

MEMO JUNE EXAM 2014

TAKE NOTE: The memo serves only as a guideline.

QUESTION 1 14 MARKS

1.1 Conduct that complies with the 5 elements of a crime namely legality, conduct, unlawfulness, criminal capacity and fault. **(1)**

1.2 **(2)**

Conduct – a human voluntary conduct and depending on whether conduct or consequence crime, causation

- Consequence crime – consequence is prohibited **1 mark**
- Consequence crimes differ from conduct crimes in respect of the conduct element: must comply with **4 elements**: human, voluntary conduct where there is a link/causation between conduct and consequence **1 mark**

1.3.1 E **(2)**

D is a police official and YES, had a legal duty which arose from his office.

Relevant case: Euwels (assault of a person in the presence of a police official) (Not Gaba police official where withheld information or Bazdow where police did not protect woman).

1.3.1 F **(1)**

NO legal duty

Legal duty arose from office – Euwels – person assaulted

1.4 3 marks

1 mark for yes or no to causation and for the reason.

1.4.1 (1) *S v Mokgethi* – no causation between bank robbery and death of bank teller – the victim did not take properly care of himself in accordance with the doctor's instructions and that broke the link between the robbery (conduct) and death (consequence).

1.4.2 (1) *S v Tembani* – yes, causation between shooting and death of girlfriend – the hospital negligent treatment did not break the link between shooting and death.

1.4.3 (1) *S v Cloete* – no causation because the state did not prove causation between the conduct of the accused (dragging) and death and it was not shown/proven by the state that the link had not been broken by the conduct of the people who assaulted the deceased - it is possible that the link had been broken.

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D Kirk



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