



**ZIMBABWE EZEKIEL GUTI UNIVERSITY**

**FACULTY OF LAW**

**EXAMINATION PAPER**

**COURSE CODE** : LLB 122  
**COURSE TITLE** : Criminal Law (2)  
**DURATION** : 3 Hours  
**LEVEL** : 1.2  
**DATE** : 06 OCT 2022

**INSTRUCTIONS TO CANDIDATES:**

1. This question paper comprises of two printed pages.
2. This question paper comprise of four questions.
3. Answer all questions.
4. Start each question on a new page of your answer sheet

### **QUESTION 1**

Peter has recently been declared bankrupt due to his lavish lifestyle. To try to 'solve' his financial dilemma he decides to rob a bank. He has never robbed a bank before and is very nervous! As the bank teller goes to get the money, the gun goes off, injuring the bank teller. The bank teller is subsequently taken to hospital. The doctor operates on the bank teller and proceeds to tell the teller that he needs to do physiotherapy and move around to prevent pressure sores from developing. However, the bank teller does not heed the doctor's advice. As a result, pressure sores develop and Septicaemia (blood poisoning) sets in. As a result the bank teller dies.

- a) Is Peter the factual and legal cause of the bank teller's death? Explain fully with reference to relevant case law. **[15 marks]**
- b) Would your answer in 1.1 differ if the doctor who operated on the bank teller to remove the bullet gave him an overdose of anaesthesia before proceeding to operate on him and as a result he goes into cardiac arrest and dies? Is Peter still the legal cause of the bank teller's death? Explain with reference to case law. **[10 marks]**

### **Question 2**

In the case of **S v Sataardien** 1998 (1) SACR 637 (C), the accused was charged with murder. It appeared that the accused, accompanied by his two young sons, was walking away from a mosque when he was seen by the deceased. The deceased called the accused, and signalled for him to wait, but the accused ignored him. (It was clear that there was bad feeling between the two men.) The deceased followed and caught up with the accused, and said to him, 'So you want to be a gangster'. The accused denied this allegation, and tried to walk away. The deceased then lost his temper and assaulted the accused, hitting him several times on the head. It was a serious assault, causing much bruising and swelling. The deceased then stepped back a pace and pointed with his hands to his right side, saying to the accused, 'Tonight you are going to die'.

The accused, believing that the deceased was reaching for a gun to carry out this threat drew his own gun and fired in the direction of the deceased's hands, in order to disarm him. However, although the accused believed that the deceased was about to draw a gun, he saw no gun in the deceased's possession, and there was no evidence that the deceased had any such gun. The deceased was fatally injured by the accused's shot. The accused was acquitted of murder, and was also not found guilty of negligently killing the deceased (culpable homicide).

Explain this result in terms of the rules governing fault. **[20 marks]**

### **Question 3**

Albert, Bongi, Carol and Desmond decide to hold up a cash-in-transit vehicle to make their fortunes. Although Desmond is inexperienced and expressly says that he does not want bloodshed, Albert and Bongi decide to involve him anyway, as they need someone to drive a van across the road at the appropriate time so as to block the road. Desmond knows that the others will be armed, and he is aware of Albert and Bongi's reputation as robbers, but he hopes that they have told him the truth when they assure him that the guards will hand over the money without any need to shoot.

Carol is Albert's girlfriend. She was involved in a previous robbery, and is haunted by the memory of the death of a guard who was pleading for his life when Bongi shot him dead. She nevertheless agrees to accompany them. On the way to the place where the hold-up will occur, Carol starts to doubt whether she can go through with it. When she expresses her doubts to Albert, he tells her that it is too late to pull out.

At the scene, Desmond parks the van he is driving across the road, blocking the road as planned. Unknown to him, Evans, Albert's 18-year-old brother, is hiding in the van. As the security vehicle is forced to stop, Carol pleads once more with Albert not to go through with the robbery, but he ignores her. Carol puts her weapon down, and runs away from the scene just as Albert and Bongi begin to fire armour-piercing bullets at the security vehicle. The guards Yvan and Zee are fatally wounded, although it is unclear whether as a result of the bullets fired by Albert or Bongi. Evans emerges from his hiding place in the van driven by Desmond, and, being eager to participate, runs to the security vehicle, when he then hits the dying men with an iron bar. Evans's acts do not however hasten the death of the guards. Albert, Bongi, Desmond and Evans drive off with the boxes of money found in the cash-in-transit vehicle.

Assess the criminal liability of Albert, Bongi, Carol, Desmond and Evans. **[25 marks]**

### **Question 4**

Explain the various forms of liability for attempt in Zimbabwean law. [25 marks]

**[END OF EXAMINATION 100 MARKS]**

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