**Module 2.2**

***United States v. Virginia***

518 U.S. 515 (1996)

**Procedural History:** The United States of America sued the Commonwealth of Virginia. The Western District of Virginia ruled in favor of Virginia. The Fourth Circuit Court of Appeals vacated and remanded. On remand, the Western District approved a remedial plan and the Fourth Circuit affirmed. The Supreme Court affirmed in part, reversed in part and remanded.

**Facts:** The Virginia Military Institute (VMI), a state college, refused to allow women to attend the school. The United States of America sued the Commonwealth of Virginia alleging constitutional violations.

**Issue:** Does VMI’s failure to admit women constitute a violation of the Equal Protection Clause of the United States constitution?

**Holding:** Yes. The exclusion of women at VMI is an Equal Protection Clause violation.

**Reasoning:** Heightened or intermediate scrutiny applies to cases of gender discrimination under the Equal Protection Clause. The test requires that the gender classification serves “important government objectives” and the discrimination is “substantially related to the achievement of those objectives.” The exclusion of women at VMI fails to satisfy the requirements of the test.

**Dissent (Justice Scalia):** There is a longstanding tradition of government funded military schools for men in the United States.The decision to allow women to attend these schools should be made through a democratic process, not through the constitution and the courts**.**

**Module 2.2**

***Texas v. Johnson***

491 U.S. 397 (1989)

**Procedural History:** Johnson was convicted of desecration of a venerated object in the County Criminal Court No. 8, Dallas County. The Dallas Court of Appeals affirmed. The Texas Court of Criminal Appeals reversed and remanded. The United States Supreme Court affirmed.

**Facts:** Gregory Lee Johnson was part of a political demonstration known as “the Republican War Chest Tour” while the Republican National Convention was taking place in Dallas, Texas. Members of the demonstration vandalized and destroyed property, but Johnson did not participate in these activities. In front of Dallas City Hall, Johnson took an American flag, doused it in kerosene and set it one fire while the crowd chanted “America, the red, white and blue, we spit on you.”

**Issue:** Is the burning of an American flag protected under the First Amendment to the United States Constitution?

**Holding:** Yes. The burning of an American flag is expressive conduct protected under the First Amendment.

**Reasoning:** Burning an American flag is a form of symbolic speech protected under the First Amendment. Texas’ interests in preserving the peace and safeguarding the flag do not justify the restriction of Johnson’s constitutional rights. The Court emphasized that “the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable.”

**Dissent (Justice Stevens):** The burning of an American flag differs from other forms of symbolic speech and should be evaluated differently. The flag’s value is immeasurable, and its public desecration would significantly tarnish that value.

**Module 2.3**

***Baze v. Rees***

553 U.S. 35 (2008)

**Procedural History:** Death row inmates brought a declaratory judgment against the Commissioner of the Kentucky Department of Corrections**.** The Franklin Circuit Court denied relief and the Supreme Court of Kentucky affirmed. The Supreme Court of the United States affirmed.

**Facts:** Death row inmates challenged the constitutionality of the three-drug method of lethal injection for executions in Kentucky.The petitioners allege that there is a risk that the protocols will not be followed correctly, resulting in significant pain for the inmate. Specifically, if the first anesthetic drug is not properly administered the second and third drugs would cause unnecessary suffering.

**Issue:** Does the three-drug method of lethal injection violate the Eighth Amendment ban on cruel and unusual punishment?

**Holding:** No.Kentucky’s method of execution is consistent with the Eighth Amendment.

**Reasoning:** A violation of the cruel and unusual punishment clause requires proof that the action is “sure or very likely to cause serious illness or needless suffering” and give rise to an “objectively intolerable risk of harm.” The possibility that lethal injection may cause pain, either accidentally or as part of the process, does not sufficiently establish an objectively intolerable risk of harm.

**Dissent (Justices Ginsburg & Souter):** Kentucky’s execution protocol lacks sufficient safeguards to ensure that the defendant is unconscious before administering the lethal drugs. The case should be remanded to determine if these insufficient safeguards result in severe and unnecessary pain.

**Module 3.2**

***People of the State of New York v. Decina***

138 N.E. 2d 799 (N.Y. App. 1956)

**Procedural History:** Decina was convicted of criminal negligence in operating an automobile in the Supreme Court of Erie County and appealed. The Supreme Court of New York granted a new trial and both Decina and the prosecution appealed. The Court of Appeals (New York’s highest court) affirmed.

**Facts:** Decina was epileptic and suffered a seizure on March 14, 1955 while driving alone in his Buick. His car swerved several times and eventually hit six schoolgirls walking on the sidewalk. Four of the minors were killed. His car continued and crashed through the brick wall of a grocery store injuring one customer. Decina resisted arrest and attempted to flee from the scene.

**Issue:** Can a person who suffers from a known medical condition while driving be criminally liable?

**Holding:** Decina’s challenge to the indictment (dermurrer) is rejected. A person can be criminally responsible for crimes committed while suffering from a known medical condition.

**Reasoning:** Decina was aware he was subject to epileptic seizures and that an uncontrolled vehicle is dangerous on public highways. Despite this awareness, he deliberately chose to drive his car with a disregard for the potential consequences. The Court also notes that an “unexpected” medical attack without prior knowledge would be a different legal situation.

**Module 3.2**

***Commonwealth of Pennsylvania v. Julia Cardwell***

515 A.2d 311 (Pa. Super. 1986)

**Procedural History:** Julia Cardwell was convicted of endangering the welfare of her child in the Court of Common Pleas, Philadelphia County. The Superior Court of Pennsylvania affirmed.

**Facts:** Clyde Cardwell consistently sexually abused his stepdaughter, Alicia, from 1979-1984. The abuse included sexual intercourse, which resulted in Alicia having two separate abortions. Julia Cardwell, Alicia’s mother, became aware of the abuse in 1983. While Julia wrote two letters to Clyde demanding the abuse stop, Julia never successfully prevented the mistreatment of her daughter. Alicia initiated criminal charges against her mother in 1984 for failure to prevent the sexual abuse.

**Issue:** Can a parent’s failure to act satisfy the criminal intent required for endangering the welfare of a child?

**Holding:** Yes. Failure to adequately fulfill a duty of care may constitute “knowing” endangerment of a child. The evidence is sufficient in this case to prove intent.

**Reasoning:** A parent’s duty to protect his or her child requires affirmative action to prevent harm. Failure to act sufficiently means the parent “knowingly endangers the welfare of the child.” When a parent is aware of his or her duty to protect, aware of the abuse, and has failed to take sufficient steps to stop it, they are guilty of child endangerment.

**Concurrence (Justice Wieand):** The Court’s holding should not apply to parents who try in good faith to prevent the abuse of their children but are ultimately unsuccessful.

**Module 3.5**

***State of Tennessee v. Charles Arnold Ballinger***

93 S.W.3d 881 (Tenn. App. 2001)

**Procedural History:** Ballinger was convicted of statutory rape and contributing to the delinquency of a minor in the Criminal Court, Bradley County. The Tennessee Court of Criminal Appeals reversed and remanded for a new trial.

**Facts:** Ballinger, a 37-year old male, allegedly had sexual intercourse with R.S., a 15-year old female, at his home. R.S. was present in the home to babysit and Ballinger provided her with beer until she became drunk and passed out. R.S. claims she objected to the sexual intercourse. Ballinger officially denies having sexual intercourse with R.S., although he did admit to the sexual encounter in a recorded telephone conversation with the victim’s mother. Ballinger also indicated that he thought R.S. was 18-years old.

**Issue:** Is mistake of fact a potential defense to statutory rape?

**Holding:** In Tennessee, statutory rape requires the mental state of recklessness.Ballinger is entitled to a jury instruction on mistake of fact, where the “mistake” could potentially negate the required mental state.

**Reasoning:** The statutory rape statute fails to specify a requisite mental state. Under Tennessee law, “when a mental state is neither specified nor ‘plainly dispensed with,’ the state must prove” that the defendant acted at least recklessly. The defense of mistake of fact can be used to negate the culpable mental state of the defendant. Accordingly, Ballinger is entitled to a jury instruction on mistake of fact on the charge of statutory rape.

**Module 4.2**

***State v. Chism***

436 So.2d 464 (La. 1983)

**Procedural History:** Brian Chism was convicted of being an accessory after the fact in District Court, Caddo Parish. The Supreme Court of Louisiana affirmed the conviction but vacated the sentence and remanded.

**Facts:** Brian Chism, while dressed as a female, was in the front seat of a car with Tony Duke and his uncle, Ira Lloyd. Uncle Ira wanted his ex-wife Gloria to join them, however, a struggle ensued and Ira stabbed Gloria in the stomach and neck. Ira then proceeded to push the injured Gloria into the front seat of the car, where now all four individuals were seated. Under Ira’s instructions, they drove to a wooded area and Brian and Tony removed Gloria from the car and placed her in high grass. Ira was unable to help carry Gloria because his wooden leg had come off. Brian and Tony left the scene while Ira remained with Gloria. Brian Chism subsequently threw his blood-stained women’s clothing in a trash bin and voluntarily went to the police station to provide a statement on what occurred.

**Issue:** Is there sufficient evidence to support the conviction of Brian Chism as an accessory after the fact?

**Holding:** Yes. “An accessory after the fact is any person, who, after the commission of a felony, shall harbor, conceal, or aid the offender, knowing or having reasonable grounds to believe that he has committed the felony, and with the intent that he may avoid or escape from arrest, trial, conviction, or punishment.”

**Reasoning:** Any rational trier of fact could determine that (a) a felony was committed by Ira Lloyd before Chism became involved; (b) that Chism knew about the felony due to the bleeding victim next to him in the car; and (c) that Chism personally aided his uncle to help him escape or avoid arrest. Chism’s argument that he aided Ira out of fear for his own safety is without merit. No specific threats were made towards Chism and he had the ability to outrun his one-legged uncle if necessary.

**Module 4.4**

***United States v. Ionia Management***

526 F.Supp.2d 319 (D. Conn. 2007)

**Procedural History:** Ionia Management was convicted of illegally discharging oil waste, falsifying records, obstruction of justice and conspiracy in the District Court of Connecticut. Ionia made a post-trial motion for a new trial. The District Court of Connecticut denied the motion.

**Facts:** Employees on the M/T Kriton discharged oil waste directly into the ocean without utilizing the vessel’s oil pollution prevention equipment. Members of the crew also falsified records relating to the oil discharge.

**Issue:** Was the evidence sufficient to hold Ionia vicariously liable for the actions of its employees and agents?

**Holding:** Yes. A corporation can be criminally liable for the actions of its employees or agents acting within the scope of their employment. Even if the employer did not specifically authorize the criminal acts, an employee can be within the scope of their employment if they (a) acted for the benefit of the corporation, and (b) acted within his or her authority.

**Reasoning:** Ionia can be criminally liable for its employees’ actions even though it had specific policies against the criminal conduct. The existence of contrary company policies is only one factor for the jury to consider when evaluating vicarious liability. In addition, vicarious liability does not require the employer to receive an actual benefit from the criminal acts. The intent of the employee to benefit the employer is enough. In regard to Ionia, a jury could have concluded that the illegal acts were done to maintain the chain of command, avoid the time and expense of using pollution prevention equipment, and to enable the ship to dock with falsified records.

**Module 5.1**

***People v. Dlugash***

363 N.E.2d 1155 (N.Y. 1977)

**Procedural History:** Melvin Dlugash was convicted of murder in Kings County. The Supreme Court, Appellate Division, reversed and dismissed the indictment. The People appealed and the Court of Appeals of New York affirmed as modified and remitted.

**Facts:** After a night of drinking, an argument ensued between three men. Bush fired three shots into Michael Geller’s heart. Approximately two to five minutes later, Defendant Melvin Dlugash fired five shots into Geller’s head. It is uncertain whether or not Geller was still alive when Dlugash fired the shots.

**Issue:** Can a defendant be charged with attempted murder when the victim was already dead?

**Holding:** Yes. Factual impossibility is not a defense to the charge of attempted murder.Dlugash may be charged with attempted murder even though the victim may have already been dead by the hands of another when Dlugash fired the shots.

**Reasoning:** Factual impossibility is generally not a defense to the crime of attempt. Attempt occurs when a person with the intent to commit a crime engages in conduct in furtherance of that crime. If Dlugash believed that Geller was alive when he shot him in the head, it is no defense to attempted murder that Geller may have already been dead. At trial, the jury found that Dlugash believed Geller to be alive when he shot him. Accordingly, the appellate court should have found Dlugash guilty of the lesser included offense of attempted murder.