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PASS

Blue Book

NAME _____

SUBJECT Law studies & exams

INSTRUCTOR Burnett

EXAM SEAT NO. _____ SECTION Criminal Law

DATE 12-2-10 GRADE _____

Write on every other line!

Crimes against Curt -

①

Is Curt liable/guilty of embezzlement? ~DVDs

In an exam with so many theft-related issues, it helps to define which one you're discussing upfront.

Taking property that belongs to his employer that he lawfully possessed to convert to his own is embezzlement, with intent to deprive/convert.

Curt is not guilty because he did not complete the act crime.

②

Is Curt guilty of attempted embezzlement?

Embezzlement, supra. Attempt is the act of committing a crime more than just thinking about it but by doing an act for the purpose of more than just preparing to do the act.

Curt is guilty of attempted larceny because he attempted to steal or take property from his employer that was the DVD's but he stopped before the act was concluded.

Good, but discuss issue of whether or not he was entrusted with the DVD's - not all employees are entrusted with everything in store. If not entrusted, it could be larceny or attempted larceny.

Another issue is whether or not he succeeded. He got past cash registers, but not past security. Is that attempt or success?

Crimes against sal.

als sal guilty of attempted larceny by trick? @ ~~false~~ ~~pretenses~~?

Yes, sal is guilty of larceny by trick because it is to take property of another by trickery w/ specific intent to defraud the owner, ~~then~~ with the mens rea of knowing that the price on the 2 xyz computers was not correct. ~~just~~ because she was since she was unable to complete the act of larceny by trick she is guilty of the attempt of it because attempt means to

~~Is Curt guilty of false pretenses?~~

~~Curt is guilty of false pretenses because false pretence~~

do more than just the mere planning or preparation of it + since she took the 2 computers to the cash register + tried to purchase them she did the act of furtherance that is necessary to show the attempt of the crime.

Attempted False Pretenses is more likely than Att. Larceny by Trick.

Tried to take title to computers, buy them, just at the wrong price. But there's a big issue here of whether Sal knew the tags were switched. Fact pattern is not clear. Curt would

~~Crimes against Sal~~
~~Is court~~

Against ~~the~~ implies
that he's the victim

Crimes ^{OF} ~~against~~ Ed.

Is Ed guilty of aiding
& abetting Curt in
stealing the computers?

He found out what Curt
was trying to do with
the computers when the
price tags were being
switched & because
he was aware Curt was
committing a crime

I told him to also take
a computer for him
also he aided Crest
in attempting the
crime of embezzlement

How so? Discuss!

Is Curt guilty of theft?

To commit theft it is the trespassory taking of property of another with the intent to deprive the owner of it. + with movement.

Curt is guilty of theft because he took the DVD's belonging to his employer & with the mens rea of stealing them + he walked toward the door so there was movement. Just because he didn't complete the taking doesn't dismiss his actions.

Discuss
getting past
registers

Which is it? You previously said this was embezzlement. It's one or the other, not both.

also Ed guilty of attempted
embezzlement?

Yes, embezzlement is
the taking of property
that was in the possession
of the employer + lawfully
in the control of the
employee with the
specific intent to
steal it + convert it
to his own use.

Since Ed knew +
asked Curt to also
Continued in book 3

~~Crimes against Ed~~ attempted

Is Curt guilty of larceny by trick?

Larceny is the taking of property of another with intent to permanently deprive the owner without taking title by using trickery.

Attempted
False Pretenses is
much better charge for
this crime.

Curt is guilty of attempted larceny by trick because he put a false label with a special sales price on an X42 computer for his sister to purchase and trick the cashier to sale it for the reduced price. It was only not completed because the cashier refused to sell them to Ed.

als court guilty of a
homicide

Homicide is the taking
the life of one human
being by another
human being.

Curt hit a shopper
with his car that
resulted in their death
if it were not for the
accident the shopper
wouldnt have hit their
head causing injuries
that resulted in their
death 1 1/2 years later

Curt is guilty of
homicide since his
actions caused the ~~life~~ DEATH
of another.

is Curt guilty of murder?

Curt is guilty of murder because murder is the killing of another human being by another human being ~~with~~ with malice ^{of aforethought}

NO! Use the full Perkins definition. You only have part of it here.

Malice is the mans dangerous state of mind

~~As~~ The malice is implied because he was "racing" out of the parking lot where he would have known that there were ~~also~~ the likelihood that there would be shoppers going to + from their cars

and being Black Friday, many shoppers are probably tired & distracted.

He disregarded the potential danger & acted recklessly.

~~Is Curt guilty of homicide?~~

Is Curt guilty of involuntary manslaughter?

Involuntary manslaughter is the taking of the life of one human being by another human being without the intent to do the act.

Curt is guilty of involuntary manslaughter because he didn't get in his car with

~~albeit a justly murder,
under the common
law felony murder rule,~~

means rea to hit &
kill someone. However,
it could be argued
that the reckless disregard
for others is shown
by his racing out
of the parking lot &
that would show intent
while knowing there would
be people walking in

~~also~~ ~~is~~ ~~not~~ ~~guilty~~ ~~of~~
~~voluntary~~ ~~man~~ ~~slaughter~~
the parking lot.

is not guilty of
voluntary man slaughter

He wasn't acting in
the heat of passion,
but he was ^{committing} ~~committing~~
from the attempted

crime of theft & wasn't
completely finished

I think he
was completely
finished. He wasn't
still trying to steal
anything.

because he was still
on the same property
so it can be argued

FMR only
applies to certain
enumerated felonies

that under ~~felony~~
~~murder~~ the expressed
malice element is
met because he was
in the commission of
felony theft. So he

FMR
applies to
murder, not
manslaughter

is guilty of voluntary
manslaughter because
the expressed intent
was not when he hit shopper

have Sal buy a xyz computer at the false special sales price + since he was an employee of the same employer, he is guilty of attempted embezzlement. Since sal attempted to purchase the computers at the false price she did more than furtherance of just mere planning.

The crime, but she did
a furtherance of it,
thus Ed is guilty for
having ~~substantiated it~~
~~also~~

As ~~an~~ an employee
Ed had a duty to
have reported what
Curt was doing so
by not reporting him
he would have had
liability in that as well

Neglect of
Duty does
not equal
crime.

Comments →