

Automatism

R v Falconer (1990) 171 CLR 30

Did not to the actus Reus because they were unwilling or unconscious-involuntary

This is caused by trauma, that the ordinary person is not likely to withstand. Transient, and due to some external cause

'Disease of the mind': Legal not medical concept (Porter (1933))

Now the courts will often rely on the definition of mental illness found in the Mental health Act 2008 (NSW) s4

MENTAL ILLNESS:

- Disease of the mind
 - Internal cause
 - Diagnosable
 - Can include e.g. epilepsy
- Mental illness: Nature/quality
 - Throwing baby in fire believing it to be a log
 - Cutting off someone's head, thinking it will be fun to watch him search for it when he wakes up
 - Under delusion he is an actor in a movie
- Mental illness: Wrongness
 - 'Wrong' according to the ordinary person standards therefore sociopath cannot claim MI if they understood the average person considers their actions wrong.
 - Does not extend to 'uncontrollable urges' (e.g. kleptomania) unless insane automatism can be established.

Automatism

1. LAW: R v Falconer (1990) 171 CLR 30
2. ELEMENTS: Transient, caused by trauma that the ordinary person would not likely withstand, not prone to recur
3. EXAMPLES: Disassociation, concussion, sleepwalking, Acts performed under anesthetic, Hypoglycemia

Insane and Sane Automatism

If an accused raises insane automatism, they are prima facie raising the defence of insanity (R v Youssef (1990))

The following three tests can be used to be distinguished between sane and insane automatism:

1. Whether the mental disorder is prone to recur (Bratty; Falconer)
2. Whether a mental disorder/disturbance arises from an internal or external cause (Falconer; Quick)
3. Whether the mind can be classified as sound or unsound: the reaction of an unsound mind to its own delusions or external stimuli may be suggestive of a disease of the mind (Radford; Falconer).

Quick (173) 2 All ER 347

Q was a nurse at a mental hospital charged with assaulting a patient. He raised a

defence of automatism, giving evidence that he had injected himself with insulin, drank alcohol and didn't eat so at the time he was suffering from hypoglycemia.

Compare to *Hennessy (1989) 2 All ER 9*

H had failed to take his insulin, and stole a conveyance. Argued Automatism; the involuntary act as a result of an internal factor/external factor?

Sample