

opgave 1:

A:

vereisten noodweer(exces):

1. geboden door noodzakelijke verdediging?
2. van lijf, goed of eerbaarheid van jezelf of anderen?
3. tegen ogenblikkelijke en wederrechtelijke aanranding?
4. proportioneel, subsidair
 1. **subsidiariteit**: voldeed het verdedigingsmiddel aan de eis van subsidiariteit? stond de manier van verdediging in verhouding tot de ernst van de aanranding?
 1. **proportionaliteit**: evenredigheid?

Nee geantwoord op de proportionaliteitseis?

Exces:

5. geweld onmiddellijk gevolg door hevige gemoedsbeweging?
5. veroorzaakt door aanranding?

B:

- intensief noodweerenexces (gebruik van een te zwaar middel in verhouding de aanranding)
- extensief noodweerenexces (te lang doorgaan met zelfverdediging)
- tardief noodweerenexces (pas begonnen met de verdediging nadat de aanranding al is afgelopen - er is dan geen noodweersituatie meer)

C: -verdachte werd wederrechtelijk aangerand

- verdachte stribbelde tegen waarna de overvallers haar vasthielden en met een mes op haar af kwamen lopen
- verdachte schoot met het pistool in haar tas op de overvallers
- hierbij viel een dode en een gewonde

D: subsidiariteit & proportionaliteit. Het hof vond dat verboden wapenbezit een beroep op noodweer niet in de weg staat.

E: volgens de rechtbank hadden de overvallers geen mes bij zich, volgens het hof wel. Daarom vond het hof dat er wel sprake van noodweer.

F: HR is het eens met het hof. Ze vonden wel dat de vrouw gericht had moeten schieten aangezien ze geïntendeerd was.

Opgave 2:

A: Marcel had dienst met zijn collega. Zij hielden een zwaarbeladen auto aan. Toen de auto stopte vielen ze de collega van marcel aan. Marcel schoot vervolgens op de verdachte die op hem af kwam lopen. Toen ze wegreiden heeft marcel nog een keer geschoten en een jongen in zijn schouder geraakt.

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