

**How should the Supreme Court decide the appeal in *Alexander Lewis-Ranwell v G4S Healthcare (UK) Limited and others*? Please support your answer with reference to precedent.**

This case examines whether the illegality defence operates when an individual commits an unlawful act due to the alleged negligent failure of another but is found not guilty by reason of insanity, a special verdict. Since *Holman v Johnson*, no ‘court will...aid...a man who founds his...[claim]...upon an immoral or an illegal act’.<sup>1</sup> Applying *Patel v Mirza*, this essay demonstrates that the Claimant’s conduct constitutes turpitude and argues the Supreme Court should allow the appeal to avoid inconsistency in the law and protect public confidence.<sup>2</sup>

The High Court held that there was no turpitude because the Claimant was ignorant of wrongdoing, making the defence unavailable.<sup>3</sup> This argument disregards what Lord Sumption confirmed in *Laboratoires v Apotex*: the foundation of turpitude is engagement of ‘public interest’, criminal acts being the ‘paradigm’ example.<sup>4</sup> Although the Claimant’s court-ordered hospital detention under ss. 37 and 41 of the MHA was not punitive, it was nonetheless a state decision for the population’s collective benefit, plainly engaging public interest.<sup>5</sup> Furthermore, Garnham J’s reasoning, which treated knowledge of wrongdoing as a prerequisite, overlooks authority concerning whether the defence applies ‘in circumstances not...covered’ by the courts – as Lord Toulson outlined, by ‘proceed[ing]...on a case-by-case basis’ and considering all ‘policies which underlie the broad principle’.<sup>6</sup>

Regarding those policies, *Henderson v Dorset* established that *Patel*’s first stage addresses consistency throughout the law and public confidence.<sup>7</sup> The legal system cannot be ‘giving with one hand what it takes away with the other’.<sup>8</sup> If the defence were held inapplicable because the Claimant was unaware of wrongdoing, that would create no inconsistency with his liability in tort being measured instead by whether his mind directed his hand (*Morriss v Marsden*).<sup>9</sup> Each question is understood in a distinct legal context.

Equally, the claims appear consistent with criminal law because the Claimant was acquitted and received no punishment. Lord Hamblen’s discussion of inconsistency, however, exposes that argument as incomplete. He identified the relevant category as ‘behaviour which...the law treats as...criminal or otherwise unlawful’.<sup>10</sup> The special verdict does not render the killings lawful, placing the Claimant’s

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<sup>1</sup> (1775) 1 Cowp 341, [343].

<sup>2</sup> [2016] UKSC 42, [2017] AC 467.

<sup>3</sup> *Lewis-Ranwell v G4S Healthcare (UK)* [2022] EWHC 1213, [2023] QB 229.

<sup>4</sup> [2014] UKSC 55, [2015] AC 430, [23].

<sup>5</sup> Mental Health Act 1983.

<sup>6</sup> *Apotex* [2014], [57].

<sup>7</sup> [2020] UKSC 43, [2021] AC 563.

<sup>8</sup> *Hall v Hebert* [1993] 2 SCR 159, [178].

<sup>9</sup> [1952] 1 All ER 925.

<sup>10</sup> *Henderson* [2020], [119].

unlawful conduct within that scope. Additionally, discussing consistency under the ‘narrow rule’ heading, Lord Hoffmann stated someone ‘cannot recover damages following from loss of liberty’, which clearly applies to the Claimant’s detention albeit non-punitive.<sup>11</sup> Profiting from unlawful conduct or state-sanctioned loss of liberty would produce disharmony in the law.

Furthermore, public confidence compels the Court to bar the claims. This consideration asks whether ‘public opinion would be likely to disapprove’ of allowing compensation.<sup>12</sup> The Court of Appeal held that in a ‘right-thinking’ person’s view an insane individual should not be barred from compensation when they were ignorant of wrongdoing and ‘therefore had no moral culpability’.<sup>13</sup> This conclusion merely restates the criminal law position and substitutes in ‘moral’, without justifying why withholding criminal responsibility means public confidence supports compensation. Underhill LJ rightly noted the defence generally does not apply when an individual is ignorant of wrongdoing.<sup>14</sup> But in the main cases cited – *Adamson v Jarvis* and *Burrows v Rhodes* – the claimants’ unawareness resulted from dishonest misrepresentation, raising substantially different considerations for public confidence to the conduct of this Claimant.<sup>15</sup> The difference increases the likelihood public opinion would disapprove of allowing compensation.

This proposition is more than theoretical. In Australia, *Hunter v Presland* raised the same issue under analogous circumstances.<sup>16</sup> Santow JA accepted the unlawful conduct went ‘without criminal consequence’ due to insanity but held it would be ‘unjust for the common law to allow...a remedy’. This decision was not ‘base[d]...on moral culpability’ and rather on what ‘community values’ would ‘consider just’.<sup>17</sup> The Court should follow this rationale. Permitting a person who intentionally takes the life of another to claim in negligence ‘against someone for putting them in a position...to commit an act which was...deliberate and tortious’ because they were ignorant of wrongdoing would offend public confidence.<sup>18</sup> Moreover, the purpose of the prohibition transgressed by the Claimant is the right to life; as Lord Hamblen acknowledged, for the ‘public...there could be...no more important right to be protected’.<sup>19</sup>

The Court’s freedom to follow *Hunter* is not curtailed by relevant precedent. Lord Hoffmann highlighted a section from *Chunis v CIHA* that ‘suggests...the...[defence]...does not apply’ when the

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<sup>11</sup> *Gray v Thames Trains* [2009] UKHL 33, [2009] 1 AC 1339, [51].

<sup>12</sup> *Ibid.*

<sup>13</sup> [2024] EWCA Civ 138, [2024] KB 745, [104].

<sup>14</sup> *Ibid.*

<sup>15</sup> (1827) 4 Bing 66, 130 ER 693; [1899] 1 QB 816.

<sup>16</sup> (2005) 63 NSWLR 22.

<sup>17</sup> *Ibid.*, [315].

<sup>18</sup> *Lewis-Ranwell* [2024], [122].

<sup>19</sup> *Henderson* [2020], [131].

claimant is not guilty by reason of insanity.<sup>20</sup> A suggestion, however, is not binding. Indeed, *Gray* contained no disapproval of *Hunter*. Lord Hoffmann even expressed approval of Sheller JA's rationale for finding against compensation.<sup>21</sup>

*Patel's* second stage fails to outweigh these arguments for barring the claims. The importance of the NHS delivering competent care, compensating victims of torts, and ensuring public bodies account for negligence are valid concerns. They are, nevertheless, overshadowed by the fundamental risk inconsistency and diminished public confidence pose to the integrity of the legal system. Addressing stage three, barring the claims would not be disproportionate given the Claimant's conduct was serious, the immediate and effective cause of the main heads of loss, and he possessed murderous intent notwithstanding ignorance of wrongdoing.

Although knowledge of wrongdoing can inform an application of the illegality defence, its significance in criminal law rests upon the connection between culpability and punishment. The illegality defence, however, is not punitive. As Bingham LJ observed, it 'steers a course between two unacceptable positions' to protect the law's integrity.<sup>22</sup> The helm must be set toward preserving consistency and public confidence.

The Court should allow the appeal.

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<sup>20</sup> *Gray* [2009], [42]; [1998] QB 978.

<sup>21</sup> *Ibid.*

<sup>22</sup> *Saunders v Edwards* [1987] 1 WLR 1116, [1134].