

How should the Supreme Court decide the appeal in Alexander Lewis-Ranwell v G4S Healthcare (UK) Limited and others?

The forthcoming Supreme Court appeal in the case of 'Alexander Lewis-Ranwell v G4S Healthcare (UK) Ltd and others'¹ rises a question in tort law: Should a claim involving negligence be barred by the defence of illegality (*ex turpi causa non oritur actio*, which holds that a person cannot pursue a cause of action arising from their own illegal act)², when the claimant was found not guilty of manslaughter by the reason of insanity after killing three individuals during a psychotic episode? This essay claims that it should not, as the defence of illegality should not stop the claim given that Lewis-Ranwell was not accountable for his actions due to insanity. Therefore, as the Court of Appeal held, the case should progress.

UK law states that if a loss has been made due to the claimant's own actions, recovery is denied. In *Clunis v Camden and Islington Health Authority* [1998] QB 978 (CA) and subsequently in *Gray v Thames Trains Ltd* [2009] UKHL 33, it was held that a person cannot claim to recover damages if they were convicted of manslaughter.³ This was later reasserted by the Supreme Court in the case of '*Henderson v Dorset Healthcare NHS Trust*'⁴. Hence, through these cases, it is implied that one cannot benefit from their wrongdoings. However, in this case, it can be argued that there is no wrongdoing due to the element of insanity.

The defence of illegality is based on whether an individual is to blame for their actions, not whether their actions were against the law. This viewpoint is based on Hart's well-known theory about responsibility: before someone can be punished, or denied the chance to seek compensation, it must be shown that they had the ability to make choices about their actions.⁵ Lewis-Ranwell's case is unusual from the cases mentioned above; due to insanity, it negates his choices of actions and perception. As a result, applying *ex turpi causa non oritur actio* will only make the law unfair by treating Lewis-Ranwell as guilty although he is innocent.

Additionally, the modern test for illegality requires an evaluative review of purpose, coherence and proportionality.⁶ Purpose touches upon the harm the law aims to inhibit and the moral judgement it voices. For instance, homicide law is used to protect life assuming the offender is aware of their actions. So, if insanity eliminates that element of awareness, preventing recovery does not succeed the law's objective. Coherence is needed to remain consistent across the law. If the Supreme Court decided to deny Lewis-Ranwell's claim, it would conflict with criminal law's

¹ [2024] EWCA Civ 138.

² LexisNexis, 'Ex turpi causa non oritur actio definition'(LexisNexis, 2025) <https://www.lexisnexis.co.uk/legal/glossary/ex-turpi-causa-non-oritur-actio> accessed 1 November 2025.

³ Stephen Todd, 'The Ex Turpi Causa Principle' (Hein Online, 2009) <https://heinonline.org/HOL/LandingPage?handle=hein.journals/newzlnltr2009&div=44&id=&page=> accessed 4 November 2025.

⁴ [2020] UKSC 43.

⁵ HLA Hart, *Punishment and Responsibility* (2nd edn, OUP 2008) Ch 8.

⁶ *Patel v Mirza* [2016] UKSC 42, [107]–[110] (Lord Toulson); *Henderson v Dorset Healthcare NHS Trust* [2020] UKSC 4.

recognition of non culpability as Lord Sumption has mentioned in Henderson.⁷ Lastly, proportionality enables the law's response to be fair. If the law automatically rejects people from claiming damages due to their mental illness, this would be considered unfair. The end goal of the law is not to punish individuals for being mentally ill but to prevent or correct harm.⁸

Furthermore, some may argue that permitting compensation may lead to too many claims made and would shock public conscience. However, both concerns are exaggerated. As Lunney, Nolan and Oliphant state, policy fears of intermediate liability are 'rhetorical rather than empirical.'⁹ This shows cases involving insanity are uncommon, thus making these claims fair. It is also important to note that public outrage should not affect decisions made by the law. Its legitimacy is measured on principles, not emotion. Hence, denying recovery would erode justice and coherence.

Defendants may argue that the claimant's actions broke the causal chain (*novus actus*). Yet, tort causation is not factual; it is normative. Stapleton argues that liability should reflect 'the purpose behind the duty breached, not the morality of the claimant's act.'¹⁰ In Lewis-Ranwell's case, the defendant's duty was to protect against the risk that materialised due to his psychosis. As his actions were a foreseeable break in causation, liability should be judged by the duty's purpose, not by moral judgement.

Comparative authorities have also reinforced that the illegality defence should not be used when an individual is not to blame for their actions. For example, in the case of 'Hall v Hebert'¹¹, the Supreme Court of Canada highlighted that the doctrine should be allowed in cases of moral fault, warning against denying claims automatically.¹² In Lewis-Ranwell's case, the same reasoning should be applied. The European Court of Human Rights (ECHR) in *Osman v UK*¹³ stressed that the state must protect those with mental illnesses. Immunising negligent organisations from avoiding responsibility contradicts this duty under Article 2 of the ECHR.

In conclusion, the law's legitimacy depends on the ability to differentiate fault from misfortune. The *ex turpi causa* principle cannot be applied where an offender is not held morally responsible. Should the Supreme Court affirm the Court of Appeal, it will consolidate the doctrines in tort law whilst safeguarding alignment with criminal

⁷ Ibid (n 4).

⁸ Kevin Kee, 'Though Much is Taken, Much Abides: Illegality after *Patel v Mirza*' (2018) <https://www.lk.law/2018/09/though-much-is-taken-much-abides-illegality-after-patel-v-mirza/> accessed 7 November 2025.

⁹ M Lunney, Donal Nolan and Ken Oliphant, *Tort Law: Text and Materials* (6 edn, OUP 2017) Ch 7; Lord Wilberforce in *McLoughlin v O'Brian* [1983] 1 AC 410.

¹⁰ Jane Stapleton, *Legal Cause: Cause-in-Fact and the Scope of Liability for Consequences*, 54 *Vanderbilt Law Review* 941 (2001) <https://scholarship.law.vanderbilt.edu/vlr/vol54/iss3/11/> Accessed 8 November 2025.

¹¹ [1993] 2 SCR 159.

¹² *Hall v. Hebert*, 1993 CanLII 141 (SCC), [1993] 2 SCR 159, <<https://www.canlii.org/en/ca/scc/doc/1993/1993canlii141/1993canlii141.html?searchUrlHash=AAAAAQAGZGVuaWFsAAAAAAE&offset=0&highlightEdited=true>> accessed 8 November 2025.

¹³ (1998) 29 EHRR 245.

responsibility and confirm that justice support those who act upon their mental illnesses as well as intent. Therefore, the defence of illegality should not exclude Lewis-Ranwell's claim.

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