

- 1 Andy saw Bilal standing at a bus stop as he drove past. Andy immediately stopped his car and, in an aggressive manner, ran over to Bilal shouting racist abuse and accusing him (falsely) of being involved in the kidnapping of a child. Andy then punched Bilal, knocking him to the ground. Andy then hit Bilal repeatedly with a rubbish bin which Andy had ripped from the bus stop.

Bilal's injuries included a fractured cheekbone and jaw, and severe cuts to his face from which he lost a lot of blood. Bilal needed major surgery to rebuild his face. Unfortunately, whilst Bilal was undergoing the surgery, the oxygen tube became disconnected and, as a result, he suffered significant brain damage.

- (a) Criminal offences require an *actus reus* which may include voluntary acts and omissions and causation.

- (i) Explain, using cases **and/or** examples, the meaning of 'voluntary acts and omissions'. Establish if Andy has either.

(10 marks)

- (i) In order for the *actus reus* to be committed the defendant's actions need to be **voluntary** meaning the defendant needs to have control over their own actions (**Hill v Baxter (1958)**). Actus reus can also be committed is through an **omission** where generally it cannot make someone guilty of an offence. However, an omission can amount to the actus reus where there is failure to carry out an action where a person is legally obliged to, this is known as a *common law duty*. Example of an omission under common law duty are; a *contractual duty* which was demonstrated in the case of **Pittwood (1902)** where D failure to man the gate at a level crossing led to be found criminally liable for the death of the train driver. A duty under *special relationship* where one person is obligated to the other in some way, for example a parent starved a child to death as demonstrated in **Gibbins and Proctor (1918)**. A duty under a *voluntary undertaking* such as the care of an elderly family member as demonstrated in **Stone and Dobinson (1977)** where D neglected sibling whom they undertook to look after but died. Another duty is under *public office* such as police officer as demonstrated in **Dytham (1979)** where D neglected to perform his official duty. Finally, a duty can arise because the D set in motion of chain of events, known as to *right a wrong* as demonstrated in **Miller (1983)**, D failed to right a fire caused by them which led to arson.

(A01)

Explain the law AR usually voluntary with relevant case

AR can sometimes be omission known as common law duty

Briefly explain each of the common law duties, with their relevant case authorities

(A02)

Apply the law to scenario

When Andy punched Bilal and then repeatedly hit him with a ripped bin clearly amounted to a voluntary act. The jury when assessing the injuries will take into account that he hit Bilal repeatedly.