

ASP – Criminal Law (Prof. Steinman)
Fall 2005 - Session #5
Santa Clara University School of Law
Monday, 7 November 2005 3:00 – 4:45 PM

1. Introduction

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2. General Q&A re Law School, Crim and the Final

- a. Some ideas for approaching Self Defense
 - i. SD is complicated, try to sort out *what* the different defenses are
 - ii. For each defense try to come up with the elements that Δ needs to est.
- b. Some ideas for approaching the final
 - i. Outline each major topic covered since the midterm (Attempt, Accomplice, Conspiracy and Self Defense) in detail
 - ii. Make an “attack” sheet for each major topic area – Attack sheet is a short summary of what you need to show for each charge or defense.

3. Charting Attempt, Accomplice and Conspiracy Cont.

- a. Three Groups – One each for Attempt, Accomplice, Conspiracy
- b. Common Areas
 - i. What is the mens rea?
 - ii. What is the actus reus?
 - iii. Do you need agreement?
 - iv. What acts committed by a 3d party can Δ be held liable for?
 - v. Is it possible to abandon?
 - vi. Where can Δ be prosecuted?
 - vii. What is the punishment?

4. Hypo

Chem Ical is graduate student in organic chemistry. One day as he was walking home from a long day at the lab he noticed a small bookstore and decided to take a look inside. As he was browsing he came across a shelf labeled “self-published.” One of the books, entitled Chemistry and Manufacture of PCP, caught his eye. As some of his research was related to the effects of chemicals on brain chemistry, Chem decided to purchase the book.

When he went to pay for the book, the owner of the bookstore, Liv Re, said “Interesting choice.” Chem explained that the book might be related to his research. After Chem had paid for the book, Liv said “Don’t hesitate to drop by if you ever need more books.”

That evening Chem’s roommate, Shay Dee, noticed the book on Chem’s desk and asked him about it. Chem said he had bought it on a whim at a local bookstore. Shay asked if he could take a look at the book and Chem agreed. About a month later, Shay stopped Chem after their Advanced Organic Chemistry class and asked if he would meet him in the basement lab that evening. Chem agreed.

When Chem arrived at Shay’s lab he found a complete setup for manufacturing PCP. When Shay walked in a few minutes later, Chem asked him “What the HECK are you doing?” Shay replied, “I was having some trouble with my synthesis research and I just wanted to try to make a simpler compound to understand the synthesis better. I’m still having a problem with the purity and I wanted your help.” Chem replied “I can’t help you, this is illegal.” Shay said “Chemistry isn’t illegal. Besides I’m going to get rid of the stuff.” After hesitating for a while, Chem said, “I’ll take a look at your setup, but I’m not going to help you with the synthesis.” After examining the setup for a few minutes, Chem told Shay that he might want to modify a few things and then said “You better get rid of this stuff soon.”

After Chem left, Shay made the changes and went to get some dinner because it took several hours for the synthesis to run. As it turns out Shay had accidentally used a more concentrated chemical for part of the synthesis because the bottle containing the chemical had been mislabeled with the wrong concentration and Shay hadn’t bothered to check the actual concentration. This oversight caused the setup to explode and set the whole building on fire. Four undergraduates were severely injured as a result of the fire and one of the firefighters who helped to rescue them was killed.

Assume that the following statute applies in your jurisdiction:

Penal Code § 3.14

Whoever transports, sells, receives or manufactures a controlled substance without authorization shall be punished for 10 yrs in prison.

If PCP is a controlled substance, as the Assistant District Attorney for this country, what charges will you bring? Against whom will you bring these charges?