

Mistakes of Fact and Law: No significant Difference between MPC & CL

Mistakes of Fact

I. 2 Part Test:

A. What does this person think he is doing?

B. Is that Illegal?

II. Exculpating mistake of fact – the mistake of fact means no mens rea - NO CRIME:

A. Navarro – Even an unreasonable belief* that the wood beams were abandoned, if true, defeats the Mens Rea requirement

III. Inculcating mistake of fact – the mistake gives mens rea to something that would otherwise be legal – GUILTY OF ATTEMPT

1. Thaw thinks he is taking Miller's laptop, but it is really his own. – Attempted to steal Miller's Laptop

Mistakes of Law

I. Non-Inculcating Mistake of Law – you thought you were committing a crime, but no such law exists - NO CRIME b/c there is simply no crime to commit or attempt to commit.

A. Also called Genuine Legal Impossibility

B. A shoots a squirrel thinking it is illegal, but it is actually not illegal to shoot squirrels

II. Non-Exculpating mistake of Law – Mistake of law is no defense – GUILTY OF THE CRIME ITSELF

1. Marrero – Even a reasonable belief* that the statute allowing him to carry a handgun applied to him did not save him

2. You shoot a squirrel and did not know it was illegal – too bad, mens rea only requires that you knew that you were shooting a squirrel, knowledge of the law is not needed.

3. EXCEPTIONS:

a. Crimes where 'knowing' is an element, e.g. Cheek Case

b. Vagueness – can violate due process, but don't jump to this one.

c. Hybrid situations that involve ignorance about facts related to legal distinctions may

d. Special entitlements to break the law, e.g. police buying drugs for a bust

Extreme Inherent Impossibility – Trying to kill by voodoo – NO CRIME

Cause: No important distinctions between MPC and CL

Actual Cause

III. Who or what caused the death of the victim? "But for" test: But for the defendant's voluntary act or omission, would the social harm have occurred when it did?

Foreseeability: the harm must not be "TOO REMOTE OR ACCIDENTAL"

IV. Intervening & Superseding Causes:

A. Intervening event must be "too remote and accidental" from 's act to supercede.

B. Rideout: After the minor OWI collision, was not responsible for the victims' decision to stay in/near their car on the dark road, where they recognized the risk of being hit by another car.

C. Don't forget about Attempt Charges

D. Medical care:

1. Hospital error is not "too remote or accidental"

2. Homicidal nurse is "too remote or accidental"

E. Victim's own conduct can be a superseding cause