

Empire College School of Law  
Professor Daum  
Criminal Law – Midterm  
Wednesday, December 7, 2011

### **QUESTION 1**

Sam started out across the moonlit fields to Vic's house. As he crossed onto Vic's property, he picked up a mushy apple from Vic's tree to eat, but he was put off by the obvious worm. He ran into Joe who was carrying an empty sack. Joe was there to take Vic's apples so he gladly obliged when Sam asked him to pick some of the high fruit because those apples would be firm, not mushy, and Sam couldn't reach them himself.

After picking several very hard, unripe apples, the two continued on toward Vic's. As they reached Vic's driveway they spotted a small shed. After trying the door, Joe noticed some loose boards on the side, so he slipped through them into the shed. He quickly noticed an old Sears catalog with pages torn. He also noticed the distinctive smell of human waste, and realized he was in an outhouse. Sam was still jiggling the door when Joe emerged with the Sears catalog. Sam said he really needed to use the outhouse, but would have to wait.

Once at Vic's, they saw a light in the window. Taking one of the hard apples from the bag, Sam threw it at the window in the front door, shattering it. Joe grabbed the mushy apple with the worm and simultaneously threw it at the door, but being the slower of the two, and too mushy to break a window, it nonetheless made its way inside through the break made by Sam's apple. The mushy apple found its mark in the ear of Harry, a homeless man who had walked through Vic's door earlier to find a warm place to sleep, knowing that Vic was off on a sabbatical to Turkey for the year. Before falling asleep, he had opened a tin of sardines from Vic's pantry, and the mushy apple startled him so that he fell off the couch onto the sharp tin, gashing his eye causing severe bleeding. His howl brought Sam running to the shattered door to check on Harry. He moved through the door, noticing two of his favorite hip-hop CD's on the table. "I though these were over here. I'm glad I came to get them" he said as he put them in his pocket with some heroin he had purchased earlier and left. The one that was his was one he'd left for Vic to repair. The other wasn't Sam's, just a copy.

What are the potential crimes that Sam, Joe and Harry can be charged with?

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### Question 2

Dave and Tina were about to be married when, on the eve of their wedding, Tina called Dave and said she had changed her mind and was off to the Barbados, their intended honeymoon spot, without him. “What about the other plane ticket?” queried Dave. “Oh, I’m taking my friend Jim. His muscled body will look much better than you with a tan.”

Dave started screaming into the phone that he would get Tina back and would kill Jim if he had to.

Several weeks later, Dave was buying beer at the 7-11 when Tina and Jim walked in with their arms wrapped lovingly around each other. They both looked tall and tan and young and lovely. Dave went up to them and demanded to speak to Tina alone. They just laughed at him. Dave grabbed one of the beer bottles and cracked Jim across the face, tearing off a piece of Jim’s nose and causing extreme bleeding, exacerbated by Jim’s extremely thin blood. Before he could bleed to death, Tina rushed Jim to the hospital. The ER doctors administered a clotting agent and saved Jim’s life.

Ten days later while having a procedure to restore his nose, Jim was given a commonly prescribed medication to which he reacted adversely, causing a seizure and death.

What is Dave’s criminal liability?