Table 3.4 Causality

Act and Intent	*Case Examples*
Apparent Safety Doctrine	In an 1856 North Carolina case, Preslar kicked and choked his wife and beat her over the head with a thirty-inch-thick piece of wood. He also threatened to kill her with his axe. The victim gathered her children and walked over two miles to her father's home. Reluctant to reveal her bruises and injuries to her family, she spread a quilt on the ground and covered herself with cotton fabric and slept outside. The combination of the exhausting walk, her injuries, and the biting cold led to a weakened condition that resulted in her death. The victim's husband was acquitted by the North Carolina Supreme Court, which ruled that the chain of causation was broken by the victim's failure to seek safety. The court distinguished this case from the situation of a victim who in fleeing is forced to wade through a swamp or jump into a river. Is it relevant that the victim likely feared that her family would force her to return to her marital home and that she would have to face additional physical abuse from her husband? See *State v. Preslar,* 48 N.C. 421 (1856).
Drag Racing	In *Velazquez v. State*, the defendant Velazquez and the deceased Alvarez agreed to drag race their automobiles over a quarter-mile course on a public highway. Upon completing the race, Alvarez suddenly turned his automobile around and proceeded east toward the starting line. Velazquez also reversed direction. Alvarez was in the lead and attained an estimated speed of 123 miles per hour. He was not wearing a seat belt and had a blood alcohol level of between .11 and .12. Velazquez had not been drinking and was traveling at roughly 90 miles per hour. As both approached the end of the road, they applied their brakes, but Alvarez was unable to stop. He crashed through the guardrail and was propelled over a canal and landed on the far bank. Alvarez was thrown from his car, pinned under the vehicle when it landed, and died. The defendant crashed through the guardrail, landed in the canal, and managed to escape. A Florida district court of appeal determined that the defendant's reckless operation of his vehicle in the drag race was technically the cause in fact of Alvarez's death under the "but for" test. There was no doubt that "but for" the defendant's participation, the deceased would not have recklessly raced his vehicle and would not have been killed. The court, however, ruled that the defendant's participation was not the proximate cause of the deceased's death because the "deceased, in effect, killed himself by his own volitional reckless driving," and that it "would be unjust to hold the defendant criminally responsible for this death." The race was completed when Alvarez turned his car around and engaged in a "near-suicide mission." See *Velazquez v. State,* 561 So.2d 347 (Fla. Dist. Ct. App. 1990).
Medical Negligence	In *United States v. Hamilton*, the defendant knocked the victim down and jumped on him and kicked his face. The victim was rushed to the hospital, where nasal tubes were inserted to enable him to breathe, and his arms were restrained. During the night, the nurses changed his bedclothes and negligently failed to reattach the restraints on the victim's arms. Early in the morning the victim went into convulsions, pulled out the nasal tubes, and suffocated to death. The federal court held that regardless of whether the victim accidentally or intentionally pulled out the tubes, the victim's death was the ordinary and foreseeable consequence of the attack and affirmed the defendant's conviction for manslaughter. See *United States v. Hamilton,* 182 F. Supp. 548 (D.D.C. 1960).
Removal From Life Support	The defendant was convicted of vehicular manslaughter when the Toyota Camry he was driving struck a Chrysler LeBaron driven by William Patrick from behind. The LeBaron "sailed over the curb and slid along the guardrail, crashing into a utility pole before it ultimately came to rest 152 feet from the site of impact." The defendant's blood alcohol level was estimated at .18 or .19. As a result of the accident, Patrick suffered broken bones, paralysis, infections, organ failure, an inability to breathe on his own, brain damage, and severe psychological problems. Five months following the accident, Patrick's family in accordance with his wishes removed him from a ventilator, and he died two hours later. The New Jersey Supreme Court held that removal of life-sustaining treatment is a victim's right, and it is foreseeable that a victim may exercise his or her right not to be placed on, or to be removed from, life support systems. See *State v. Pelham*, 824 A.2d 1082 (N.J. 2003).