

THE UNIVERSITY OF BRITISH COLUMBIA  
PETER A. ALLARD SCHOOL OF LAW

FINAL EXAMINATION – APRIL 2020

LAW 221.004  
Criminal Law

Professor Nikos Harris

**EXAMSOFT PASSWORD:**  
**EXAMSOFT RESUME CODE:**

**TOTAL MARKS: 100**

**WRITING TIME ALLOWED: 3 HOURS**  
**PREPARATION TIME ALLOWED: 10 MINUTES**

Preparation Time has been given to download/print/set up for your exam once the exam has been made available online through Canvas. This time cannot be used for writing exam answers. All exam answer uploads will be monitored to ensure that typing of answers only occurred for the allotted Writing Time.

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This is an open book examination, meaning that you can refer to class notes, casebooks and other class readings. The use of library books is not permitted.

Any exam answers that raise suspicion of breaking any restrictions outlined on this cover page may be subject to being processed through academic integrity software.

If you think you have discovered an error or potential error in a question on this exam, please make a realistic assumption, set out that assumption clearly in writing for your professor, and continue answering the question.

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**Question 1 (60 Marks)**

Alan Accused is charged with the murder of Vince Victim contrary to section 229(a) of the *Criminal Code*.

Alan Accused, Vince Victim and Jake Jar owned and operated an investment firm for 20 years. A few years ago, Victim had money problems because of private care he was receiving for his ongoing serious health problems, and Accused came up with a plan for all of the owners to steal money from the firm's clients by issuing them false invoices. They all agreed to put this plan into place. After hundreds of thousands of dollars were stolen from clients, one client contacted the firm and said that she wanted an immediate meeting with the firm because she appeared to have been billed for many services that she did not receive. The next day Accused, Victim and Jar met in a private dining room in a restaurant to decide what to do about this complaint. After the waiter delivered their food and wine, Accused asked the waiter to leave them alone for a while. Victim told Accused and Jar that it was obvious they were going to get caught for stealing, and that they should all just admit what they did to the police. Accused and Jar strongly disagreed and said that they should tell the client that she had accidentally been billed for the services and that they would ensure it would not happen again. Accused, Victim and Jar began debating the matter, and Accused was drinking glass after glass of wine while they talked. Accused began slurring his words and at one point fell off his chair onto the floor. Accused and Victim also argued a lot about whether it was Victim's money problems, or Accused's plan, which had put them in this position.

After a long debate, Victim announced he was going down to the police station right then to admit all of their guilt. Accused starting getting very upset and showed Victim a news story he had just googled on his phone which described how people could easily be fooled into thinking that they were not being cheated. Victim said he was going to the police station but said that he and Accused should "settle things between us first about who got us into this mess". Victim and Accused then stood up and faced each-other, and Victim punched Accused twice in the face. Victim then turned around and put his hand in his pocket, and Accused grabbed a steak knife from the table and stabbed Victim twice in the back. Victim fell to the floor and started bleeding. Accused then dropped to the floor and seemed to be trying to apply some napkins to stop Victim's bleeding. Jar then pulled Accused back and said to Accused "please let me handle this as you are too drunk". Accused then went and stood up against the door to the private dining room. Jar then stabbed Victim a number of further times and both Accused and Jar then ran out of the restaurant. A later autopsy of Victim demonstrated that the first two stab wounds did not endanger the life of Victim, and his death resulted from the later stab wounds.

**Do you think Alan Accused will be found guilty of any offences? Please set out your reasons why or why not, and include an analysis of each element of the offences and any relevant defences.**

**Question 2 (20 Marks)**

Carl Customer is charged with the theft of a 2016 Audi sportscar from Bob's Used Cars. The only issue in the case is who stole the car.

Saul Salesman worked at Bob's Used Cars, and said that one day Carl Customer came to the car lot and asked to take the only 2016 Audi sportscar on the lot for a test drive. Salesman says that he allowed Customer to take the car for a short test drive, and Salesman said Customer then drove the car off the lot. Salesman said that four hours later Customer had not returned with the car, and Salesman went home. Salesman says that the car has not been returned to the lot since Customer drove it away. Salesman denies having anything to do with the missing car.

The manager of Bob's Used Cars says he remembers that there was a 2016 Audi sportscar for sale on the lot and that he does remember Customer being on the car lot the day it went missing. The manager also says that as he was driving home late that evening, he saw a sportscar parked in front of Salesman's house. Salesman has been convicted of a series of frauds in the past.

**The above evidence was led during the Crown case, and the defence has now brought a motion for a directed verdict of an acquittal. Do you think the defence will likely be successfully in obtaining a directed verdict, and if not, based on the above evidence do you think Customer would likely be convicted?**

**Question 3 (10 Marks)**

**Comment on the accuracy of the following statement:**

**After the police arrest someone and advise him or her of their right to immediately contact counsel, the police can question them and attempt to convince them to make a statement.**

**Question 4 (10 Marks)**

**A person found guilty of an offence who has no criminal record and who has mental health issues will receive a sentence at the low end of the sentencing range for the type of offence which the person committed.**

**END OF EXAMINATION**