

CRIMINAL LAW

LAWS2001 TERM 2

TUTORIAL 5: **PAST EXAM PAPER QUESTION**

Summer is part of a pagan sect that believes in numerology. The sect lives in a small village and believes that the number 436 signifies the ultimate balance. When this balance is reached, the community lives free from violence and sin, as such, the population in this pagan village does not exceed 436. When a child is born or a visitor settles in the village, one of the residents is chosen as a sacrifice to the pagan gods to restore the order. This is seen as the highest honour that can be bestowed on an individual during his or her lifetime and the sect members submit to this voluntarily.

Summer is pregnant and engaged to Andy who is from the City. Andy is an atheist and does not subscribe to any religion or superstition. Summer has told Andy about her sect but Andy has always laughed it off, thinking that this was a historical account of her sect's beliefs and that the sacrificial practices she speaks of are all folklore.

When Andy travels to the remote village to meet Summer's family, they naturally believe that he will be settling there to create a home with Summer and their child. In celebration of the new additions to the village, the elders pick Maya and Falcon to be sacrificed. Maya is deeply religious and the daughter of the most respected elder. She is honoured to be chosen as the sacrifice and has resigned herself to her fate. Falcon is a 17 year old boy who has secretly been plotting an escape from the sect. He does not subscribe to their beliefs and thinks that they are all crazy.

Traditionally, the sacrifice takes place at a special festival and must be performed at the hands of the new addition to the village. As such, once the village toasts Andy's arrival and his engagement to Summer, he is handed a butcher's knife and Maya and Falcon are brought out on altars ready to be sacrificed.

Andy is frightened and panic-stricken, he honestly did not believe that such customs could possibly still be practiced and resists the ritual by attempting to run away. The elders hold him down and inform him that if he is not willing to perform the ritual then he and his unborn child will have to be sacrificed in order to restore the sacred balance.

Driven by his instinct for survival and his love for Summer, Andy performs the ritual and kills Maya. Andy knows that Falcon does not subscribe to the sect's beliefs. As he approaches Falcon, he starts to whisper an escape plan to him but Falcon thinks that Andy is reciting the "last rites". In a panic, Falcon manages to break free from his restraints and attacks Andy. In a fit of rage he beats Andy with the sharp stone that he used to free himself from his restraints and causes Andy grievous bodily harm. By that stage, Summer has called the Police and they arrive on the scene. Andy and Falcon are both arrested.

Answer the following questions:

- (a) Consider Andy's liability for the murder of Maya. In particular, advise what defences Andy might raise.
- (b) Consider Falcon's liability for his assault on Andy. What defences might he raise?

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Mark Steyvers



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