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T. C. Williams School of Law, University of Richmond: Torts Exam, 19 May 1971

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UNIVERSITY OF RICHMOND LAW SCHOOL

TORTS Examination

Mr. Muse

May 19, 1971

1. A state statute makes deer-hunting a crime except during an open season from September 15 to October 15. A and B went deer-hunting on November 1, driving in A's car to a remote wooded area belonging to O who had given them permission. A shot and wounded a deer. While A and B were trailing the wounded deer, A thought he heard another person moving through the woods. For fear it was the game warden, A suggested that they give up the venture. A brief but violent argument ensued. A started back toward his car saying he was headed home and that B had better come along if he wanted a ride. B called out, "I'll shoot you dead before I'll let you leave me out here." A started running and B shot over his head. The entire load of deer shot hit a tree limb at some distance beyond A and ricocheted in several directions. Some of the shot hit and damaged the vinyl top on A's car and still other shot struck I, who was in the woods for a timber inspection. What tort liabilities? Why? Why not?

2. A statute in the state of Barnett provides:

No vehicle shall, in overtaking or passing traffic, or at any other time, be driven to the left of the center line of the roadway when approaching within one hundred feet of, or traversing, an intersection.

D, driving a car south on Route 20 in Barnett, swung out to pass T, driving a large truck in the same direction. When D swung out he was 400 feet from the intersection of Route 20 and Route 10, which runs east and west. Because of the width of T's truck, D had to cross the center line of the highway to pass. When T, a born competitor with a blithely sporting spirit, caught sight of D out of the corner of his left eye, he pressed gaily on the accelerator and speeded up. At the same moment, P, driving west on Route 10, reached the intersection, turned, and continued north on Route 20. Although D did his best to spurt past T, he didn't reach the point where he dared to cut back to the right until he was 50 feet from the intersection. Barely avoiding contact with T, he could not slip past P. The left rear of D's car collided with the left side of P's car as P swung to the right in an attempt to avoid D. T managed to escape the resulting pile-up. May P recover from D? Why? Why not? Now suppose that D has been held liable and paid the amount of the judgment and he brings an action for contribution, which is permitted by statute in the state of Barnett. May D recover from T? If so, how much? Why? Why not?

3. S, 14 years old and the son of F, was a rider on a motorcycle operated by O, 16 years old, who on a rainy day lost control as they struck a patch of oil left from a collision between two automobiles which occurred a few hours earlier. That collision was caused by the joint negligence of the two drivers, A and B. Seriously injured, S and O were taken to the emergency ward of Prophet Hospital, which is operated for profit. A bystander who recognized S telephoned F, and F telephoned the hospital to caution that no blood transfusion be given to S under any circumstances because of the religious convictions of F and his family. After blood tests had shown that the two boys had different blood types, the complete medical records of the two patients, including the note about F's call, were negligently switched by a volunteer worker at the hospital. A transfusion of blood of O's type was then given to S, who was conscious and made no objection, and no transfusion was given to O. As a result both S and O died. Appraise the potential liabilities for the death of S and O. Give full reasons.

(over)

4. In 1940 the Supreme Court of the state of Barnett held that a physician is not subject to liability in tort for failing to stop at the scene of an accident to render emergency aid to a person who is a stranger to him. In 1960 the same court held that a physician who stops to aid a stranger at the scene of an accident is subject to liability for negligence in the performance of the emergency aid. Under the provisions of a new statute, effective January 1, 1971, a physician "who in good faith renders emergency care at the scene of the emergency shall not be liable for any civil damages as a result of his acts or omissions in rendering the emergency care."

In December, 1970, a car driven by M, a doctor of medicine, with N, a registered nurse, as his guest, collided with a small delivery truck operated by P, who was thrown to the pavement and seriously injured. M and N stood among the crowd that gathered and did not render emergency aid. Ten minutes passed after the accident before another doctor appeared and supervised emergency aid that up to that time had been rendered by persons with no special training. P brings an action alleging: (1) in the first count that M negligently caused the accident, (2) in a second count that his injuries were aggravated by the failure of M to render immediate emergency aid, and (3) in a third count he names N as a defendant and alleges that his injuries were aggravated by her failure to render immediate emergency aid.

Appraise the second and third counts on the assumption of a jury finding that M was not negligent in the operation of his car. Do not discuss the first count.

5. G, an unmarried girl, uses pills manufactured by M to prevent conception. She nevertheless conceives. She secures an abortion as a result of which she becomes sterile. On the facts does G have a cause of action in tort against M? Why? Why not? Suppose, in the alternative, that G does not have an abortion and gives birth to a child. Does she have a tort action against M? Why? Why not?

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