

CAUSATION AND CRIMINAL LIABILITY

Posted on [March 31, 2016](#) Written By [Olanrewaju Olamide](#) Posted in [Nigerian Criminal Law](#) Tagged [Oforlete vs The State](#), [R vs Blaue](#), [R vs Nwaoko](#)

In criminal law, before an accused can be convicted, there must be a causal link between the act of the accused and the death of the deceased. If there is a break in the causal chain, the accused would be held to be free of liability. Thus, *actus novus interveniens* should also not be inferred from the circumstances of the case.

In the case of *R vs Blaue (1975) Vol 3 All E.R.*, the accused stabbed the deceased who was subsequently taken to the hospital. At the hospital, the victim refused to take blood transfusion because it was against her faith as a Jehovah witness. The court convicted the accused for manslaughter.

On appeal, the accused contended that the refusal of the deceased to take transfusion because of her religion was unreasonable. Thus, it should be held to have broken the causal chain. The court of appeal dismissed the appeal and upheld the accused's conviction.

The court had this to say:

It has long been the policy of the law that those who use violence on other people must take their victim as they find them. This, in our judgement, means the whole man and not just the physical man.

It does not lie in the mouth of the assailant to say that the victim's religious beliefs which inhibited him from accepting certain kinds of treatment were unreasonable.

The question for decision is "what caused her death?" And the answer is the stab wound. The fact that the victim refused to stop this end coming about did not break the causal connection between the act and the death.

Also, by the provision of **S.312 of the Criminal Code**, when a person causes a bodily injury to another from which death results, it is immaterial that the injury might have been avoided by proper precaution on the part of the person injured, or that his death from that injury might have been prevented by proper care or treatment.

It should also be noted that in a situation in which a person causes a grievous wound on the deceased, he would not be liable for the death of the deceased if the death, not resulting from the wound or medical treatment, is caused by a subsequent accident or an event remotely connected to the wound inflicted. This is due to the fact that in this situation, the causal chain has been broken by the subsequent event.

However, it should also be noted that according to **S.311 of the Criminal Code**, in a situation in which the act of the accused accelerates the death of the deceased who is suffering from a previous ailment, the accused would be held liable for his death.

It should be noted that where there is contradictory evidence against the accused, the court has no option than to discharge and acquit the accused.

In the case of *Oforlete vs The State (2000) vol 12 NWLR pt 681*, the accused hit the deceased on the head with a kitchen stool. Complications didn't arise until three months later when the head of the deceased got swollen. He was rushed to the hospital where he spent two weeks and was subsequently sent to a psychiatric hospital where he died.

There was contradictory evidence of two medical doctors that there was the possibility of a different factor causing the death of the deceased. The trial court convicted the accused. On appeal, the court of appeal upheld the decision of the trial court.

On further appeal to the Supreme Court, the court set aside the judgement of the lower court and was of the opinion that in establishing a causal link between the act of the accused and the relevant consequence as a factual question, no aspect of the enquiry should be left to assumption, speculation or conjecture.

Thus, where there is a long period of time between the act of the accused and the resultant consequence, stronger evidence has to be adduced in showing an unbroken link between the act and the consequence, compared to a situation in which the act and the consequence are proximate or contemporaneous in matters of time.

It should also be noted that by the provision of **S.310 of the Criminal Code**, a person would be deemed to have killed another if by threat, intimidation or deceit, he causes that other person to do an act or make an omission which results in his death.

In the case of *R vs Nwaoko (1939) Vol 5 WACA*, the accused threatened the deceased with a charm that if he doesn't pay up the debt that he owed the accused, he would not be able to eat or sleep and he would subsequently die. Subsequently, the deceased was depressed and he committed suicide.

The trial court convicted the accused. On appeal, the West African Court of Appeal allowed the appeal on the ground that there was no causal link between the threat of the accused and the subsequent suicide of the deceased. Thus, the accused was discharged and acquitted.

SOURCES

1. Lecture delivered by Dr Mrs. M.A. Abdulraheem Mustapha, Faculty of Law, University of Ilorin.
2. Okonkwo and Naish: Criminal Law in Nigeria
3. The Nigerian criminal Code
4. The Nigerian Penal Code