

Question 1 – 40 Points

One Hour

Sid & Nancy are boyfriend and girlfriend. Sid is a day older and on his 18th birthday they celebrate hard with many beers and cocaine. Sid slips a party drug into Nancy's drink whereupon she becomes semiconscious, after which Sid has sexual intercourse with her.

Nancy awakens and realizes that Sid has taken advantage of her. "you bastard!" she screams. "I would have agreed to sex with you without you drugging me!" "Whatever", Sid responds. "I'm outa' here."

Unbeknownst to Sid, Nancy has been diagnosed with H.I.V. apparently contracted during a blood transfusion the year before.

Nancy discovers she's been impregnated at the drunken birthday celebration and goes to Sid's house to confront him. She forces her way into Sid's motel room, pulls out a knife and demands \$500 for her abortion.

"I don't have it" cries Sid. "But old man Jones (80 years) is out to his Lodge meeting tonight and I know where he stashes his cash."

Still brandishing the knife, Nancy says "I'm gonna' make sure you don't slip away so I'll just wait outside."

"Whatever" rejoins Sid.

Sid goes into the vestibule of Jones' front porch. As he readies to put his shoulder to the outer screen, the door swings open to reveal Jones testing his new trap gun. The swinging door triggers the gun, the bullet whizzing past Sid just missing the pregnant abdomen of Nancy. She nonetheless collapses spontaneously miscarrying evidenced by blood on the front step.

Sid advances on Jones screaming, "you shot my baby boy! You shot my baby boy!" Jones grabs the gun and demands that Sid leave his home. "Whatever" says Sid, but before he can move, Jones fires the gun, striking Sid in the upper leg, severing the femoral artery.

Sid begs Nancy to take him to the hospital, but she merely cleans herself up, limps toward her car and drives off. Sid manages to place a tourniquet on his leg and survives until the police arrive.

Assume Sid has contracted H.I.V. from Nancy, what are the crimes and defenses of the parties?

Question 2 – 40 Points

One Hour

One afternoon, Don was polishing off his second 6-pack of Budweiser and looked out the window of his home in Sonomaland. He saw two men go through a window into his wheelchair-bound neighbor's home. Picking up his inoperable antique rifle (the firing pin was missing) he dials 9-1-1 and tells the police dispatcher what he has seen. Don is on felony probation, but believes it is legal for him to possess inoperable firearms because his original probation officer thought it would be OK. Don asks the dispatcher if he wants Don to stop the apparent burglary in progress. He grabs an old firing pin from a different gun from his dresser and inserts it into the rifle along with two bullets. He doesn't believe the firing pin will work.

The dispatcher tells Don not to get involved, that a patrol car will be there soon. Don continued to insist that a patrol car be sent. The dispatcher told Don to stay put and wait.

Don sees the two men, later identified as Bo and Jake, crawl out of the same window holding a bag. Don suddenly said to the dispatcher: "Permission to engage the enemy, sir?" The bewildered dispatcher asked: "are you an officer?" Don responded: "First Lieutenant Don reporting sir, yes sir!" The Dispatcher inquired, "What do you think you're doing?" Don replied, "I'm going in!" and ran out his front door.

Don points the rifle at Bo and Jake and orders them to "Freeze!" They ignore his demand and try to get into their waiting car, whereupon Don fires two shots, hitting Bo once and Jake once. Don called 9-1-1 from his cell phone and demanded an ambulance, screaming "Corpman up!" About an hour later both the police and an ambulance arrived. Bo and Jake were still alive, but Bo died the next day. Jake eventually recovered but his right arm had to be amputated. The attending physician said that Bo would have lived if he had been brought to the hospital a half hour sooner.

Don told police that he didn't think the gun would work on account of the incorrect firing pin. He also told them that he shot at them because they were getting away. He said that his wheelchair bound neighbor "would be so scared she would move away". Don said several of his neighbors had been seriously injured in the recent weeks by thieves breaking in while the homeowners were present. "It drives me crazy to sit and wait for these guys to attack" he added.

Empire College School of Law
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Student ID _____

Don is a decorated veteran of the Iraq War. Since returning from the war, he has been diagnosed with PTSD and receives treatment for his condition. The psychiatric report describes Don as “very jumpy” and sometimes believes he’s still in Iraq and needs to take every threat “very seriously”.

A statute provides: A person need not retreat when protecting his own home so long as he is not committing any wrong himself at the time.

Analyze the criminal case against Don, his defenses and the likely outcome.