



## Mooting Competition 2011 - Attempts/Inchoate Offences

**R v Lauren [2011] - Moot 1** - Lauren is annoyed with Michael and envious of his new white BMW sports car. They have an argument, and Michael gets into his BMW to drive off in a rage. As he is driving away, Lauren picks up a stone and throws it at the windscreen of the car with the intent of hitting Michael and causing him to suffer some serious harm. The stone hits the windscreen and bounces off. Michael, in his usual cocky manner, stops the BMW car - gets out and turns round facing Lauren and pulls his tongue out at her. After doing so, he gets back into his car and drives off at speed in a flashy spin-wheeling manner. In doing so, he fails to notice a child crossing the road in front of him. When he sees the child, he is very close so he swerves to miss the child and his car smashes into a lamppost instantly killing him. Lauren sees the accident and runs to the scene. She sees the child is fine, but recognises that Michael is not breathing. She bursts into tears, and, to make sure he is dead, she grabs a rock at the scene and batters Michael in his face/skull several times.

Lauren was charged with attempt to cause serious harm by throwing a stone, and attempted murder with a rock. Despite an appropriate, and correct, summing up from the judge at the first instance trial, the jury determine that Lauren is guilty on two counts of attempted murder. (1) Guilty of attempted murder in relation to the car crash, and (2) for the attempted murder through the grievous battery of Michael's face/skull.

**Grounds of appeal:** Lauren appeals on the grounds that the jury's verdict was perverse.

Firstly, there was a break in the chain of causation in relation to the car crash. Therefore, Lauren cannot in fact/law be found guilty of attempted murder.

Secondly, on the grounds that - since Lauren knew that Michael was not breathing, she could not be guilty with regards to attempted murder.

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**The Crown v Joe [2011] - Moot 2** – Joe decides to rob the post office in Wraysbury. He first needs to obtain a rifle and some bullets, so he goes into a nearby Gunsmith's store and takes from the wall a fake/replica sawn off shotgun. He also grabs some bullets, designed for a small handgun. He takes them to the till and the sales assistant laughs at him and says: "Those are the wrong type of bullets and that is a fake gun." Joe feels panicky and points the replica gun at the sales assistant and shouts – "Give me the correct bullets or I will shoot". She knows it's a sample/replica gun, with no bullets, and laughs in his face. Joe pulls the trigger, but nothing happens. He then grabs a small handgun, which is real, and runs away with the real gun and bullets.

Outside, Joe loads the bullets into the gun and enters a nearby Post Office, intending to use the gun to rob. He stands in the queue waiting to be served, and the police arrive to arrest him. Joe responds by pointing the loaded gun at the police officer's face, intending to kill him. The police officer tells Joe to put the gun down, because he will be in serious trouble if he pulls the trigger. Joe decides not to shoot and puts the gun down, without ever pulling the trigger. He is then arrested.

At the first instance trial, Joe is found not guilty after Judge Softie directs the jury that they should acquit, since all of the actions of Joe were merely preparatory to the commission of the Post Office robbery. Further, there was no attempted robbery at the Gunsmith's because the sales assistant did not apprehend fear or violence since she knew it was a 'fake gun'. Similarly, there was no attempted murder of the police officer, as Joe chose to put the gun down and did not pull the trigger.

### **The Crown appeals on the following grounds:**

- (1) The Judge's direction to the Jury was incorrect in Law, He should have left it to the Jury to determine if, on the facts. The actions were merely preparatory or otherwise.
- (2) Pointing the gun at the face of the sales assistant amounted to the crime of attempted robbery as per R v Jones 3 ALL ER 886, (1990) 91 Cr App R 351.
- (3) Pointing the gun at the police officer, with the intention to kill him, amounted to the crime of attempted murder.



### **Mooting Competition 2011 - Attempts/Inchoate Offences**

**R v Rebecca [2011] - Moot 3** – Ms Munday is teacher who recovered after drinking some tainted tea. The police said: Ms Monday was poisoned by a twelve-year-old student called Rebecca, and that the poison (sodium carbonate) in a small dose can make a person sick and in a large dose it can be deadly.

Rebecca explained that she had undertaken Internet research, on poisons, and then poisoned the tea. However, Rebecca argued that she did not intend to kill, just to cause some serious harm to a teacher she hated.

At the first instance trial, Judge Hangman directs the jury that an attempt to cause serious harm is sufficient *mens rea* for an attempt to murder.

Rebecca is, subsequently, found guilty of attempted murder.

#### **The defendant appeals on the following grounds:**

- (1) Judge Hangman was wrong in law to direct the Jury that intent for GBH is sufficient *mens rea* for attempted murder.
- (2) Previous case law, such as R v White (1910) 2 KB 124, 4 Cr App R 257, is not applicable because the defendant is only 12 years old and did not fully understand her actions or the fact that sodium carbonate could kill. Accordingly, she did not possess the necessary *mens rea* for attempted murder.

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