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**Criminal Law**  
The University of Oklahoma College of Law  
Course 5223-601; Spring 2015  
Professor Kit Johnson

**FINAL EXAMINATION: PART TWO**

**Notes and Instructions**

1. The total duration of Part Two of this exam is two and one-half hours.
2. The first half-hour of the exam period is a reading period only. This is your time to carefully read the question(s) and organize your thoughts about how to respond. **You may not begin typing or entering into bluebooks any response during these first 30 minutes**. You may, however, make notes on this exam sheet or scratch paper and are encouraged to outline during this time.
3. Part Two is an open-book exam. You may use any printed material including, but not limited to, books, commercial outlines, group outlines, and your own notes. You cannot use electronic or interactive resources including, but not limited to, the internet and your cell phone.
4. There is no word, page, or line limit on responses.
5. **Do not turn the page until instructed to begin**.
6. You will not receive credit unless you return this booklet at the end of the period with your exam number written above.
7. You may write anywhere on the examination materials – e.g., for use as scratch paper. Only answers and material recorded in the proper places, however, will be graded.
8. Your goal is to show your mastery of the material presented in the course and your skills in analyzing legal problems within the scope of the course's subject matter. It is upon these bases that you will be graded.
9. During the exam: You may not consult with anyone – necessary communications with the College of Law staff being the exception. You may not view, attempt to view, or use information obtained from viewing other student examinations or from viewing materials other than your own.
10. After the exam: You may not communicate regarding the exam with any enrolled member of the class who has not yet taken the exam, and you must take reasonable precautions to prevent disclosure of exam information to the same.
11. Base your exam answer on the general state of U.S. law, including all statutes and cases discussed in class.
12. Organization counts.
13. Keep in mind: The weight given to each part is specified, but not all issues within each part will be given equal weight. Thus, it may be entirely appropriate for one issue to be dispensed with considerable brevity, while another might require very detailed analysis. You should divide your time according to which issues require the most discussion and analysis.
14. **Bluebooks**: Make sure your handwriting is legible. I cannot grade what I cannot read. Skip lines and write on only on one side of the page. Please put answers to each section in a separate blue book and label the blue books accordingly. Please write in pen using blue or black ink.
15. **Computers**: Please clearly label your answers to each subpart, starting a new "question" in ExamSoft for each subpart.
16. Do not write your name on any part of the exam response or identify yourself in any way, other than to use your examination I.D. number appropriately. Self-identification on the exam will, at a minimum, result in a lower grade, and may result in disciplinary action.
17. Good luck.

Mike Morgan couldn't believe he was on this damn boat. Everyone on board had already graduated from Aeschylus Academy, the most prestigious high school on the Upper West Side of New York City. They were all legal adults. In a few short weeks, they'd be heading their separate ways for college. It's not like they even *liked* each other. Sure they were "friends," but at Aeschylus Academy that didn't mean much. More like, they'd all managed to survive the place by ruling the building with the iron fist of the unquestionably popular. But here he was, the yearbook editor, cruising around the Biscayne Bay on captain-of-the-football-team Trip Thornburg's yacht, *A Crewed Interest*, and spending a "final weekend together." Ugh. Mike sighed, grabbed his camera, plastered on a smile, and left his spacious cabin for this evening's topside party.



**FIG. 1:** Trip Thornburg's legal name was Preston Wyatt Thornburg, III. His father, Preston Wyatt Thornburg, Jr., lavishly wealthy and a fan of puns, christened *A Crewed Interest*.

Photo, VerTego, [Dubriani Yacht Rental](#), Public Domain, via Wikimedia Commons

Blair Bonaventure, prom queen, was already plastered. She's been downing dessert shots, made by the lovely Daisy Duncan, the Thornburg family's bartender. "They're non-fat," Daisy assured Blair. "No calories at all." "Cool!" responded Blair. But they weren't. They were 600 calories apiece, made from cane syrup, heavy cream, and 80-proof liquor. Daisy hated skinny rich girls and thought it'd be hilarious if Blair left the ship a good 10 pounds heavier just by way of her steady and exclusive diet of alcoholic beverages.

Fenwick Farley, the class drug dealer, was eyeing Blair. Blair had ruined his father's career as an investment banker by accusing him of ties to the mob and insider trading on her blog *The Tattler*. Sure, it was true, but what right did Blair have to destroy his life? Fenwick offered Daisy \$1,000 to slip two pills into Blair's drink. The pills were Xanax, which, in combination with Blair's drinking, just might induce a long-term coma or, even better from Fenwick's perspective, death by overdose. He told Daisy that the pills were ipecac, an emetic that would cause Blair to vomit but wouldn't hurt her in any way.

Daisy took Fenwick's money and popped the pills in another dessert shot. But, when Fenwick wasn't looking, she swapped the drugged drink for a new shooter, one made with espresso, not alcohol. It was an effort to pull Blair from her drunken stupor. Daisy was no fool: Vomiting just meant cleaning, since these kids never seemed to make it to the edge of the boat before booting.

Blair, as it turns out, had a heart arrhythmia. She assiduously avoided caffeine. After downing the espresso-laced shot Daisy gave her, Blair's heart went into overdrive. She stumbled away from the party and back to her cabin where she lost consciousness. And died.

Valerie Vanderbilt, drama queen (literally, she starred in the Aeschylus Academy production of *Hamlet*), had been standing on the edge of the party, scowling. She wasn't much

of a drinker. She preferred marijuana. She'd expected Trip to supply some for the party, but he hadn't. Valerie saw that Winston Waldorf, class preppie, had brought his e-cigarette, which was routinely stocked with marijuana oil, but he wasn't sharing. So while Winston was distracted, Valerie nabbed his e-cigarette out of his back pocket. Winston saw Valerie out of the corner of his eye, and he felt the e-cigarette leave his pocket. But he didn't stop Valerie. Instead he inwardly shrugged and thought "Well, let's see what happens *now*."

Valerie headed to the empty bow of the ship to smoke in peace. Unfortunately for Valerie, Winston's e-cigarette wasn't stocked with marijuana oil as per usual. It was loaded with flakka, a highly dangerous synthetic drug. Valerie smoked the e-cigarette for a few minutes and suddenly, the flakka hit her. Her body temperature rose dramatically and she tore off all of her clothes. Then, she started to hallucinate.

Humboldt Herveaux, student body president, was wandering around the deck when he saw Valerie peel off her clothes and begin to scream nonsense. He rushed to her side to see what was the matter. When Valerie saw him, she flew into a rage, shouting: "There are no such things as ghosts!" Valerie crushed the glass tube of the e-cigarette in her hands, then rushed at Humboldt, slamming shards into the side of his neck, severing his carotid artery. With super-human speed and agility, she scaled the side of the ship and buried herself in the small emergency dinghy suspended on the starboard side of the yacht.

Serena Saunders, prom queen runner-up, saw Valerie attack Humboldt. Shocked and scared, Serena rushed to Humboldt's side and saw that his death was inevitable. He clearly had just minutes to live. Serena planned to hold Humboldt's hand and offer him some comfort in death. But then she remembered: It was Humboldt who had hidden a video camera in the room when she'd had sex with Winston after prom. It was Humboldt who had sent that footage to every single student at Aeschylus Academy. So, without another thought, Serena rolled Humboldt off the edge of the deck and into the bay, the splash of his body barely audible over the noises of the ongoing party. The waters of the bay pushed the shards of the e-cigarette out of Humboldt's neck, speeding the rush of blood from his carotid artery and hastening his inevitable death.

Chuck Covington, treasurer of the Future Enterprisers club, saw Serena push Humboldt overboard, but he made no move to intervene. Instead, when Serena turned back around, Chuck merely gave her an insouciant wink, took a sip of his Glenfiddich, and returned to the party on the deck.

Mike Morgan was taking photos of the moonlight reflecting on the water when he saw Humboldt's body pass alongside the boat. He immediately called 911. Officer O'Connell



**FIG. 2:** E-cigarettes are designed for smoking nicotine "juice." But they can be used to inhale any manner of liquefied drugs.

Photo: Jacek Halicki, [Electronic cigarette: mod Argus XT and vaporizer Requiem RTA](#), CC BY-SA 4.0, via Wikimedia Commons

answered the call. When Mike explained what he'd seen, Officer O'Connell told him to gather all the partygoers and lock them in the yacht's dining hall until the Coast Guard could arrive with reinforcements. Officer O'Connell "deputized" Mike over the phone and told him to act. And so he did. Mike pulled the plug on the DJ's music and rounded all of his classmates and the ship's crew into the yacht's dining hall. And then he locked the door.

As it turns out, the state of Florida does not allow the deputizing of civilians, much less over the phone. Indeed, the state of Florida defines the crime of kidnapping as follows:

A person who willfully seizes, confines, inveigles, or kidnaps another, with intent to cause him, without authority of law, to be confined or imprisoned within this state against his will is guilty of kidnapping.

### QUESTION

The *A Crewed Interest* fiasco has landed on the desk of Miami Dade State Attorney Pansy Peterson. You're an intern in her office. What charges might Pansy bring? How difficult will it be to obtain convictions? Are there any other issues she should consider?

In assessing the legal issues that arise from the above facts, organize your response as follows, clearly labeling the subparts:

Subpart A: Discuss any issues concerning Fenwick Farley.

Subpart B: Discuss any issues concerning Daisy Duncan.

Subpart C: Discuss any issues concerning Winston Waldorf.

Subpart D: Discuss any issues concerning Valerie Vanderbilt.

Subpart E: Discuss any issues concerning Serena Saunders.

Subpart F: Discuss any issues concerning Chuck Covington.

Subpart G: Discuss any issues concerning Mike Morgan.

Subpart H: If there is anything else you wish to discuss, which does not belong in any of subparts A through G, please put it under this Subpart H.

Keep in mind the subparts will not be given equal weight. The subpart structure is provided for organizational purposes only. It may be entirely appropriate for one subpart to be answered with considerable brevity, while other subparts might require very detailed analysis. Pace yourself appropriately, and plan ahead to put information where it belongs.

Finally, avoid needless repetition. Do not repeat the exact same analysis with substituted parties. You may incorporate analysis by reference to another portion of your exam answer to the extent appropriate.

**Some suggested abbreviations for your answer:**

AA: Aeschylus Academy  
BB: Blair Bonaventure  
CC: Chuck Covington  
DD: Daisy Duncan  
FF: Fenwick Farley  
HH: Humboldt Herveaux

MM: Mike Morgan  
SS: Serena Saunders  
TT: Trip Thornburg  
VV: Valerie Vanderbilt  
WW: Winston Waldorf

**END OF EXAMINATION**