S v Zinn 1969

Principle: Theory of Punishment
Facts: Accused committed multiple fraud and theft over 8 years.
Significance: Combination theory – triad of crime, the criminal and interests of society.

S v Francis 1994

Principle: Legality – criminal norm
Facts: Accused absconded from rehabilitation centre after Act changed regarding criminal norm.
Significance: No criminal norm = no prosecution or conviction.

S v Masiya 2007

Principle: Legality – Constitutionality of broadening definition of common law crime
Facts: Accused committed anal sex with 9 year old girl.
Significance: criticized judgment – Courts not there to make law. S 39(2) more applicable to civil law as criminal law protected by s 35(3) (l) and (n)

S v Mshumpa 2008

Principle: Legality – unborn child
Facts: Accused conspired to kill unborn child
Significance: Left broadening of crime to legislature.

R v Dhlamini 1955

Principle: Requirement of act.
Facts: Accused awoke from nightmare and stabbed victim No motive or volition.
Significance: Automaticism – asleep – could not commit crime.

S v Trickett 1973

Principle: Legality – Sane Automatism
Facts: Accused had blackout while driving, swerved into car and killed driver.
Significance: a) if caused by mental disease, onus on defendant
               b) if caused by drowsiness etc – negligence
               c) if caused by involuntary induced state onus on prosecution. Accused must lay foundation with medical or expert evidence.

S v Henry 1999

Principle: Requirement of act – Sane Automatism
Facts: Accused shot ex wife and MIL after argument.
Significance: Accused must lay foundation if raises defence of sane automatism.

Minister van Polisie v Ewels 1975

Principle: Act – Omission – Legal Duty
Facts: Complainant was assaulted in charge-office. Police failed to protect.
Significance: Legal duty to act. Constitutional and statutory duty on police.

S v Leeuw 1975

Principle: Act - impossibility
Facts: Accused drove car without license. Lived in restricted area and restricted person Difficult to get license.
Significance: Inconvenience or difficulty does not constitute impossibility. Positive duty is requirement for impossibility defense.

Principle: Causation – casual link
S v Mokgethi 1990

Facts: Accused shot deceased in bank robbery. Deceased had medical attention but died of septicemia 6 months later after ignoring medical advice.
Significance: *nova actus interveniens – causa sine qua non* needs *mens rea* and wrongfulness.
Dissenting judgments – perhaps adequate causation enough.

S v Daniels 1983

Principle: Causation – *nova actus interveniens*
Facts: Accused shot taxi driver in ear (fatal shot) after X shot driver in back (mortally wounded) Significance: criteria – failure of victim to adhere to medical advice, wound not lethal at the time & failure by victim not unreasonale according to his characteristics and convictions.
Factual causation – *condition sine qua non* – limit test by invoking consideration of fair & reasonable.

S v Tembani 2007

Principle: Causation – *nova actus interveniens*
Facts: Accused shot girlfriend in chest and calf. Received substandard treatment in state hospital and died 14 days later.
Significance: negligent treatment contributory cause but not absolve liability – not *nova actus interveniens*

S v Fourie 2001

Principle: Unlawfulness – general
Facts: Regional magistrate exceeded speed limit to get to court on time.
Significance: *Boni mores* test for unrecognized grounds of justification, First determine definitional elements, then balance of reason for law and reason for transgression.

R v Patel 1959

Principle: Unlawfulness – Justification – Private defence
Facts: Accused shot deceased who attacked brother with hammer.
Significance: Same defense for another as for oneself. Don’t be an armchair critic. Onus on state. Must not exceed bounds of justifiable homicide.

*Ex parte die Minister van Justisie: in re S v Van Wyk* 1967

Principle: Unlawfulness – Justification – Private defence of property
Facts: After constant burglaries, accused set shotgun booby-trap.
Significance: Private defence used as defence when protecting property

S v Mogohlwane 1982

Principle: Unlawfulness – Justification – Private defence
Significance: Act of accused was part of defence. Questioned when attack completed – space, time & casual relationship. Onus on state to refute private defence.

S v Goliath 1982

Principle: Unlawfulness – Justification – Necessity
Facts: Accused threatened by Y to help kill Z..
Significance: Compulsion valid defence to murder. No person values another’s life more than own. Weigh up interests served and infringed.
R v C 1952

Principle: Unlawfulness – Justification – Consent
Facts: Sleeping woman thought accused was her husband having intercourse with her. Significance: Consent requires willing mental state and specific.
Principles dealt with:

S v Mostert 2006

Principle: Unlawfulness – Justification – Obedience to orders
Facts: Accused sent to take another traffic officer to superior and used force.
Significance: Requirements - 1) Order from superior 2) Duty to obey 3) No more harm than necessary 4) Order must not be manifestly unlawful
Balance obedience with boni mores of concept of justice and fairness.

S v Chretien 1981

Principle: Unlawfulness – Justification – Intoxication
Facts: Accused drank at party. When leaving drove into people.
Significance: Justified defence but criticized because treated less harshly than sober person.
1) If so drunk movements involuntary 2) In exceptional circumstances, person can lack legal capacity 3) Specific intent theory rejected 4) Court should not lightly infer intoxication led to involuntary conduct.
Subsequent statutory offence under Criminal Law Amendment Act 1988

S v Eadie 2002

Principle: Unlawfulness – Justification – Criminal Capacity
Facts: Case of road rage. After drinking accused attacked deceased viciously with hockey stick.
Significance: Non pathological criminal intent – onus on state but accused to lay foundation for defense. Subjective test – can distinguish between right and wrong (cognitive) but not able to control conduct (cognitive) NB - Accused can lack self-control when acting in state of automatism. No difference between state of sane automatism and non pathological criminal intent.

S v Masilela 1968

Principle: Culpability – mens rea

S v Goosen 1989

Principle: Culpability – mens rea
Facts: Accused and 2 others in car. Stopped another car and one pointed gun at driver. Car started to move. Gunman jumped out way and accidently shot driver.
Significance: Criticised judgment – material from result excluded intent.

S v Ngubane 1985

Principle: Culpability – mens rea - dolus eventualis / culpa
Facts: Accused stabbed girlfriend 5 times. Plead guilty to culpable homicide. During trial judge change charge to murder.
Significance: Criticised judgment – dolus eventualis – unconscious negligence – culpa – conscious negligence
Objective culpa – measured against reasonable person Subjective culpa – measured against own capabilities.
Indeed possible to act negligently (which is required for culpable homicide) without having intention.
S v Mtshiza 1970

Principle: Culpability – mens rea - aberration actus
Facts: Accused drinking with P. Quarreled, went to stab P, W intervened and got stabbed. Significance: Judge refused to implement versari in re illicita doctrine. Minority judgment followed later

S v Ntuli 1975

Principle: Culpability – mens rea
Facts: Accused argued with older woman. Hit her twice after she attacked him.
Significance: 1) exceeds bounds of private defence – depends on mens rea. 2) Recognises awareness of unlawfulness as element of dolus. 3) Rejected ‘partial excuse’ rule.
Court simply applies ordinary principle of intent & negligence when exceeds bounds of private defence.

S v De Blom 1977

Principle: Culpability – mens rea - Ignorance of law
Facts: Accused took more money and jewelry abroad claiming lack of awareness of regulations. Significance: Rejection of ‘ignorance of law is no excuse’ = not apply to specific section or specific punishment. Only dolus when acts with full knowledge (subjective test) or culpa when negligently failed to enquire about possible law (objective test)

S v De Oliveira 1993

Principle: Culpability – mens rea – Putative private defence
Facts: Accused and wife lived in crime area but house burglar proof. Employee knocked on gate with friends to gain access to his quarters. Accused fired six shots at ‘unknown’ people in manner they would be hit. Not even warning shot.
Significance: Objective test for putative private defence. Culpability of erroneous thought conduct was lawful is dolus eventualis.

S v Lungile 1999

Principle: Culpability – mens rea
Facts: Accused one of four robbers in shop. Policeman exchanged fire. An employee killed.
Significance: 1) not under duress 2) actively participated 3) knew 2 were armed 4) novus actus interveniens must be abnormal and completely different act.
Goosen not referred to – indicates wrongly decided.