

Philsoc Student Essay Prize – Michaelmas 2014: First Prize

Excuses for murder

By Pamela Thomas

Scenario upon which essay given below was based:

Nicholas makes his way to the centre of Oxford. As he approaches Carfax tower, he comes upon a group of twenty or so students, tied up against the wall. Most of them are frightened out of their wits, but some are gazing belligerently at their captors – half a dozen angry-looking townsmen, armed with swords and clubs. The townsmen question Nicholas, who explains that he has been sent to Oxford to bring home his master's sons who are studying at the university. He himself is a merchant – and he certainly isn't in league with the captured students. The ringleader of the townsmen, a brawny master butcher who calls himself Robin, explains that there was a brawl in the Swindlestock tavern nearby, as a result of which there has been serious fighting between townsmen and students in the medieval town. He and his fellow townsmen are just about to kill the captured students to show once and for all that the townsmen have the upper hand. Since, however, he is an important visitor (he is dressed in fine, coloured cloth imported from Flanders and his boots and buckles are of the highest quality), Nicholas has the honour of killing one of the students first. As this will be a special occasion the other students will be allowed to go home unscathed. If however Nicholas refuses, all the students will be killed. Nicholas, who has fought in the king's wars, and has his own sword with him, wonders whether he would be able to take on Robin and the rest of the townsmen himself, but he is clear that this will not work as he is heavily outnumbered and it will lead to all the students and himself being killed. The students pinioned to the guildhall, and the townswomen and apprentices who have gathered around, are all urging him to accept the challenge.

Q7. Nicholas has accepted Robin's offer, and been convicted of murder. He has been given the lightest possible penalty on account of the circumstances. Write (a) a short motivation for the sentence from the point of view of the judge (750 words); (b) Nicholas' appeal against the sentence (750 words).

(a) The defendant, Nicholas the Merchant, is convicted of the murder of a student of Oxford University and is hereby sentenced to a period of confinement at His Majesty's pleasure. The murdered student had been unlawfully detained, along with nineteen other students, similarly deprived of their liberty, by a group of angry townsmen. It is accepted that the defendant, as a visiting dignitary, was caught up in the serious events that occurred that fateful day and subjected to a situation which would have tested the resilience of many another. The court has heard that if the defendant killed one of the students the rest would be freed but if he refused then all the students would be killed. The court accepts the defendant was placed under considerable duress and now finds himself convicted of murder. The court, in

sentencing, finds that the defendant has mitigating circumstances which warrant clemency.

The court has reached its decision on the basis of the facts as they are known. The defendant arrived in this town to collect his master's sons and take them safely home. The defendant was embroiled in the aftermath of a serious outbreak of disorderly and violent conduct concerning students and townspeople. He was confronted by a situation that involved the consideration of what course of action he ought to take to obtain the best possible outcome. This would appear to be a moral dilemma 'in the full sense' delineated by two conflicting alternatives where 'a man both ought to do something and ought not to do that thing.' (**Lemmon in Guttenplan et al (2003); p. 110**). The defendant, confronted by this challenge, decided to opt for the course of action in which he had to kill one of the students in order to preserve the lives of nineteen others. His motivation for doing so appears to have been the saving of as many lives as possible. The consequences arising from doing nothing at all is a matter for conjecture. Ultimately his decision led to the crime of murder and hence he is now before this university court. The distressing nature of the choices confronting him has been acknowledged by this court. The recognition on the defendant's part of what he ought to do to save lives had to be measured against what he ought not to do which was to commit murder.

The court accepts that he is a man of previous good character. He has, however, been forced to weigh up obligations and duties to fellow men which conflicted with the expectations governing adherence to important moral principles underpinning the laws of our society. What he ought to have done in this situation had to give way to what he felt he must do if lives were to be preserved. (**Guttenplan et al (2003); p. 118**). However the dignity we attach to all human life has been compromised by his actions. The townsfolk would believe that the taking of a life is acceptable if the defendant had not been found guilty. The sanctity of life is sacrosanct in this court and the conviction for murder will stand. There are universal principles underpinning our legal system and no rational argument can be presented which will excuse the perpetrator from the guilt of trespassing against these universal principles however much it is argued to the contrary. The court is intransigent on such matters. No citizen is above the law and it is imperative that all citizens abide by laws whose universality have set the standards for ethical conduct and are enshrined in the judicial system governing this court. (**Kraut (2014 Summer Edition) in SEP**). If this were not the case then chaos would ensue if there were no legal institutions to arbitrate upon such matters from an objective viewpoint. The very foundations of our society, its norms and values are based upon laws affirmed by general consensus and we contravene the normative order at our peril.

The court has considered matters that involved statements in mitigation of the defendant's actions. It is accepted by this court that he did not arrive in Oxford in order to engage in criminality and this court acknowledges that he has shown remorse for the untimely death of one of the students. However there are nineteen students who are indebted to him for saving their lives by the action he chose under the circumstances presented to him. The fact that he acted out of concern for others has been taken into account in sentencing the defendant today.

(b) With due respect to the jurisdiction of this court, notwithstanding the severity of the crime for which I pleaded guilty at the earliest opportunity, I, Nicholas, a lowly merchant, wish to be granted leave to appeal against my sentence. The court has recognised that my moral integrity has been sorely tested. I had the misfortune to enter these city gates, coinciding with events which I had no reason to foresee. It was never my intention to become embroiled in a situation whose aftermath has led to an indictment for murder. I beg the court to reconsider its sentence.

The difficulties that confronted me upon being asked to resolve a situation that should never have been allowed to arise have been described. My position seemed untenable given the crowd's and the students' remonstrations. I am not seeking to exonerate myself but the lawlessness of this town has occasioned an affray, the results of which have ruined not only my life but have led to the untimely destruction of a student's life. I sincerely regret what has occurred and extend to his family my deepest condolences.

I wish to put to the court the conflict which arose as to my duties and obligations as a citizen. It is to my master that I owe my livelihood and whose trust I would never knowingly betray. My fall from grace weighs heavily upon me. My upbringing ensured that I internalised appropriate ways of behaving towards others and, from an early age, I recognised the main values from which a man can derive the right moral habits. **(Blackburn (1999); p. 281)**. I know that as a law-abiding citizen I ought to have evaluated the situation differently and yet I felt that I must protect vulnerable students. **(Guttenplan et al (2003); p. 118)**. However, as a man whose moral character is now in question, I would put it to you that circumstances determined my decision concerning what I must do in order to save lives. I sincerely hope that my tarnished honour might recover from these tragic times some day.

I have never before experienced a moral dilemma that has left such a legacy. If I refused to comply with the townsfolk's order then twenty lives would be lost. If I had decided to do nothing then, in all probability, the students and I would have been killed. My remonstrations with the ringleader, Robin, were to no avail and I could not, alone, have fought off all the townsmen. I decided to kill one student in order to save the rest. The application of rules and conventions governing moral conduct, learned throughout my life, were not enough to help guide me through such an unprecedented moral crisis. **(Lemmon in Guttenplan (2003); p. 116)**. I hope that the court will acknowledge that I sought to act in good faith because I certainly knew that whatever actions I took could not be managed by my existing 'moral apparatus'. **(Lemmon in Guttenplan et al (2003); p. 116)**. I did not decide to take the life of another without severe inner turmoil but I made the decision that I must save the lives of as many students as I could. In this particular instance it seemed that the saving of the greatest number of people justified the means employed to accomplish my ends. **(Mill in Guttenplan et al (2003); p.126)**.

I wish I could say that, by doing so, I have been able to be true to myself. **(Lemmon in Guttenplan et al (2003); p. 117)**. I have always thought my life conformed to the duties and obligations of a virtuous citizen. When faced by armed townsfolk I was outnumbered and in no position to fight them all. There seemed to be no 'universally

applicable criterion of morality' to guide my actions and no previous experiences were able to help in my decision-making. **(Guttenplan et al (2003); p. 108)**. I decided to embark upon the action of saving the greatest number of students. I implore the court to take pity on a poor sinner who has transgressed the law as it stands but who was endeavouring to act justly in the circumstances. I hope the court will understand that I wish to resume a life in which I can rebuild my damaged psyche and atone for past misdeeds. I would wish for the opportunity to re-establish a life that is virtuous and continue to consider not only my own well-being but that of others. I beg for the court's mercy. **(Johnson (Summer 2014 Edition) in SEP)**.

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