

## **Consider Dennis' liability for the deaths of Sarah and Mary.**

In this situation, the prosecution will not be able to bring the case for murder but they can have involuntary manslaughter on Dennis for the act he played which resulted in the deaths.

Involuntary manslaughter is the unlawful act of manslaughter, which is also known as constructive manslaughter or gross negligence manslaughter. In this situation, Sarah and Mary died as a consequence of Dennis' act, which was an unlawful act of criminal damage, which will result in the charge of unlawful act manslaughter. This is when the crime hasn't got its own Mens Rea but adopts it from another for example using the Mens Rea of theft and whilst in the process of theft, a person is killed, the accused will be charged with unlawful act manslaughter. In *R v Mitchell* (1983), it was said to determine the type of manslaughter, it has to be shown that the accused has committed an unlawful act, that the act was so dangerous in the sense that a sober and reasonable person would inevitably recognise that it carried some risk of harm, that the act was a substantial cause of death, and the accused intended to commit the act as distinct from intending its consequence. The prosecution *must* prove that the deaths were caused by the defendant's acts. Difficulties to prove this may arise when there is more than one cause of death. In the case for Dennis killing Sarah, the fact for medical negligence may come up. Defendants may only be held responsible for a crime where their acts were both the factual and legal cause of death. In order to establish factual causation the prosecution must pass the but for test which is would Sarah and Mary have died but for Dennis' actions? Which the answer will be no because if Dennis wasn't throwing the stones, Angela wouldn't have swerved off the road and hit Sarah and Mary wouldn't have had a heart attack either. An example of the but for test can be seen in the case of *R v White* (1910) where the defendant gave his mother poison but before the poison could take effect, the mother died of a heart attack and White was charged with murder because either way, his mother would have died.

The jury must also take into consideration, legal causation, this can establish that the original injury was an operative and significant cause of death and an example of this can be found in *R v Smith* (1959) where a soldier was stabbed in a barrack room brawl and he was dropped twice on his way to the medical officer and there was a long delay before treatment

was given to him, nonetheless, the judge took the view that these intervening factors had not broken the chain of causation, therefore, the original wound caused the death.

The prosecution will have to establish the Actus Reus in this case and to do this, they will apply the but for test, which resulted in no, Sarah and Mary wouldn't have died but for Dennis' actions.

Dennis could argue Medical Negligence on the death of Sarah, as it was the drip that became dislodged which killed her.

For the death of Mary, Dennis will have no choice because of the case of R v Blaue where the judge stated "take your victim as you find them" so Dennis couldn't say that he didn't know about Mary's heart condition.

Therefore, Dennis will be charged with unlawful act manslaughter where his Mens Rea will come from the throwing of the stones which is criminal damage. An example of a similar case is R v Church (1965) where the accused and a woman went back to his car for sex, the accused couldn't satisfy her so she slapped him and he retaliated and knocked her unconscious. Thinking she was dead, he threw her in the river where in fact, she was still alive but later died due to drowning. In this case, the judge stated that for such a verdict to inexorably follow, the unlawful act must be such as all sober and reasonable people would recognise risk of some harm may result in from their actions and in Dennis' case, any reasonable or sober person could see the risk so he will be liable for the deaths of Sarah and Mary.