

Routledge-Cavendish Mooting Skills Guide

SAMPLE MOOT PROBLEM

R v James

Martin James was convicted of the murder of Laurence Giggs and sentenced to life imprisonment at Stokepool Crown Court.

The facts disclosed at his trial were that he and Mr Giggs were members of Stokepool University's white-water-rafting team. They were widely regarded as the best two members of the team, and as such rivalry to become team leader between James and Giggs was intense. On the day in question, James and Giggs were the only two persons on board a small raft they had taken out to survey the white water rapids at Crescent Falls, which was where the inter-university competition was to be held. About three-quarters of the way through the rapids, James noticed that Giggs was struggling to keep his balance on the raft. James then deliberately steered the raft towards a rock and Giggs was thrown into the water from the impact. James managed to stay on the raft. He saw Giggs being carried by the strong currents towards a large rock with jagged edges. James could have reached out to pull Giggs clear of the rock but chose to ignore his team-mate and instead paddled himself to the safety of the river bank. Giggs was carried by the currents towards the rock and was smashed against the jagged edges. He broke an arm and his face was badly disfigured by the rock. Rowers on another raft in the vicinity however managed to pull him out of the water and he was taken to hospital. He was informed by the doctors that although the physical injuries would by and large heal, he would be left with permanent disfigurement of his face. The evidence was that although he previously was a lively and energetic young man, with a happy, extrovert personality, he became depressed and withdrawn after the incident.

Some six weeks after the incident, James walked into the university boathouse late one evening to find Giggs unconscious from having ingested large quantities of alcohol and barbiturates. Giggs had also repeatedly cut open his badly disfigured face with a knife, and was bleeding profusely. Terrified that Giggs' actions were related to the incident at Crescent Falls and his own involvement in that, James quickly left the boathouse and told no one about Giggs' state of distress. The next morning, Giggs was found dead by the cleaners. It was conceded that if medical assistance had been summoned by James at the time he discovered Giggs in the boathouse, Giggs would probably have been saved.

On the issue of causation, Fit J directed the jury:

"You may be wondering whether the accused can be said to have caused this young man's death when he clearly took his own life. The law says that if a person sets into motion a chain of events against a victim who responds by killing himself, then it is just as if that person had killed the victim by his own hand. The accused cannot say that a different victim would have responded differently. He cannot say that no reasonable victim would have done such a thing. He must accept his victim as he is. Of course, if the reason the victim killed himself was wholly unconnected with the accused's actions, then the accused could not possibly be said to have caused his death."

On the issue of the *mens rea* required for murder:

"You must be certain that the accused intended to kill Giggs or to cause him serious injury. In law, intention is not restricted to desiring a result. It extends to the state of mind of one who says to himself, 'If I do this, the result will almost certainly happen. I

do not want it to happen, but I know that it will do so unless something wholly unexpected occurs.' If you believe that this is what the accused thought, then you must infer that the accused intended it."

Martin James now appeals against that conviction for murder, arguing that it is unsafe on the grounds that:

1. he did not cause the death of Laurence Giggs and that Fit J misdirected the jury on the meaning of causation;
2. even if he did cause the death of Laurence Giggs, he did not possess malice aforethought in doing so, and that Fit J misdirected the jury in dealing with the meaning of intention.