

QUESTION ONE

As Topsy is sleeping on the front porch of his rooming house, a police officer arrests and charges him for being a heroin addict, which is factually true. Upon his release he meets David, a known robber, who tells Topsy that Topsy must assist him in robbing and killing a well-to-do woman walking her dog in the park. When David's gun is pointed at his head, Topsy reluctantly shoots the woman dead and then helps David to the contents of her purse. The California DA is considering criminal charges against both men.

The victim is David's former employer who owes him past wages just short of the amount taken from her purse. As a defense David claims a right to take the wages owed him based on advice of his criminal attorney. Topsy claims duress in the killing.

Years later, after a plea to a reduced charge and serving time, when David moves to LA for a job, an enemy turns him in to the police for failure to register as a felon, causing that charge to be filed. His defense is that he did not know he had to register.

The LA police officer, Buddy, involved in David's arrest has a longtime girlfriend, Pam. After his retirement, when he and Pam are having dinner in a local café, a customer at another table, Sam, partly drunk and 10 feet away, teasingly invites Pam to have sex with him as dessert, which prompts Pam's giggle. Buddy, outraged, pulls his service revolver and shoots Sam dead on the dinner table. When he is subsequently charged with express malice murder and illegal weapon, he claims defense of Pam and a right to carry and use a firearm.

Discuss the merits of all potential charges and defenses, under both California and common law.

QUESTION TWO

Kent Clark, suffering from delusions, thinks his world is occasionally populated by aliens. When he drives his car through town at 2 am with music blaring, he is pulled over by a cop, Blue, whom he shoots dead under this same delusion.

After shooting the officer Clark, a Catholic, immediately confesses the murder to a priest, hides his gun in a sewer, alters his license plate, and moves to another state but is apprehended and charged with the murder. His defense is that, though he knew killing humans was wrong, killing aliens was acceptable, even desirable, and that Blue appeared to be an alien when Blue placed a restraining hand on Clark's arm, prompting Clark to feel an irresistible impulse to defend himself. At his California murder trial he claims irresistible impulse insanity, diminished capacity and self-defense. Both experts testify he was temporarily insane with transient delusions.

Blue's brother Red is so distraught by the death of Blue that he begins to drink. One night, while under the influence of alcohol, Red meets up with Clark's criminal attorney, Lawless, engages him in an argument, and when Lawless angrily says that he, Lawless, is tempted to knock Red "to the moon," Red waves his brother's service revolver in the air, threatens to kill anyone who speaks poorly of Blue, and shoots in the air.

The deflected bullet strikes Lawless in his leg. When he is taken to the hospital for treatment, the leg becomes infected because of medical oversight and Lawless dies. At trial, Red claims intoxication, self-defense and lack of causation.

Discuss the merits of the criminal charges and the claimed defenses under California and common law.