

Farouk was winning a computer game that he was playing against Ellie. Ellie became very angry and smashed Farouk in the face several times with a heavy vase. Farouk suffered a deep gash above his eye that bled heavily.

Advise Ellie as to her criminal liability for an offence of wounding with intent under s18 of the Offences Against the Person Act 1861.

[6 marks]

Indicative content Marks for this question: AO1 = 2, AO2 = 3, AO3 = 1

AO1

- Definition of wounding actus reus – that it must break **two layers** of skin (dermis and epidermis). This may be supported by legal authority, e.g. JCC v Eisenhower.
- Explanation of the mens rea of **s18**.

AO2

- Application to the fact that the deep gash would break two layers of skin (dermis and epidermis).
- Application to the fact that it was Ellie's intent to cause serious harm as she hit Farouk several times with a heavy vase; if not and there was another aim did Ellie see it as a virtual certainty?
- Conclusion that Ellie may be guilty of **s18**.

AO3

- Analysis and evaluation of the meaning of intent. Direct intent is likely here as she decides to cause him harm, perhaps serious harm, as she grabs the heavy vase and hits him several times in the face with it. Credit analysis and evaluation of oblique intent.

MODEL ANSWER

In advising Ellie as to her criminal liability towards Farouk's injuries, for the offence of s.18 causing grievous bodily harm (GBH) with intent under Offences Against the Person Act 1861, it is necessary to satisfy the actus reus (AR) and mens rea (MR) for either s18 unlawful **wounding** or unlawfully causing any **GBH** to another person.

In this scenario Ellie smashed Farouk's face with a vase several times, causing a deep gash above his eye which bled heavily. Ellie's conduct amounted to a voluntary act (Hill v Baxter, Woolmington of unlawful wounding under s18. The deep gash which bled heavily constitutes a wound that involved breaking of the entire two skin, epidermis and dermis (JCC v Eisenhower), thus satisfying AR.

For AR, causation is required, that if it was not for Ellie conduct Farouk would not have suffered injury (Pagett, White) and her conduct was the operative and substantial cause (Smith) as it was solely committed by her, thus satisfying factual and legal causation. There are no intervening events that break the chain of causation.

In establishing MR, as this is specific intent crime then only intention will suffice. S18 requires for MR either the intention to do some GBH or resist or prevent the lawful apprehension or detainer. Ellie's intention can be either direct (Mohan) or indirect (Wool Ellie's conduct would result in Farouk suffering serious harm when she smashed the vase on Farouk's face several times and Ellie must have appreciated this (Woolin reaffirmed in Mathew and Alleyne). lin) to do some GBH (serious harm). When Ellie smashed Farouk's face and not once but several times then clearly this demonstrates that it was her aim, objective and desire (Mohan) to seriously harm Farouk or at the very least under indirect intention, jury can find intention that it was virtual certainty that that the Ellie's conduct would result in Farouk suffering serious harm when she smashed the vase on Farouk's face several times and Ellie must have appreciated this (Woolin reaffirmed in Mathew and Alleyne).

Thus, satisfying both AR and MR and that Ellie would be found criminal liable of s18 intent to unlawfully wound.