**THIS EXAMINATION CONSISTS OF 4 PAGES**

**PLEASE ENSURE THAT YOU HAVE A COMPLETE EXAMINATION**

**THE UNIVERSITY OF BRITISH COLUMBIA**

**PETER A. ALLARD SCHOOL OF LAW**

**FINAL EXAMINATION – APRIL 2023**

**LAW 221**

**CRIMINAL LAW AND PROCEDURE**

**Section 3**

**Professor Brian Bird**

**TOTAL MARKS: 100**

**TIME ALLOWED: 3 HOURS and 10 MINUTES**

**NOTES:**

 **1. This is an open book examination, meaning that you can refer to your own class notes/outlines, lecture slides, the required textbooks, and any other required readings.**

 **2. This examination consists of 4 (FOUR) questions.**

 **3. Answer all 4 (FOUR) questions.**

 **4. There is an Appendix that appears after the questions, which contains certain statutory provisions from the *Criminal Code*.**

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**Question 1 (40 Marks)**

Jerry Jar is charged with the following offences:

- that he did conspire to commit arson, as set out in section 434 of the *Criminal Code*, contrary to section 465(1)(c) of the *Criminal Code*

- that he did commit robbery, contrary to section 343(a) of the *Criminal Code*

Jerry Jar was a new student on a university campus and was having trouble making friends. A fraternity on the campus, Sigma Z, was having a big party in their fraternity house, and Jar went to the party. Jar had a great time at the party because potential recruits for Sigma Z were forced to serve party guests drinks as part of their requirements for becoming members of Sigma Z.

The morning after the party, Jar met with Pete President, the head of Sigma Z. President told Jar that he was being considered for membership. President said that Jar would have to do a couple of things for membership, and the first one was to clean up the entire fraternity house. Jar really wanted to become a member, so he cleaned the entire house. President then told Jar that he needed to do one more thing that night to become a member, and it would involve doing something involving a pizza place that would result in getting funds for Sigma Z parties. President said that if there were campus security guards around the pizza place when they got there, they would light a wooden road sign on fire a block away from the pizza place in order to distract the security guards and draw them away from the pizza place.

That night Jar met President beside the wooden sign. There were no security guards in sight, and President asked Jar to do a quick walk around to make sure there were no guards in the area. Jar did so, and then they walked to the pizza place. President then handed Jar a knife and told him to go into the pizza place and get money for the Sigma Z party fund. Jar looked shocked, and said he did not want to do that, and President showed Jar that he had another larger knife in the inside pocket of his jacket. President then told Jar to go into the pizza place “or pay the consequences”.

Jar put the knife President had given him in his pocket and entered the pizza place. There was a worker behind a counter, and Jar said “give me all the money” while he started taking the knife out of his pocket. Because Jar was so nervous, he accidentally dropped the knife and it fell on the floor. The worker saw the knife on the floor and gave Jar all the money from the cash register. Jar ran out of the pizza place with the cash.

**Do you think Jerry Jar will be found guilty of any offences? Please explain why or why not, and include an analysis of each element of the offences and any relevant defences. Please do not address issues of sentencing or analyze potential *Charter* claims.**

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**Question 2 (40 Marks)**

Alan Accused is charged with the murder of Vince Victim contrary to section 229(a) of the *Criminal Code*. Accused and Victim jointly owned an investment firm which was located in an office suite. Victim and Accused each had their own offices, and there was a kitchen space between them. The rent was cheap, and they occasionally had problems with rats in their offices.

A larger investment company offered to buy their firm, and Accused was desperate to sell because he was in massive debt. Victim was against selling the firm, and their ownership agreement only permitted the sale of the firm if they both agreed. The only exception to agreeing to the sale was that if either of them died, the remaining owner could sell the firm.

One day when Victim was putting sugar in his cup of coffee in the office kitchen, Accused demanded that Victim agree to the sale. Victim told Accused that he would never agree to sell the firm. That night Accused went home, took out a bag of sugar, and poured all the sugar out of the bag. Accused then poured rat poison, which was white in colour, into the bag. The next day, Accused brought the sugar bag containing rat poison to the office suite. Victim was not in the office that day, and Accused put the bag in a drawer in Accused’s desk.

Two months later, Accused and Victim were getting along very well. The firm had got some major new clients and they decided to celebrate by sharing a bottle of whisky in the office kitchen. Accused rarely drank alcohol, and he started drinking the whisky quickly. Victim told Accused to slow down his drinking, and Accused told Victim he was fine and Accused proceeded to drink most of the contents of the bottle. Accused then asked Victim if he would reconsider the sale of the firm, and Victim said no. Accused then stormed out of the kitchen and stumbled to his office.

A while later, Victim decided to go home, but he wanted a coffee before leaving. Victim saw the sugar jar in the kitchen was empty, and Victim came into Accused’s office and asked if he had any sugar. Accused opened his desk drawer and gave Victim the bag that had been there for the last two months. Victim put some powder from the bag into his coffee and drank the coffee.

Two days later, Victim died from complications from having ingested rat poison.

The above evidence was led by the Crown at trial. Accused then testified that he had no memory of giving Victim the sugar bag from his desk drawer, and further said that he had forgotten a long time ago that he had put rat poison in the sugar bag. An expert witness who also testified for the defence said that a person with Accused’s low tolerance for alcohol could have been severely impacted by drinking nearly the entire contents of a bottle of whisky.

**Do you think Alan Accused will be found guilty of any offences? Please explain why or why not, and include an analysis of each element of the offences and any relevant defences. Please do not address issues of sentencing or analyze potential *Charter* claims.**

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**Question 3 (10 Marks)**

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

The fact that a person charged with a crime has a mental disorder is only relevant in criminal law for an NCRMD defence, and this defence requires that accused individuals raise a reasonable doubt that the mental disorder rendered them incapable of appreciating the nature and quality of their acts, or of understanding that their acts were legally wrong.

**Question 4 (10 Marks)**

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

Regulatory offences, unlike criminal offences, are always strict liability, and accused individuals must prove on a balance of probabilities that they are not guilty of a regulatory offence.

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**APPENDIX – STATUTORY PROVISIONS**

**Arson (damage to property) 🡪** 434 Every person who intentionally or recklessly causes damage by fire or explosion to property that is not wholly owned by that person is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.

**Conspiracy 🡪** 465 (1) Except where otherwise expressly provided by law, the following provisions apply in respect of conspiracy …

(c) every one who conspires with any one to commit an indictable offence … is guilty of an indictable offence and liable to the same punishment as that to which an accused who is guilty of that offence would, on conviction, be liable …

**Robbery** 🡪 343 Every one commits robbery who

(a) steals, and for the purpose of extorting whatever is stolen or to prevent or overcome resistance to the stealing, uses violence or threats of violence to a person or property …

**Murder** 🡪 229 Culpable homicide is murder (a) where the person who causes the death of a human being

(i) means to cause his death, or

(ii) means to cause him bodily harm that he knows is likely to cause his death, and is reckless whether death ensues or not …

**END OF EXAMINATION**