

MONASH LAW1114 CASE NOTES (2016)

Guideline Judgement

Boulton v The Queen [2014] VSCA 352

- In the guideline judgement of *Boulton v The Queen*, the court are stressing the value in a CCO as a means of rehabilitation AND punishment → beforehand there was no such means really of meeting both purposes, suspended sentence would not have any rehabilitation, not addressing the underlying causes

TOPIC 4: elements of a crime

Voluntariness

Ugle v The Queen (2002) 189 ALR 22

Facts

- Appellant (Ugle) was holding a knife when the wound was sustained
- Appellant claims that the deceased was attacking him with a cricket bat, and the knife was used in self-defence
- He claims that he did not realise the deceased had been stabbed, and had not meant to kill him

Issue

- In the trial, the trial judge did not direct the jury on whether or not the act was willed (voluntary)
- Was the act voluntary? Did the appellant put the knife into the body of the deceased or did the deceased impale himself on the knife that the appellant was holding?

Outcome

- Appeal upheld on the basis that the trial judge had erred in not directing the jury with regards to unwilled acts. New trial ordered.
- The high court said that within that scenario it was possible for the jury to find that the man did not act voluntarily in entering the knife into the body of the victim, which would have allowed for an acquittal

Principle

- It is a requirement at common law that the death of the deceased (or the result of the crime) be caused by a willed act or omission on the part of the accused
- A person cannot be criminally responsible for an act that was not willed, it must be the product of his/of conscious mind

Causation

R v Hallett [1969] SASR 141

Facts

- Appellant (Hallett) had beaten the deceased (Whiting) unconscious and left him in that condition on the beach (in apparent safety, feet facing towards the water)
- Appellant had hit Whiting because he had made homosexual advances towards him
- Both had been drinking
- Post mortem shows that the victim died from drowning in shallow water
- Body had been left buried in the sand, mutilated after death

Issue

- Was Hallett a substantial, operating cause of death?
- Was the act...consciously performed by [Hallett]... so connected with the event that it must be regarded as having a sufficiently substantial causal effect which subsisted **up** to the happening of the event, without being spent or...sufficiently interrupted by some other act or event?
- Can the action of the tide

Outcome

- Conviction upheld – Hallett's application of force which rendered the deceased unconscious was a substantial and operating cause of death
- 'It was the act of the appellant in reducing the deceased to unconsciousness which... originated the chain of events which led to drowning' -

Principle

- The original violence must be an operating and substantial cause at the time of death
- Only 3 reasons why violence could not be an operating and substantial cause: 1. Act of God; 2. 3rd Party; 3. Act of the victim

R V Blaue [1975] 1 WLR

Facts

- Appellant (Blaue) showed up to the victim's house, wanting to come in; victim refused
- Blaue stabbed victim 4 times
- Victim taken to hospital where she needed a blood transfusion
- Due to religion, would not accept a blood transfusion
- Died as a result

Issue

- Were the actions of Blaue the operating and substantial cause of death?

- Was the chain of causation broken when the victim refused to accept the transfusion?

Outcome

- Conviction of murder upheld
- The accused made the injury, substantial to the life of the victim, the injury was still in operation when the victim died, therefore stab was cause of death
- The death was caused by the loss of blood following the stab wound. The refused blood transfusion was not an independent cause of death and did not break the chain of causation.

Principle

- The wound caused by the stab was an operating and substantial cause of death
- Novus Actus Interveniens – breaking the chain of events
- Take your victim as you find them