

1)

Criminal Law Midterm
Ro3
Professor Ravitch
2010.12.08

85

Question 1

Issue: Malicious Mischeif of "people throwing beer cans"

Rule: Malicious damage or destruction to the property of another

Analysis: A group wa desturnibt the beace by being outside and throwing beer cans at a street sign.

Conclusion: They are guilty of disturbing the peace and malicious misceif.

Issue: Battery of Calvin by Barry

Rule: Battery or Transferred intent doctrine: Battery application of force to a person of another;
Transferred intent doctrine: a crime that produces an unintended but foreseeable result leaves the party guilty of the original crime guilty for the untended crime.

Analysis: When barry was throwing beer cans at the sign he was committing a crime of malicious mischeif. When he threw one of the beer cans and hit calvin, he either did it intentionally (battery) or was still guilty of battery because at the time he was committing another crime and was guilty of more than an accident through transferred intent.

Conclusion: Berry is guilty of Battery of Calvin — *accident?*

Issue: Battery of Barry by Calvin

Rule: See Battery Supra

Analysis: When Calvin picked up a stick and delivered a blow to Barry's head causing him to fall to the ground nconscious he applied force to the person of another.

Conclusion: The battery will mege with a greater offense of manslaughter.

Issue: manslaughter of Barry by Calvin

Rule: Manslaughter is homicide committed without malice aforethought and an act that would otherwise be a second degree murder may be mittigated to manslaughter based on adequate provocation, heat of passion, no colling off period, and causal relationship between provocation and homicide.

Analysis: When the beer can thrown by Barry hit Calvin in the head, that constituted an adequate provocation that would lead a reasonable person to respond like Calvin did. There was no cooling off period at all by the fact pattern, Calvin picked up a stick and delivered a blow to the same person who caused a battery to Calvin so one can infer that the provocation caused the reaction that led to the homicide. We know that there was the mens rea because of the adequate provocation and people do not pick up sticks and hit people who just battered them by accident, and we know that Barry was taken to the hospital where he died and so we can reasonably safely assume he died from his injuries.

Conclusion: Calvin is guilty of manslaughter.

Issue: Calvin's Assault of Sue

Rule: Assault is placing another in reasonable imminent apprehension of an imminent harm or battery.

Analysis: When Calvin ran into the house with a stick which he began waving at Sue, and Stan confronted Calvin and told him to leave, it can be assumed that Stan was coming to the aid of Sue and that Sue was in imminent apprehension of a battery from Calvin waving the stick.

Conclusion: Calvin is guilty of assault of Sue

Issue: Modern Law Burglary of Calvin

Rule: Though burglary at common law includes a breaking and entering the property of another without permission at night with the specific intent to commit a felony therein, modern burglary is merely the entering into or remaining in a property without permission with the specific intent to commit a crime.

Analysis: When Calvin ran into the house with a stick and started waving it at Sue, it was clear he was entering with a weapon in order to at least assault somebody, if not batter someone like he had just battered Barry. Though assault is not a felony so Calvin's acts would not qualify as a burglary under common law, they do qualify as a burglary under the less stringent elements of modern law. Though he had originally been invited to come, that invitation had been revoked though Calvin never got the text message from Stan. Regardless of this lack of knowledge, Calvin may still be guilty of burglary because one can be guilty of burglary by staying after being asked to go and Calvin was asked to go but lingered long enough to commit a larceny of a beer and a sandwich below.

Conclusion: Calvin is not guilty of burglary at common law but is guilty of burglary at modern law.

Issue: Calvin's Larceny of beer and sandwich

Rule: Larceny is the trespassory taking and carrying away the personal property of another with the specific intent to permanently deprive.

Analysis: When Stan asked Calvin to leave, it was clear he was not invited at the party any more and had no license to be there. Therefore to stay there and grab a ham sandwich and a

✓ can of beer was clearly trespassory taking. He didn't bring the food with him so it was property of another. It is reasonable to infer that Calvin was not borrowing the sandwich and beer so it is intent to permanently deprive, he left which shows asportation.

Conclusion: Calvin is guilty of Larceny of beer and sandwich

Issue: Calvin's Larceny of Bobby.

Rule See Larceny definition supra.

✓ Analysis: When Calvin went through Bobby's pockets and removed wallet and keys and jumped in and drove Bobby's car to auto row after Bobby wanted to assault him, it was clear that it was a trespassory taking (Bobby was clearly not there to give those things to Calvin) property of another, with the intent to permanently deprive (Calvin did go sell the car) and asportation since he removed the wallet and keys and drove right to auto row.

Conclusion: Calvin is guilty of Larceny of the car and wallet of Bobby.

Issue: Forgery and uttering by Calvin

Rule: forgery is the making or altering of a false document of legal importance with the intent to defraud. Uttering is presenting as authentic a document known or suspected to be false with the specific intent to defraud.

✓ Analysis: When Calvin told Gregg he had inherited the car from a now deceased uncle (which was false because he got it by larceny from Bobby) and offered a pink slip he had altered, he presented a document of legal importance (the pink slip) which he had altered to be fraudulent with the intent to deprive Gregg of 1/2 of the blue book value (fraud). Calvin actually did sell the car to Gregg so it was more than just attempt.

Conclusion: Calvin is guilty of Forgery and Uttering.

Issue: False pretenses of Calvin

Rule: Securing title by false statement of fact

✓ Analysis: By selling the car that was not his, (supra) to Gregg, Calvin was not just committing forgery and uttering but also offered false statements of known fact (he inherited the car) in order to gain title to the money through sale. The legal significance of this is that it is different from larceny by trick which would have been if he had merely gained a title loan or another favor on loan against the value of the car.

Conclusion: Calvin is guilty of false pretenses.

State v. Gregg

Issue: Accepting Stolen property

Rule: Accepting stolen property is knowingly receiving stolen property of another with the intent to permanently deprive

Analysis: Gregg was told by Calvin that he owned the car, told that he inherited it, and was given a pink slip. It can easily be inferred that Gregg had no actual knowledge that the car was stolen and knowledge is an element to accepting stolen property. Regardless of the fact that the property was stolen and he converted it unknowingly through sale to Derrick, Gregg lacked the mens rea necessary for the commission of the crime.

What about the low price paid?

State v. Derrick

issue: 2nd degree murder or murder

Rule: Homicide of another with malice implied through wanton and reckless disregard for human life.

Analysis: Typically drunk driving cases are prosecuted as manslaughter of vehicular homicides unless there are specific conditions for implied malice murder. Because of videos that Derrick had watched in DUI classes, it may be inferred that he knew the danger of drunken driving and so his doing so was not mere criminal negligence (the mens rea necessary for manslaughter) but rather wanton and reckless disregard for human life. Further evidence of wanton and reckless disregard include "flying down the road at 90mph", missing a stop sign, and broadsiding a car killing Priscilla after celebrating his purchase with a second bottle of brandy it may be inferred that he had already consumed a great deal of alcohol.

What about purchase of car?

192

Blue Book Question #2

NAME

SUBJECT

Crimes law

INSTRUCTOR

Ravitch

EXAM SEAT NO.

SECTION

DATE

12/8/10

GRADE

Conspiracy Bob

80

Conspiracy is the agreement with another to commit an unlawful act.

When Bob retreated to the farthest corner of the fenced property immediately after being hired, and

Hugo was still working, it can be inferred that

they had conspired to remove the saplings, reset

them and to use the land to grow 50 marijuana

plants. The removal of the saplings, which

were affixed to the earth, does not constitute

larceny. However, Assuming that the growing of

the marijuana is illegal in the jurisdiction,

that would be an unlawful act and Bob

will be guilty of conspiracy.

Larceny is the trespassory taking of the property in the possession of another, with specific intent to permanently deprive, with appropriation.

When Bob went into the house with Hugo, and began filling his pockets with money, he was trespassory taking the property of another as he did not have consent. Intent to permanently deprive can be inferred from ~~the~~ his actions, and the movement of the money from the table to his pocket was sufficient appropriation.

Burglary ~~is~~ at common law is the breaking

and entering in the dwelling of another

at night with specific intent to commit a

CR felony. ~~Modesty~~ Modesty, as it is required, can be any occupied dwelling & does not need to be at night, with specific intent to commit a crime.

When Bob entered the house with Hugo, the door

was already unlocked and it may be that he will

not be found to have 'broken' ~~the door~~ While he

entered the dwelling of another (Maude) ^{at night} & had

intent to take the money Hugo told him about,

he will not be guilty of burglary at CR. Modesty,

he will, as no breaking is required & the other

elements are satisfied as discussed above.

Test is the modern law combining burglary,

embezzlement and false pretenses + necessary stolen goods,

and since Bob will be guilty of battery at all,
he will be guilty of ~~that~~ modestly.

Assault is ~~the~~ an attempted battery at all &
also is placing another in reasonable apprehension
of imminent harm modestly. Some jurisdictions
require present ability as well.

When Bob grabbed for the hat, Maude would
reasonably be in apprehension of imminent battery
or harm. Bob will be guilty of assault but
it will merge with the more serious crime
of felony murder.

Battery is the unlawful application of
force to another.

So why
discuss?

When Bob knocked Maude against the ground piece, he committed battery by his unlawful application of force to Maude.

Felony - Murder is the killing of another in (F.M)

The commission of an ~~inherently dangerous~~

^{any} felony @ Ct. Malice is divided into

1st & 2nd Degree F.M., 1st Degree includes a

specific list of inherently dangerous felonies & 2nd Degree

includes all other inherently dangerous felonies

not enumerated at 1st Degree.

When Bob caused the death of Maude while in

the commission of larceny, ~~at~~ Ct he will be

guilty of F.M. Malice, larceny is not

an inherently dangerous felony and he will ^{good}
not be guilty of 1st M.

2nd degree murder is the unlawful killing of another
with implied malice, with intent to commit or inflict
great bodily injury or ~~act~~ with willful & wanton
disregard for value of human life.

When Bob knocked Mamma against the fireplace,
his actions were the act of the murderer
is implied by his actions. Modernly Bob will
be guilty of 2nd degree murder.

not sure
what courts
mean -
theory of
liability that
is separate from
felony murder?

Alternatively, he may be guilty of criminal negligence,
which is reckless disregard for safety of other/human
life. However, his actions caused the fact that

It would deny the common law the
unlawful act of larceny will result in guilt
of 2nd degree murder,

Crimes of Hugo

Conspiracy supra

See discussion above. Hugo will be guilty of
conspiracy under the same theory as Bob.

Burglary supra

When Hugo just entered the house, he did

so without specific intent to commit a
crime (or) or crime (murder) ^{and of necessity, possibly.}

↓ felony (or) or crime (murder)!

he left & then returned with the intent to

steal, at night in the dwelling of Maud, he

will be guilty of burglary, not at all newly.

Lenny, supra

breaking -
2d entry -

When Hugo began filling his pockets with

? The money on the table, he was temporarily

taking the property of another, with apparent intent

to permanently deprive & appropriation was done

when he moved the \$ to his pocket.

Solicitation is the request, inducement or commendation
another to commit an unlawful act.

When Hugo told Bob about the money in the

house, it may be found that he solicited Bob

to steal the money.

Attractive liability theory states that when a

1
person cooperates with another to commit a
crime, they are culpable for all foreseeable
crimes the other may commit.

When Bob knocked Anne against the
fence, mortally wounding her, it was a
foreseeable crime given that they were
trespassing in the vicinity of another at night
that the person(s) may then would attempt
to stop them & someone would be hurt or
killed in the process.

Therefore, Hugo will also be guilty of,

Felony Murder at common law or 2nd degree

murder modernly.

Why not F-M modernly?

Still in commission of burglary?

Assault Supra

When Hufo ~~attacked~~ started toward Doug with his bloody hands raised, it is reasonable that Doug was in apprehension of imminent harm. Therefore Hufo will be guilty of assault on Doug.

Crimes of Mary

Embezzlement is the fraudulent conversion of personal property entrusted by or for another, with intent to defraud.

When Mary quickly put the money in the truck, and then told Doug & Max it was missing when she arrived, she was exhibiting intent to defraud,

The mms are required for the crime. May was the property manager, who was entrusted with overseeing the operation, including hiring people to maintain the trees, pick the fruit to run the highway stand. As such it is reasonable to conclude that May was entrusted with the property. Therefore her taking of the money for her own use was embezzlement.

Fake imprisonment is the unlawful ~~physical~~ ^{physical} restraint of the liberty of another.

When May held the Bob & Hup at gunpoint & then tied them up, she was restraining them from being free to go where they wanted to go or

stay where they wanted to stay. She will
argue a degree of property. ~~About that~~
~~About that~~ privilege, she will be guilty of false
imprisonment.

Assault supra

When May held Bob & Hyp at gunpoint, she
was placing them in reasonable apprehension of
imminent harm. Therefore she will be guilty
of assault.

Battery supra

When May tied the mercy, it may be
argued that the act of tying them up
was an unlawful application of force. However, it

what
about
Robbery?

is more likely that this will be under
false imprisonment.

Larceny supra

When Mary jumped into the company truck and
drove off, she was trespassing, taking a vehicle

belonging to another, and under the circumstances
of the flight of the money it ^{is} probable to infer
that she had ^{specific} intent to permanently deprive.

The taking away was sufficient appropriation.

Alternatively, this may be embezzlement also,

like the money, as she had the keys to the
truck & may have been entrusted with it as

well as the other property to her the Aquarius

Crimes of Doug

Assault supra

When Doug began yelling at Hugo, he may have reasonably caused apprehension of imminent harm, especially since he had just found out

that his mother was dead. However, this will

merge into the greater homicide crime.

Crimes of Max

Homicide is the killing of a person at the hands of

another.

When ~~Doug~~^{Bob} & Max fired at Hugo, the result was

Hugo's death. Therefore there was a homicide

~~intentional~~ Voluntary manslaughter is an unlawful

killing, may be with intent to kill, but mitigated

from 1st degree murder by circumstances such

as imperfect self defense ^{or defense of others} or heat of passion which also

involves no cooling off period, adequate provocation and

the test is ^{how} ~~what~~ a reasonable person would respond

under the circumstances. 1st degree murder involves

express malice as the mens rea - intent to kill.

When Rex grabbed his raven wife from the truck

he may have been acting in legend. Dory ~~was~~

as Hugo was moving toward Dory with his hands

raised. He also may have been provoked by the seeing his mother.

The prosecution will argue 1st degree murder

due to the fact that he had taken the time

to go to his truck & get his rifle - may have been

adequate cooling off.

Dyane will either agree Dyane of, his brother

(see facts above) or will agree heartily

~~good~~ passion at the belly of his mother, without

time to cool off, the fact by his mother being

adequate provocation and a reasonable person

would have been so provoked.

Bob

~~1/50~~ 1/50 degree murder

Bob will be held responsible for the death of

Dyane as well, but not under FM rule,

as the word fact rule does not apply when

an accomplice is killed in the commission of a felony.