

Case Brief

Crim law: the actus reus requirement

1/26/15

Identity of Case

Commonwealth v. Pestinikas, 617 A.2d 1339 (Pa. Super 1992)

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Summary of Facts

Decedent Joseph Kly first met the defendants when he arranged for his funeral. They made an oral contract to care for him, provide water, food, and medications for him until his death for \$300 a week (he didn't want to live with his son anymore for reasons unknown).

Instead of caring for him in their home as arranged, they put him on a screened in porch at their country home and didn't feed him, cancelled nursing services, and misled his family about his location for about a month while they drained his banking account. He died of starvation and dehydration, and was dead for a few days before he was found.

Procedural History

Pestinikas were sued for violation of a duty of care. TC convicted, appellate court upheld conviction.

Statement of the Issue

Did the Pestinikas gain a duty of care toward the decedent?

Holding

Their oral contract was enforceable, therefore they took upon themselves a duty of care which they violated maliciously, consciously, and intentionally.

Reasoning

The defendants do not naturally owe Kly a duty of care, and can't naturally be convicted of abandoning him unless they had taken one on. By finding that the contract was enforceable, the court was able to imply this duty.

Evaluation

That seems like an unnecessarily difficult way to get to duty. Surely they imprisoned him. But wrongful imprisonment is a tort, and we wanted to get them under a criminal statute so that they could be imprisoned (or something).