

Criminal Exam 10

Mindy and Brian were high school sweethearts. Mindy talked all day long to Brian about how they were going to get married and have lots and lots of children. Brian listened politely all day long to Mindy's dreams.

One day Mindy was at the local quickie mart picking up a ridiculously sized fountain drink. When she rounded the candy aisle she spotted Brian making out with one of their classmates, Rachel.

"Whore!" Mindy screamed at Rachel. "You dirty, dirty whore! Prepare for pain!"

"Whoa, ladies," Brian interjected, "there's plenty of the old Brianmeister to..."

Before Brian could finish, Mindy picked up a lots-o-nuts chocolate bar and hurled it at Rachel. The chocolate bar split open sending a flurry of peanuts covered in rich caramel smacking across Rachel's face. One of the peanuts lodged in Rachel's throat, cutting off her air supply and quickly suffocating her.

Before the ambulance could arrive, Rachel died. As the coroner took away Rachel in a body bag, Brian pleaded with Mindy, "There's no one else baby – not now – won't you take me back?"

Mindy struck Brian across the face with a closed fist dislodging one of his teeth.

What crimes can Mindy be guilty of?

Example answer:

Assault against Rachel

Did Mindy commit an assault against Rachel?

An assault is an act which causes an immediate apprehension of a harmful or offensive contact. In this case, when Mindy shouted at Rachel, “prepare for pain,” Rachel could have reasonably apprehended an unlawful and offensive contact, that is something which would cause her pain. Under these facts, Mindy has committed an assault against Rachel.

Battery against Rachel

Did Mindy batter Rachel?

Battery is an act which causes a person to suffer a harmful or offensive contact. Hurling a candy bar at Rachel was a harmful and offensive contact.

Mindy has committed a battery.

Murder by Mindy

Did Mindy commit murder?

Murder is the unlawful killing of a person with malice aforethought.

First, there must be a killing of a person. In our case, Rachel choked on a peanut and died, meeting that requirement. The killing must also have been unlawful. Mindy did not have any lawful reason for killing Rachel – at best the killing was an accident – but still unlawful. Mindy must also have been the actual cause of the death—but for Mindy's act of hurling a candy bar at Rachel, she would not have been killed, so Mindy is the actual cause.

Finally, murder requires “malice aforethought.” Malice is established by showing: an intent to kill a person; an intent to cause serious bodily harm; reckless indifference to the value of human life; or an intent to commit a felony, during the commission of which someone is killed. Here Mindy yelled, “prepare for pain” before hurling the candy bar, which is some evidence of an intent to kill. However, it is unlikely that the act of throwing a candy bar would kill someone.

Because the act of throwing the candy bar would not inherently cause serious bodily harm, Mindy probably did not have the requisite malice aforethought and is not guilty of murder.

Voluntary Manslaughter by Mindy

Did Mindy commit voluntary manslaughter?

Voluntary Manslaughter is the unlawful killing of a person committed in the heat of passion. As discussed above, in this case there was an unlawful killing of a person as Rachel choked on a peanut thrown by Mindy without a lawful reason.

The killing must have also been committed “in the heat of passion.” The mental state for “heat of passion” requires all four of the following – all of which are met under our facts:

(1) the person must be in a situation where a reasonable person would lose control; Here, Mindy caught her boyfriend cheating on her. In this situation even a reasonable person might lose control.

(2) the person must actually lose control; Here Mindy began hurling objects at Rachel, which is an indication that Mindy had lost control.

(3) there must not have been enough time for a reasonable person to cool off before the killing; here Mindy caught her boyfriend “in the act” – there was no time to cool off before the killings.

(4) the person must not have actually cooled off during the killing. In this case, Mindy did not cool off – she immediately hurled the candy bar at Rachel, killing her.

Based on the facts given, Mindy is guilty of voluntary manslaughter.

Involuntary Manslaughter by Mindy

Did Mindy commit involuntary manslaughter?

As a defense to murder and voluntary manslaughter, Mindy may attempt to argue she only committed involuntary manslaughter. Involuntary manslaughter is an unintended killing of a person through gross negligence or during the commission of a misdemeanor. Involuntary manslaughter is a general intent crime, requiring only that Mindy intend the negligent act or misdemeanor.

For Mindy to have committed involuntary manslaughter the killing must have been unintended. Under our facts, Mindy most likely did not intend to kill Rachel when she threw a candy bar at her. While the act had the potential to cause bruising on Rachel, it was extremely remote that the act would kill Rachel.

Next, the killing must have been the result of gross negligence or during the commission of a misdemeanor. Throwing a candy bar at someone does not rise to the level of gross negligence, but it is likely the commission of a misdemeanor. As discussed above, Mindy screaming at Rachel is an assault and Mindy throwing the candy bar and hitting Rachel is a battery.

If Mindy is not guilty of murder or voluntary manslaughter, she likely is guilty of involuntary manslaughter.