

Professor Stogner
Torts
ISSUE OUTLINES -

MIDTERM EXAMS
Fall, 2015

QUESTION ONE

Pat v. Devin

Negligence

- Common law analysis re maintaining an unsafe well. Landowner/occupier and trespasser, undiscovered (and then discovered--see below). Compare to Rowland v. Christian approach.
- negligence per se re wall height ordinance
- actual cause issue for both common law and neg per se analysis: was the one foot too low wall a cause in fact of Pat's fall?
- res ipsa loquitur
- negligence concerning duty to render aid once Pat discovered

False Imprisonment

- Issue here is Devin's duty to get him out once discovered and refusal to do so being an omission to act which is the legal equivalent of placing him in there. Or is it?

Devin v. Pat

Trespass To Land

-defense of justification?

Assault

-Throwing the gnome and
Devin ducks

Trespass To Chattel

-re the gnome, and the issue
is intent. Either Pat knew with
a substantial certainty his throwing
of the gnome was a substantial
interference with possession of the
gnome, knew with substantial certainty
that damage would come to it; or is liable
via transferred intent.

Conversion

-re the gnome, no transferred intent with
conversion so for liability for this tort
Pat had to know with sub. cer. he was
bringing about a very sub. interference
with possession of gnome (e.g. it would
be destroyed).

Trespass To Chattel

-re the vase, transferred intent

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QUESTION TWO

Pica v. Doby

Conversion

-issue is that since Doby was a bona fide purchaser for value, and Pica had given up both possession and title when Xavier defrauded her to obtain the painting, Doby's possession of the painting is not conversion.

Trespass To Chattel

-very interesting issue concerning whether Pica can sue for trespass to chattel even though Doby was a BFP.

Battery

-Doby's force with Pica is an offensive touching; the question is can he effectively raise the privilege of defense of property.

Assault

-if Pica had an apprehension and, again, Doby may enjoy defense of property privilege.

False Imprisonment

-long shot given how short the duration of the holding of Pica's arm and the totality of circumstances...but possibly.

Battery

-re taking Pica into basement if Doby touched her. On this battery he may assert the privilege Of legal authority.

False Imprisonment

-re taking Pica into basement; possible defense of legal authority.

Intentional Infliction Of Emotional Distress

-as usual, issues are was Doby's harrassing Pica outrageous enough and did she suffer severe emotional distress.

Doby v. Pica

Battery

-after pulling free Pica pushes Doby.
Can she successfully assert self defense?
if not, her push knocks Doby into wall
and it's possible damages for his destroyed painting
will simply be recovered in this battery action as
"losses resulting from the tort."

Trespass To Chattel

-Pica's intent to commit
battery—if it was one—may transfer to the
destruction of the painting.

Conversion

-Since no transferred intent for this tort
no conversion recovery for destroyed
painting unless Pica did it on purpose
or knew with a substantial certainty it
would occur and facts don't support that.