

Bad Luck and Manslaughter

Katherine is the fourth largest town in the Northern Territory and is located 312 km south-east of Darwin on the Katherine River. With a population of over 9,804 people Katherine is a modern thriving regional centre that offers a wide range of services to communities from the Western Australian border to the Gulf of Carpentaria on the Queensland border.







Club 23.
Bar & Nightclub





- *Dr Lyon SC told the court Martyn should be found guilty because he had been reckless and negligent in his conduct, causing the death of Sgt Meredith.*
- *"He was aware his actions carried substantial risk, but he punched him anyway," he said.*
- *"His actions were not justified by anything that happened that night.*
- *"This is not a punch thrown in the course of a pub fight... where Mr Martyn is unlucky to be in the dock," Mr Lyon said, adding that Sgt Meredith was not a threat to anyone when he was hit.*
- *He conceded Sgt Meredith approached Martyn on a couple of occasions prior to being punched, but described the contact as "minor, friendly exchanges".*

- *Defence lawyer Scott Corish said Martyn was not the aggressor.*
- *He said Martyn told Sgt Meredith to "f*** off" each time he approached him.*
- *The court heard Sgt Meredith was coming toward the 40-year-old, when Martyn punched him.*
- *Mr Corish said the single punch, which was "obvious and admitted", occurred in a split second.*
- *"The prosecution is suggesting that Mr Martyn had a particular state of mind, but on the other hand... that he failed to live up to a particular standard," he said.*
- *"What is in dispute here is that Martyn committed a crime."*



ONE PUNCH
CAN KILL

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Hey! Welcome to the One Punch Can Kill support site. Thanks for dropping by.

You know, every year far too many young Queenslanders are assaulted at parties, in bars and out on the streets. We exist for one purpose: to reverse this. All too often young people are getting hurt or even killed when they are out just trying to have a good time.

You can help. We need mass support from young Queenslanders to shift attitudes and change the senseless violence we see all too often. Our message is clear - One Punch Can Kill.



Night Out
Lights Out!

One Punch
could shatter your world.

You could end up in prison for manslaughter if you get involved in a drunken fight... take a breath and count to ten.....



s160 Criminal Code

A person is guilty of the crime of manslaughter if

(a) the person engages in conduct; and

(b) that conduct causes the death of another person; and

(c) that person is reckless or negligent as to causing the death of that or any other person.

Element 1: The conduct i.e the punch

Conduct must be voluntary,

- A product of will (s43AF)

Conduct must be intentional (s43AI)

- The person meant to engage in the conduct

Self induced intoxication is irrelevant when determining whether conduct is voluntary (s43AF) and intentional (s43AS)

Element 2: the result of the conduct i.e. death

- Conduct causes death if the conduct substantially contributes to death (s149C).
- The person is “reckless” or “negligent” as to causing death.
- The fault elements are defined.
Recklessness: ss4 and 43AK
Negligence: ss4 and 43AL
- It is unnecessary and incorrect to revert to the common law to add gloss or conditions to the words of the Code.

Is manslaughter one offence or two?

- Is unanimity required under the Code in respect of verdicts for “reckless manslaughter” or “negligent manslaughter”?
- Common law position: jury need only be unanimous as to verdict and not as to the route by which that verdict was reached.
- Also the Code position before amendment – *R v Whittington* 197 FLR 103
- A distinction is to be made between alternative factual bases of liability and alternative legal formulations of liability based on the same or substantially the same facts. When alternative legal bases of guilt are proposed but depending upon the same facts, there is no need for a direction on unanimity.

s43AK Recklessness

Defines recklessness in relation to a result (death) as being:

(a) The person is aware of a substantial risk that death will happen

(b) Having regard to the circumstances known to that person it is unjustifiable to take that risk

s43AK (3) The question of whether taking a risk is unjustifiable is one of fact

s43AK (4) Intention and knowledge will satisfy recklessness

- Subjective test, intoxication is a relevant consideration in relation to awareness and mistake.

Questions for the Jury

1. Did the accused punch the deceased?
2. Did the accused intend to punch the deceased?
3. Did the accused's punch cause the death?
4. Was the accused actually aware of a substantial risk that death would result from the punch?
5. Having regard to the circumstances known to the accused was it unjustifiable to take that risk?

(Note: Qs 1-3 are repeated for negligence)



s43AL Negligence

A person is negligent in relation to a result of conduct (causing death) if their conduct (the punch) involves:

(a) such a great falling short of the standard of care that a reasonable person would exercise in the circumstances; and

(b) such a high risk that death will exist, that the conduct (the punch) merits criminal punishment

- s43AT: a reasonable person is one who is not intoxicated

Common Law vs Code

s43AL makes no reference to and does not require the Crown to establish that a duty of care was owed

Contrast to -

s43AG which permits the Crown to charge negligent manslaughter by omission to perform an act if there is a legal duty to perform that act
e.g. s149

Questions for the jury

4. Did the punch involve a great falling short of the standard of care that a reasonable person would exercise in the circumstances?
5. Did the punch involve a high risk of death resulting?
6. Was the great falling short of the S of C that a reasonable person would exercise in the circumstances and the high risk of death resulting from the punch such that the conduct merits criminal punishment for manslaughter?



Croc catcher Joey Buckerfield gave evidence on Friday.
Picture: SUPPLIED



Image courtesy of Tourism NT