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State v Amy

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Did Amy (A) commit a homicide in the death of Velma (V)?

Homicide is the killing of one human being by another human being, it comes in two forms - lawful and unlawful. Lawful homicide is the killing of a human being with justification or excuse. Unlawful homicide is the killing of a human being without justification or excuse, it comes in two forms - murder and manslaughter. Because of the actions that A set in motion, V fell to the ground and was trampled to death, dying from her injuries, A will be found to have at least contributed to a homicide.

Did A commit murder in the death of V?

Murder is the killing of a human being with malice aforethought. Malice aforethought is an inexcusable, unmitigated, and unjustifiable person-endangering state of mind. Malice can be expressed or implied. Malice is expressed when there is reflected a deliberate intention to unlawfully take away the life of another human being. Malice is implied when the circumstances attending the killing reflect no considerable provocation or the malignant or abandoned heart. A's actions, as reflected in the fact pattern, do not show an expressed intent to kill V, only to slow her down or impede her progress towards the object of both of their desires - the Zhu Zhu toys.

Based upon the lack of required specific express intent, it is unlikely that A will be guilty of express malice murder. However, since A's battery, as discussed below, was arguably the cause of V's falling down and being trampled to death; and, as A watched and was aware of V's

predicament, but showed no signs of caring one way or the other, A may very well have malice implied against her in the death of V.

Did A commit implied malice murder in the death V?

There are three instances in which one who unlawfully kills another, while not acting with express malice, can be charged with implied malice. Those instances are during the commission of a felony at common law, and an inherently dangerous felony at modern law; with the intent to inflict great bodily injury or serious bodily harm; or while acting in wanton and willful disregard for the unreasonable risk to human life. Because A had committed a battery, as discussed below, and battery is not a felony, the felony murder rule will not apply for implied malice murder. GBI on the other hand may not be chargeable either. Though A obviously intended to stop V at all costs, it is unclear whether or not she had the specific intent to cause GBI to her - though that could certainly be implied by a kick with a steel toed boot. However, the record does not indicate how hard, where on the body, or with what force A kicked V with the boot. There may be an argument however for implied malice murder under the wanton and willful disregard to the unreasonable risk to human life (WW). Amy's lack of caring one way or the other if V was able to get up or if she was trampled, might be considered a WW and therefore result in a charge of implied malice murder under WW.

Did A commit a manslaughter in the death of V?

Manslaughter is the intentional killing of a human being without malice aforethought. It comes in two forms - voluntary and involuntary manslaughter. Voluntary manslaughter comes in two

forms - a killing in the heat of passion and imperfect self defense. A heat of passion killing requires adequate provocation, no cooling off period, and a causal connection between the passion and the killing. Since the record indicates that A was angry, the thing that would need to be proved next is whether the provocation on the part of V was of adequate provocation - adultery, words of information, or *mutual* quarrel or combat. Since the first, adultery obviously does not apply, it would not work. However, V did inform A, in a very harried situation, knowing that emotions were running high, that she would be the one to get all of the Zhu Zhus. While this could be argued as words of information, it does not seem to fit the required veracity of the words. The last provocation considered adequate is mutual quarrel or combat. However, even though V stuck her finger in A's face - this cannot be considered enough of an action to cause a defensive posture, and there is no indication of a mutual combat - the record states that A kicked V with the steel toed boot. And even though there was no cooling off period between this "provocation" and the killing, it does not appear as if A could be found guilty of voluntary manslaughter under the heat of passion.

Did A commit involuntary manslaughter in the death of V?

Involuntary manslaughter is the unintentional killing of a human being without malice aforethought, justification or excuse. It comes in two forms - criminally negligent homicide and the misdemeanor manslaughter rule. Criminally negligent homicide (CNH) results when one is engaged in a lawful act but acts without due caution or circumspection and an unlawful death results. Since Z was not engaged in a lawful activity, but was committing a larceny, as described below, she would not be able to mitigate her charge to CNH. The Misdemeanor manslaughter

rule states that when an unlawful death results from one acting in an unlawful act, usually not amounting to a felony, the actor may be charged with criminal culpability. Since A's kick to V, causing her to fall to the ground and become trampled to death was not a lawful act, it would seem at first glance that CNH would be inapplicable. However, because A placed V in the position of peril, thereby creating a duty not otherwise imposed upon her by statute, to help her out of the predicament, and ignored her duty and went about shopping - CNH may very well be applicable in this situation. A better argument for mitigation of the charges would be for misdemeanor manslaughter. A was engaged in an unlawful act, not amounting to a felony - battery, as discussed below - when an unlawful death results. A may be able to mitigate the charge to involuntary manslaughter under the misdemeanor manslaughter rule. However, because V contributed to her situation, even though A's actions really placed her in the position of harm, V must have some culpability in her own death by insisting that A be the only person helping her up, thereby mitigating the charges for A. While it was a factual cause that A's kick placed V in her peril; it was V's own intervening cause, which acted as a supervening act relieving A of some of her culpability. (Not from torts).

Did A commit an assault against V when she kicked her?

Assault at common law is the attempt to commit a battery. Attempt is the taking of significant steps towards the completion of a crime; out of the scope of preparation and into the zone of perpetration. At common law, since A not only intended to strike V, but did so, in the leg, she would be guilty of an assault on V. At modern law, an assault is the act of placing another in apprehension of receiving an immediate battery. So, if A raised her leg to strike V, and V saw

and/or apprehended the impending battery, then yes, A has committed an assault at common law. If she did not see the battery coming and was therefore not placed in apprehension of it, then no, she would not be guilty of assault - modernly.

Did A commit a battery against V when she kicked her?

A battery is the unlawful application of force to the person of another. A certainly, as the record indicates, did intend to kick V. Therefore it is clear that she applied, unlawfully, force to the person of another and would therefore be guilty of battery.

Did A commit an assault against Gretel (G) when she pushed her from her chair?

An assault is (supra). Attempt is (supra). At common law A is guilty of assault upon G because she not only attempted, but then did carry out her battery upon G.

Did A commit a battery against G when she pushed her from her chair?

A battery is (supra). When A pushed G from her chair, she applied, unlawfully, force against the person of another and did therefore commit a battery.

Did A commit Mayhem when she severed the finger of G?

Mayhem is the willful or malicious permanent scarring or dismemberment of the person of another. When A ran over G's hand with G's motorized cart, severing her fingertip, she did willfully dismember a portion of the person of another. She may be found guilty of mayhem.

Did A commit a larceny when she proceeded on from the scene with G's cart?

Larceny is the trespassory taking and carrying away of the personal property of another with the intent to deprive permanently. A's taking and carrying away of the cart, which is the personal property of another meet the requisite elements. But, at first glance it doesn't look as though the permanent deprivation element will be met, as the record is unclear on A's intent. However, because G obviously needs the cart to be mobile, and because A abandoned it outside the store, A may have gone far enough in her actions to have them be tantamount to deprivation if it is unlikely, as the record indicates, G will get her cart back. So, yes, A may be guilty of a larceny in the taking of the cart.

State v. Gretel

Did G commit an assault on A when she pretended to slap her hand away?

Assault is (supra). Attempt is (supra). When A reached for G's cart and the toys, and G pretended to slap A's hand away, it is likely that she committed an assault at modern law only. Commonly there is a requirement for the assault to be an attempted battery - however, because G was only pretending as indicated in the record, she did not have the intent - general or specific - to batter A. So, commonly G would not be guilty of an assault. However, modernly, because assault requires only an apprehension of an immediate battery, and only that the person have the apparent means of carrying it out, yes, G would probably be guilty of an assault on A. A obviously apprehended the situation, as she grew angry because of it.

State v. Velma

Did V commit an assault on A when she pointed at her face?

Assault is (supra). Attempt is (supra). Commonly there is a requirement for the assault to be an attempted battery - there is no indication that V attempted any such battery against A. Therefore, V is not guilty of a common law assault. It may be argued that V is guilty of a modern assault in that her finger pointing directly in the face of her opponent - A - might make A apprehensive that a battery was imminent. If A was placed in apprehension of an immediate battery by V's threatening action, then yes, it may be considered an assault - modernly.

State v. Dave

Did Dave (D) obtain money by false pretenses from Craig (C)?

Obtaining money by false pretenses is the obtaining of title to the money or property of another by means of fraud, trickery, or deceit. When D approached C in the parking lot, he gave no indication that the Zhu Zhus he was selling were anything but the genuine article. C, thinking he was gaining title to the Zhu Zhu genuine article, gave title of his money over to D. In the end it was shown that the Zhu Zhu was indeed fake, and not the real item C thought he was gaining title to. D obtained C's money by means of a false pretense, because he gained title of the money and C intended to pass title of the money.