

Drugs, 'Gouch' and Death: Responsibility for Death that Results from an Illicit Drug Enterprise

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ABSTRACT

On numerous occasions the English appeal courts have been required to consider a defendant's criminal responsibility in circumstances where the defendant has been a participant in a joint illicit drug venture leading to the victim's death. These recent English decisions have developed the law as it relates to both unlawful dangerous act manslaughter and gross negligence manslaughter by reference to general principles such as autonomy, causation and responsibility for risk. By way of contrast, there are very few decisions by Australian appeal courts that have considered criminal responsibility in such circumstances. The relative paucity of decisions is somewhat surprising given the number of illicit drug deaths in Australia and the circumstances in which they occur. This paper will engage in a comparative analysis of the English courts' jurisprudence and the limited number of authorities from Australian jurisdictions. It will explore the differences between the jurisdictions in terms of the heads of manslaughter and whether the English authorities provide a point of departure for the future development of Australian jurisprudence. The paper will have a Griffith Code focus as the two 'streams' of manslaughter in Queensland and Western Australia are well suited to prosecutions in circumstances involving a joint illicit drug venture.

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