

Critical Analysis Activity 2

Question 1

Please review the feature film **Arbitrage** (remember, we watched the film in class). Once you've completed your review, please respond to the following: (30 points)

- a) Analyze two crimes that Robert may have committed throughout the film and match the facts (from the film) with the two main elements of each (mens rea and actus reus); (1 paragraph)
- b) Discuss whether Ellen (Robert's wife) may too have committed any crimes and match the facts (from the film) with the two main elements of each (mens rea and actus reus); (1 paragraph)
- c) Apply defenses you think Robert or Ellen may have to the crimes discussed above (if you identify any) (no writing requirement as this is variable);
- d) Provide a reaction as to whether you feel, in the end, justice was effectively served in the film and why. In other words, did it all work out in the end – irrespective of whether any crimes were committed? (1 paragraph)

Question 2

Please review State v. Utter (the case opinion may be found in Canvas). This case will allow you to further your understanding of the court's application of defenses, generally, and of the defense of automatism (often referred to as conditioned response). This is a precedent setting case. Once you have reviewed the case, please complete a 1 page analysis addressing whether the Court erred in its decision or reasoning in Utter. Be sure to explain why using the facts of the case and offer an alternative ruling if appropriate. Also, be sure to properly cite all external information in APA format. You are not required to cite to Utter when discussing facts, etc. (20 points)

Question 3

There is considerable legal debate over the denial of bail for criminal defendants. It has been argued that since the Eighth Amendment to the U.S. Constitution discusses bail, generally, and provides for protection against excessive bail - that our "founding fathers" intended for EVERY criminal defendant to have a bail option - and, further, that it is cruel and unusual to deny a criminal defendant bail. Please provide a reaction to this argument (agree or disagree and why). (1 paragraph) (10 points)

Question 4

Karen and Kevin have been married for fifteen years. They have no children. By all accounts (family, friends, neighbors and co-workers), they live a fairly "normal" life. Karen oversees curating for a small Florida museum. Kevin is a lawyer at a firm in East Boca Raton, RipYouOff, LLC. On November 6, 2017, Karen visited her family physician, Dr. Melissa Bell, to discuss her recent symptoms of insomnia (she is having difficulty sleeping). Dr. Bell prescribed a very low dose of Ambien, a commonly used prescription drug that allows patients to fall asleep easier and allows them to stay asleep for an extended period of time (generally six hours). She and her

doctor discussed various “common” side effects that have been reported with the use of Ambien, including: sleepwalking, abnormal/intrusive thinking and “strange behavior.” Dr. Bell also explained to Karen that patients who have admitted to consuming even small amounts of alcohol less than three hours before taking their prescribed Ambien dosage have reported “very strange” behavior and increased blood pressure and heart rate. Therefore, Dr. Bell advised against consuming alcohol less than three hours before taking Ambien.

Karen began taking her prescribed dosage of Ambien on the night of November 6, 2017. She has never slept better! She has continued to take her prescribed dosage (just before going to bed) every night since. On December 25, 2017, Karen and Kevin attended a Christmas party in Palm Beach, Florida. At the party, Karen consumed two glasses of red wine over the course of two hours. She finished her last glass of wine at 10:30pm. Immediately following the party, Karen and Kevin returned home. They arrived home at 11:45pm. Once home, Karen took her prescribed dosage of Ambien and settled into bed with her husband to do a bit of reading before falling asleep. The last time she saw the clock, it was 12:15am on December 26, 2017. This is the last thing Karen remembers.

The next thing Karen can recall is waking up in a holding cell with two police officers watching her. She realized that something wasn’t right and immediately asked for her husband, Kevin. Officers told her that Kevin “had not made it.” As it turns out, prosecutors believe that sometime around 1:45am (approximately 2 hours after taking Ambien), Karen hit her husband one time on the left side of his head with a heavy metal lamp from one of the couple’s nightstands. As a result of this blunt trauma, Kevin died. Prosecutors charged Karen with criminal homicide. At trial, Karen’s defense counsel raised a defense of intoxication. Defense counsel argues that Karen was under the influence of Ambien (which was legally prescribed by her family physician, Dr. Bell) and that, therefore, the state cannot establish both of the requisite elements of a crime: actus reus and mens rea.

Explain whether you believe Karen’s intoxication defense will be successful. (at least 2 paragraphs) (30 points)

Please comply with APA formatting/citation guidelines. This includes direct quotations and paraphrasing from your text, outside sources, or case(s) – except when referencing State v. Utter. **Submit to Canvas by 11:59pm on Tuesday, March 27.**