defendant be tried as an adult or juvenile? What legislative changes in the law would you recommend for addressing this particular legal matter? We will have a discussion of this case in class one.

Please note that this case is set for trial on 7/17/23. If the case is resolved, please be prepared to comment on the outcome, do you agree or disagree with the jury decision. Please still address the questions raised above.

Class Two: Please read the text, pages 21-43.

Instructor: Donald Stone, email: dstone@ubalt.edu

Class meeting Day/Time: Tuesday/Thursday 1:30-2:45 PM

Office Hours: Please email me in advance to schedule an appointment. Office hours will be held immediately after class on Tuesday and Thursday 2:45PM-3:30PM. 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 meet. I am, however, less available immediately prior to class for questions.

Class Participation During Class: Beginning in week 2 and continuing throughout the semester, select students will be responsible for answering questions posed by me. These questions will come from the assigned readings including cases, statutes and hypos.

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, *Criminal Law: Cases and Comments* 11th Gershowitz, Ashdown, Bacigal and Finegan, Foundation Press 2022, ISBN 9781647081126 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 **Canvas**.

Student Learning Outcomes: Learning Outcomes: At completion of 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 classwide 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. Class participation, physician assisted suicide "talking points" and court observation assignment are also considered in determining your grade. If your class participation, "talking points" or court observation 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 **Canvas** page that links to this syllabus, announcements, class assignments and other class reading materials. You are responsible for self-enrolling in **Canvas** and for checking it regularly for course information.

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

Course Expectations: ABA 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. See ABA Standard 310.

Modality: For a student to be considered present, their attendance must be consistent with the modality of the specific class meeting. For example, if a class meeting is in-person, a student must attend in-person to be considered present. If a class meeting is virtual, a student must attend virtually to be considered present.

Attendance Policy: Attendance will be recorded on Canvas. 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 4 classes within the semester. It's not necessary for you to advise me why you missed class. One exception is with respect to religious holidays (See Attendance and Religious Policy which can be found at [UB School of Law Student Handbook AY 22-23 FINAL revised 3.pdf \(ubalt.edu\)](#)).

Basis for Extensions: The Associate Dean for Academic Affairs can extend the number of absences a student may accrue based on a student's religious observance or extraordinary individual circumstances. Extraordinary individual circumstances include, but are not limited to, the following: bereavement (as defined in the [University of Baltimore Student Bereavement Policy](#)), significant physical or mental health incidents, and attendance at activities required for academic credit, such as clinic court appearances and moot court competitions. Minor illnesses, doctor's appointments, traffic, practice rounds for student competitions, personal events, and professional events (including those sponsored by the law school) are examples of circumstances that do not qualify as extraordinary individual circumstances. A student must provide documentation for extraordinary individual circumstances upon request and must provide advance notice to the Faculty Member whenever possible.

Attendance Tracking Procedures: To keep attendance, this class will use attendance software called **Qwickly**. Qwickly is hosted in Canvas, UB's official learning management system. With Qwickly the professor will have a choice to either take attendance manually OR to have you check-in using a pin number generated at the start of class.

To check-in for class using a pin number, you must log into the Canvas site for the course via myUB or at <https://ubalt.instructure.com/courses/3111>. Click "Qwickly Attendance (Law)" on the left side of the navigation bar and enter the pin. Qwickly will automatically email you if you are marked absent for the day. If you believe this email was sent in error, please contact the professor and their administrative assistant immediately.

Course Learning Management System: This course has a CANVAS page with links to this syllabus, announcements, the class assignments, and other class materials. You are responsible for self-enrolling and checking the website regularly for course information. The course link is <https://ubalt.instructure.com/courses/3111>

Class Recording Policy

UB Law Recording Statement

Any class recordings, audio or video, are for the sole use of that specific class instruction and study and may not be used or reproduced by students for any other purpose. Similarly, students may not capture video, audio, images or chat text from a class without permission from the instructor for use specific to that class instruction and study, and such images may not be used or reproduced by students for any other purpose. Violating these directions is an honor code violation.

UB University Recording Statement

All class recordings are for the sole use of the class and may not be reproduced by students for any other purpose. Faculty cannot reproduce students' voices or images from the class for any other purpose without additional student consent. All such recordings are protected by a UB login process based on where they are posted. Students may mute their microphone or turn off their camera if they do not consent to be recorded, but this may mean they need to find additional ways to participate in the class discussion. Students may be required to turn on their cameras and participate in graded class activities. In addition, students who turn off their camera and do not remain present for the class session may be subject to the Honor Code for misrepresenting attendance. For a student to be considered present, their attendance must be consistent with the modality of the specific class meeting. For example, if a class meeting is in-person, a student must attend in-person to be considered present. If a class meeting is virtual, a student must attend virtually to be considered present,

Panopto

I will make all reasonable efforts to record all classes on Panopto.

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: [Sexual Harassment and Other Sexual Misconduct - University of Baltimore \(ubalt.edu\)](https://www.ubalt.edu/sexual-harassment)

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 Erin Brady, Director of Student Support in the Office of Academic Affairs, at ebrady@ubalt.edu.

General student issues/Mental Health: For general student issues, students should contact Dean Paul Manrique (pmanrique@ubalt.edu; 410-837-5283). For mental health concerns, students can contact Dean Manrique or Tony DuLaney, the University's Clinical Case Manager (tdulaney@ubalt.edu; 410.837.5159). Dean Manrique's office is located in the AL 7th floor Dean's Suite and he welcomes students to walk in. Both Dean Manrique and Mr. Dulaney are also able to schedule phone and zoom appointments.

Academic Support: For questions about academic challenges including preparing for and participating in your classes, reviewing and outlining for exams, and studying for and taking exams, students can contact Prof. Marta Baffy (mbaffy@ubalt.edu; 410-837-6370.). Prof. Baffy's office is located on the 5th floor in Room AL 513.

Reading Assignments

Part 1: The Criminal Justice System Legal Concepts of Criminality		
Week 1	Current Events: First Class Assignment	Page
	Chapter 1: Overview of Criminal Procedure	3
	Chapter 2: Essential Concepts of Criminality	21
	Prohibited Conduct “Actus Reus”	
	▶ Voluntary Act <i>State v. Hinkle</i>	21
	▶ The Act of Possession <i>State v. Fox</i>	28
	▶ Inaction <i>State v. Miranda</i>	34
Week 2	Chapter 2: Essential Concepts of Criminality	
Note: Explain Court Observation Assignment	Mental State “Mens Rea”	
	▶ Specific and General Intent <i>State v. Trinkle</i> <i>State v. Rucker</i>	43 46
	▶ Model Penal Code Approach - Section 2.02	52
	▶ Transferred Intent <i>Sagner v. State</i>	54
Week 3	Chapter 2: Essential Concepts of Criminality	
	▶ Recklessness & Criminal Negligence <i>Santillanes v. State</i>	57

	<ul style="list-style-type: none"> ▶ Strict Liability and Lack of Criminal Intent as a Defense <i>State v. Loge</i> <i>State v. Guminga</i> <i>Morissette v. United States</i> 	 63 69 75
	<ul style="list-style-type: none"> ▶ Mistake and Ignorance <i>People v. Hernandez</i> <i>United States of America v. United States District Court for the Central District of California</i> Model Penal Code – Ignorance or Mistake 	 85 91 102
Week 4	Chapter 2: Essential Concepts of Criminality	
	The Causal Connection	

	<ul style="list-style-type: none"> <i>People v. Dlugash</i> <i>People v. Rideout</i> <i>State v. Grose</i> <i>Velazquez v. State</i> 	 112 119 123 126
Week 4	Chapter 3: The Power to Create Crimes and Its Limitations	
	Problems in Defining Criminal Conduct	241
	<ul style="list-style-type: none"> ▶ “Public Hearing” – see instructions in Canvas for details 	
	<ul style="list-style-type: none"> ▶ Suicide & Assisted Suicide <i>Washington v. Glucksberg</i> 	241
Week 4	Chapter 5: Homicides	
	<ul style="list-style-type: none"> Euthanasia “Mercy Killings” <i>People v. Kevorkian</i> 	 401 402
	1-2 pages Written “Talking Points” Due, Details in Canvas	
Part 2: Crimes		
Week 5	Chapter 5: Homicides	
	Murder	
	<ul style="list-style-type: none"> ▶ When does death occur? (The “Corpus Delicti”) <i>State v. Grissom</i> 	 355 356

	▶ WHEN DOES LIFE BEGIN? <i>Keeler v. Superior Court</i>	362 362
	▶ The Malice Factor <i>Commonwealth v. Webster</i>	371
Week 6	Chapter 5: Homicides > The Malice Factor (continued)	
	<i>State v. Guthrie</i>	379
	<i>Midgett v. State</i>	387
	<i>Langford v. State</i> , “Nick Adenhardt” news article	397
Week 6	Chapter 5: Homicides	
	Voluntary Manslaughter	413
	<i>Suprenant v. State</i>	413
	<i>State v. McGuy</i>	416
Week 7	Chapter 5: Homicides	
	Manslaughter	
	<i>State v. Horton</i>	431
	<i>People v. Marshall</i>	434
	<i>Commonwealth v. Feinberg</i>	435

Week 7	Chapter 5: Homicides	
	▶ Felony Murder	445
	What Felonies qualify?	
	<i>Commonwealth v. Reversion</i>	445
	<i>State v. Marquez</i>	447
	<i>Commonwealth v. Almeida</i>	451
	Note: <i>Commonwealth v. Thomas</i>	453
	Note: <i>Commonwealth v. Redline</i>	454
	<i>Commonwealth ex rel. Smith v. Myers</i>	455
	<i>People v. Salas</i>	465
	Note: <i>People v. Aaron</i>	473
Week 8	Chapter 6: “Sex” Offenses and Related Problems	
	Rape (Criminal Sexual Assault)	
	▶ The Prevalence of the Problem	475
	▶ The Actus Reus of Rape and Sexual Assault: The Issues of Force and Consent	479

	▶ “Statutory” Rape <i>Garnett v. State</i>	496
	▶ Acquaintance Rape- Does Acquiescence Equal Consent? <i>State v. Rusk</i> <i>Commonwealth v. Berkowitz</i> <i>State of New Jersey In the Interest of M.T.S.</i>	503 518 528
	▶ Withdrawn Consent <i>State v. Bunyard</i>	540
	▶ The “Spousal Exception” <i>People v. Liberta</i>	545
	Special Issues of Proof in Rape Cases	
	▶ “Rape Shield” Statutes <i>State v. Johnson</i>	550 551
Week 9	Chapter 7: Misappropriation and Related Property Offenses	565
	Larceny	568
	▶ The Elements of Larceny Mens Rea: Intent to Deprive <i>Hugo v. City of Fairbanks</i> <i>United States v. Donato-Morales</i>	569 576
	Actus Reus: Taking and Carrying Away	585
	<i>State v. Donaldson</i> <i>Lee v. State</i>	586 590

	▶ Property of Another	596
	What is Property of Another?	
	In re the Personal Restraint of John Tortorelli	601
Week 10	Chapter 7: Misappropriation and Related Property Offenses	
	▶ Grades of Larceny Notes on Valuation: <i>State v. Jacquith</i>	610 614
	Taking: Larceny by Trick <i>State v. Bugely</i>	615 618

	False Pretenses <i>People v. DeWald</i>	621 626
Week 10	Chapter 7: Misappropriation and Related Property Offenses	
	Embezzlement	
	<i>State v. Lough</i>	636
	Transporting Stolen Prop. & Related Offenses	
	<i>People v. Rife</i>	642
	Robbery	663
	▶ Elements of Robbery The Mens Rea of Robbery <i>Thomas v. State</i>	663
	▶ Armed Robbery	672
	Burglary: Common Law and Modern Statutes	673
	▶ The Elements of Common Law Burglary “Breaking and Entering” The Dwelling House of Another <i>State v. Wentz</i> Nighttime With Intent to Commit a Felony <i>Massey v. United States</i>	674 676 677 684 685
	Arson <i>State v. Rogers</i>	691
Week 11	Chapter 10: Uncompleted Criminal Conduct & Combinations	
	Attempt	779
	▶ Punishing Attempts	779
	▶ Mens Rea Issues in Attempt <i>Harrison v. State</i> <i>State v. Hemmer</i> Notes: What May Be Attempted	783 800 804

	▶ The Actus Reus of Attempt <i>People v. Rizzo</i>	806
	▶ Impossibility of Completion <i>Hix v. Commonwealth</i>	825
	▶ Renunciation or Abandonment of Attempts <i>Gravens v. State</i>	833
Week 12	Chapter 10: Uncompleted Criminal Conduct	
	Accessoryship: Aiding and Abetting	
	▶ Evolution of Accessoryship	839
	▶ What Mens Rea Is Required of an Accessory? <i>Oates v. State</i>	841
	▶ The <i>Actus Reus</i> of Accessoryship <i>United States v. Ortiz State ex rel. M.B.</i>	857 861
	▶ Hindering Prosecution: Accessories After the Fact and Related Offenses Accessory After the Fact <i>People v Zierlion</i> Misprision Of Felony	871 872 873
	Solicitation <i>State v. Disanto</i>	877
	Conspiracy <i>Krulewitch v. United States</i>	892
Part 3. Special Defenses to Criminal Prosecutions		
Week 13	Chapter 12: Compulsion, Intoxication, Automatism and Other Non- Controllable Factors	
	Compulsion	1011
	▶ Duress	
	Notes and Questions	1013
	▶ Necessity: Cannibalism	1016
	Intoxication	
	▶ Voluntary <i>People v. Langworthy</i>	1040

	Automatism <i>Fulcher v. State</i>	1069
	Syndrome Defenses <i>State v. Stewart</i>	1076
Week 14	Chapter 13: Self Defense and Related Defenses	
	▶ Self Defense <i>People v. Goetz</i> NOTE: The “Retreat Rule” or “Castle Doctrine” NOTE: The “Imperfect” Self Defense <i>Commonwealth v. Cary</i>	1087 1096 1094 1095 1103
	▶ Defense of Others <i>State v. Beeley</i>	1116
	▶ Defense of Habitation <i>People v. McNeese</i>	1120
	▶ Defense of Property Other Than Dwelling	1127
	▶ Prevention of a Felony and Apprehension of Dangerous Felons	1127
	▶ Deadly Force by Police Officers <i>Tennessee v. Garner</i>	1128
	Juvenile Justice Overview	
Week 15	Chapter 14: Insanity at Time of Prohibited Act & Competency to Stand Trial	1141
	M’Naghten Right-Wrong Test Daniel M’Naghten Case	1142
	Exam Discussion	