

CJ213 Criminal Law and Practice
FINAL TAKE-HOME EXAM
Spring 2022

Due date: 11:59 pm, May 11, 2022 (200 points)

INSTRUCTIONS

PART I: Short answers – 50 points total – approximately 1 page

1. Explain the difference between a person *recklessly* committing an act and a person *negligently* committing an act. Then identify TWO New Jersey offenses we covered in the course, and identify the *mens rea* elements of those offenses. (Use statutory provision numbers, such as NJS section 2C:11-4(a)(1).)
2. Is *causation* met in a case against a driver if the passenger jumps from the car to escape a sexual advance and is injured? Explain what causation is, what the dilemma would be for a court, and what your conclusion would be.
3. Do you agree or disagree with having a *felony murder* category of homicide? Provide two justifications for your conclusion.
4. What are the main differences between theft (NJS 2C:20-3) and burglary (NJS 2C:18-2)?
5. What are the pros and cons to allowing an intoxication defense in cases of voluntary intoxication? For example in New Jersey, a defendant charged with murder or rape could argue under NJS 2C:2-8 that he/she did not have the required mental state (*mens rea*) because he/she was extremely drunk, and the charge may be reduced to an offense involving recklessness. (The argument might not be successful, but you are being asked to weigh in on whether voluntary intoxication should be allowed as a defense **at all**.)

PART II: Short essays – 50 points total – approximately 1-2 pages

6. Imagine that the New Jersey State Legislature is considering reform to New Jersey's self-defense law. A group of lawmakers has proposed a bill that would eliminate the duty to retreat in deadly force cases and change the language from protecting against an "imminent attack" to protecting against an "anticipated attack." (See class materials from Week 12-14 for the language of the current law.) You are an attorney for the NJS Police Benevolent Association and your organization opposes the changes. Write an answer arguing **against** reforms to the law.

7. Choose a topic from the “topical cases” folder on Blackboard. **Explain issues that arise in the case and make an argument as to how the issues should be addressed by society or government.** What specific changes to law and policy are needed? Are constitutional rights affected in the case/cases you chose? Are those rights interpreted in an ethically sound way? **For this question, use your own personal opinion on the chosen topic.**

PART III: Problem questions – 100 points – 2-4 pages

Answer the problem questions on the following pages, applying **New Jersey law. These questions are equally weighted.**

You will get credit for:

- Identifying legal issue(s) presented in the question that may be the subject of debate. (For example, “The key issue here is whether the defendant acted recklessly or instead whether he acted purposely.”);
- Identifying the rules of criminal law that apply (specific statutory language);
- Correctly applying the law to the facts;
- Clearly presenting your answers and **citing** relevant statutes and cases. Instructions on referencing NJ statutes are available on the Blackboard page.

Good application of the law requires an in-depth explanation of what the law actually is. It also requires you to dig into your notes, handouts, slides and the textbook. Don’t just say “The defendant is guilty of X crime.” Explain the elements of that crime and why those elements are met. Cover any relevant defenses too.

8. **Damien** worked for a woman, Claire, who ran an escort agency involving prostitution. He would drive women to clients and act as a minder. Claire then became involved with another man, Sullivan, who was a violent drug dealer. Sullivan took over much of Damien’s work and friction developed between the two men. Damien was aware that Sullivan was a dangerous man, and Sullivan had boasted about three murders he had recently committed. One night Sullivan and another man known only as “Lunatic Yardie” ambushed Damien outside his home. Sullivan instructed Damien that he must enter a house owned by one of Claire’s clients when the client was away and take a box of keys in the client’s bedroom. He told him that Lunatic Yardie would accompany him. Sullivan threatened that if he did not do so he and his family would be harmed. Damien complied with Sullivan’s instructions. **Discuss any criminal liability of DAMIEN under NJ law (offenses/defenses).**
9. Jae is an 18-year-old student who is charged with the sexual assault of Sal, age 14. Jae and Sal met at the beach and hung out multiple times over the course of several weeks. Jae tried to convince Sal to have sexual intercourse

on several occasions, but Sal always said no. On the night of July 10, 2015, they got drunk and Jae asked again to have sex. Sal said "ok, I guess," and they did have sexual intercourse. The next day, Sal told her mother and they went to the police to report the incident. Jae claims that he did not know that Sal was only 14. He also says that on the night of July 10, he had voluntarily taken a pill that a friend had given him (content unknown) and, combined with the drinking, he was "totally out of it." He says that he does not remember all the details of the night. **Discuss any criminal liability of JAE under NJ law (offenses/defenses).**

10. **Fran**, 49, was an emergency room nurse who was under considerable stress in her job and worked long shifts. Over the course of several months, Fran became increasingly convinced that her neighbor (Jonathan) was following her, spying on her in her condo, and scrutinizing her social media use. She believed that shoe prints in her garden and debris on her lawn was from him, and that one of her windows had been messed with. The feelings grew increasingly strong, and she was sometimes afraid to arrive at home late at night. Eventually she became extremely distraught and began to fantasize ways to force him out of the neighborhood. She decided that she would be safe and secure if he moved and that it was in her power to make that happen. One night after a long shift, when she believed Jonathan was out of the house, she saturated his back porch with gasoline and set it on fire. Jonathan was asleep in the house. The fire slowly spread. Jonathan survived the fire but suffered permanent injuries. At trial, two psychologists who evaluated Fran testified that she suffered from delusional disorder and that Jonathan was not harassing or stalking her. **Discuss criminal liability of FRAN under NJ law (offenses/defenses).**
11. **Ellen** stabbed Gina during an argument. Gina was admitted to the hospital with a severe injury – the knife hit an artery and Gina required surgery. She was in the hospital for three weeks after the operation, and she was recovering well. The day before Gina planned to leave the hospital, a new nurse (**Frank**) accidentally gave Gina morphine instead of her regular medication. The dosage was high, and Gina died as a result. **Discuss criminal liability of ELLEN and FRANK under NJ law (offenses/defenses).**
