

Murder and Voluntary Manslaughter Revision Sheet

Take your victims as you find them

This is known as the 'Thin Skill' rule and it is confirmed that, whether aware to you or not, you must take in to account the characteristics/ vulnerabilities of the V.

Blaue 1975 – V, a Jehovah's Witness, refused a blood transfusion following a stabbing. This was not an intervening act as the D must take his victim as he finds it.

Intervening act (novus actus interveniens)

It is possible for the chain of causation to be broken if an intervening act leads D to no longer be the operating and substantial cause of death (legal causation).

Jordan 1956 – The wrong administration of a drug in hospital was a new intervening act and broke the chain of causation

Smith 1959 – Clumsy treatment of a soldier after a stabbing did not break the chain of causation

- Actions taken by the Victim

Actions made by the V may indeed break the chain of causation.

Roberts 1971 – Jumping out of a moving car to avoid sexual assault did not break the chain of causation

Williams 1991 – Jumping out of a moving car to avoid a wallet being stolen was unreasonable and did break the chain of causation.

Mens rea

Malice aforethought, express or implied

This was the definition given by Sir Edward Coke, but is misleading. Case law has identified extensions to this definition.

There is no requirement for malice to be present as there can be killings made out of love or compassion i.e. giving a fatal overdose to a terminally ill person in pain, as in Gray 1965.

'Aforethought' does not need any previous planning, only that the intention to kill does not occur after the killing.

The mens rea of murder is therefore to kill or cause GBH. This was established in Vickers 1957.

Vickers 1957 – The mens rea of murder includes intention to cause GBH; in this case, D savagely beat a woman after breaking in to her shop and she later died. This was sufficient mens rea for murder.

Foresight of consequence

The express intention to kill is usually easy to identify. Implied intention can also be found easily in most cases as in Vickers, where the intention can be inferred where D clearly intended to cause serious injury.