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STATE V. CALVIN

**Battery of Barry:** battery is the unlawful, harmful touching of another.

Calvin committed a battery on Barry when he picked up a stick, which can be considered a deadly weapon, and hit Barry in the head with it. Calvin had just been hit by Barry with a beer can, when he picked up the stick and hit Barry with it. This created an unlawful and harmful touching of Barry. Therefore, Calvin can be found to have committed a batter on Barry.

**Murder of Barry:** murder is death at the hands of another with malice aforethought. Malice aforethought is an unjustifiable, inexcusable, and unmitigated person-endangering state of mind. At common law, murder can be both expressed and implied. With the facts at hand, it can be presumed that Calvin had malice in the fact that he picked up a stick, which is a dangerous weapon, knowing it could cause severe damage to someone. He had a wanton and willful disregard for the safety of Barry. Under the Ireland doctrine, the assault with the stick cannot be bootstrapped as a felony-murder under the Felony-Murder rule. Therefore, he would have to be tried under the expressed or implied malice doctrine.

At modern law, murder is broken down into 1st degree murder and 2nd degree murder. Wanton and willful disregard for the safety of others falls under 2nd degree murder, as he did not have premeditation or deliberation in the death of Barry.

The defense will argue this is a case of Manslaughter. Manslaughter is death at the hands of another without malice. At modern law, these facts would indicate that Calvin was guilty of Voluntary Manslaughter. Voluntary manslaughter is found through: 1) Sudden heat of passion, 2) No adequate cooling off period, 3) a reasonable person in the same situation would have reacted in the same way. It is shown through the facts that there was a sudden heat of passion. Barry had thrown a can at Calvin, which instigated a sudden quarrel. Calvin did not have an adequate cooling off period. It can also be said that a reasonable person may act the same way in the same situation as Calvin did. It is clear that Calvin could be found guilty for the homicide of Barry.

**Assault of Sue:** assault is an attempted battery, or putting someone in reasonable apprehension of an imminent battery.

After striking Barry with the stick and rendering him unconscious, he went into the house and started waving the stick at Sue. He knew that this was extremely dangerous as he already rendered Barry unconscious. This was an attempted battery and therefore, Calvin can be found to have committed assault.

**Larceny of Sandwich and Beer:** larceny is the trespassory taking of the personal property of another with asportation and the specific intent to permanently deprive the possessor of the property.

When Calvin was told to leave Stan's house, he grabbed a ham sandwich and a beer. He took the property of Stan, he moved the food, and he had the specific intent to permanently deprive Stan of the sandwich and the beer. Therefore, Calvin can be found to have committed larceny of the sandwich and the beer.

**Larceny of Wallet and Keys:** Larceny (defined supra)

After Bobby tripped, rendering himself unconscious, Calvin went through his pockets and took his wallet and his car keys. He took Bobby's property; he moved the property and he took it with the specific intent to permanently deprive Bobby of his wallet and keys. His specific intent is shown through the fact that Calvin immediately went to the car and never returned with

it. Instead, he went to the auto row and sold the car. Therefore, Calvin can be found to have committed larceny of Bobby's wallet and keys.

**Larceny of Porsche:** Larceny (defined supra)

After committing larceny of Bobby's car keys, Calvin drove off with Bobby's car. Calvin took Bobby's car, he moved it and had the specific intent to permanently deprive Bobby of the car. His specific intent is shown by the fact that he drove it straight to the Auto Row and sold it to the dealer. He intended never to return it to Bobby. Therefore, Calvin can be found to have committed larceny of Bobby's car.

**Larceny by Trick; selling car:** Larceny (defined supra) through trick.

When Calvin took the car to the Auto Row and sold it to Greg, he made Greg believe that the car belonged to him. He told Greg that he had inherited the car from a deceased uncle, which was not the truth. Also, he altered the pink slip of the car to make it appear that he did in fact own the car. Calvin could only transfer the possession of the vehicle to Greg and could not transfer true title, therefore, Calvin could be found to have committed larceny by trick in that he tricked Greg into believing that the car was Calvin's. *Good*

STATE V. BARRY

**Battery of Calvin** Battery (defined supra)

There was a rowdy group of people over at Stan's house. They were throwing beer cans at a street sign out front of the property. It is likely that people would come walking by the property on the sidewalk and that any of the beer cans could strike someone who was walking by. The tossing of the beer can hit Calvin in the head and caused an unlawful harmful touching of Calvin. Therefore, Barry can be found to have committed a battery on Calvin.

STATE V. BOBBY

**Assault of Calvin** Assault (defined supra)

Bobby was obviously upset by the death of his brother, Barry. He sought out Calvin, the person who had killed him. When he found Calvin, he ran up to him with his fists clenched. Running up to someone with fists clenched is a clear indication of anger and being ready to commit a battery. The fact that Bobby tripped on the way was an intervening cause which made it only an attempted battery. Therefore, Bobby can be found to have committed an assault on Calvin. ✓

STATE V. DERRICK

**False Pretenses of Porsche:** False pretenses is the illegal taking of possession and title of the property of another with a material misrepresentation of past or present facts.

Derrick went to Greg's lot and offered to buy the porsche. When he went to purchase the car, he used a bank account that he had closed earlier in that day. Using that closed bank account was a material misrepresentation of present facts that he knew the check would bounce and Greg would not get paid for the car. Upon purchasing the car, he gained both possession and title of the property. Therefore, Derrick could be found to have committed false pretenses of the porsche. ✓

**Murder of Priscilla:** murder (defined supra)

The murder of Priscilla would be considered a depraved heart murder in that he wantonly and willfully disregarded the life of others. He did this by the fact that he was driving

under the influence of alcohol. He was working on his second bottle of brandy, celebrating his new purchase of the porsche. It is also shown that he was driving at a very high speed. His excessive speed caused him to miss a stop sign and hit another car. This created his wanton and willful disregard for the lives of all other motorists on the road that night. His state of mind could be shown through the fact that he sat and thought about the DUI classes and the videos he watched. By attending DUI classes, he knew what the dangers of drunk driving were and he volitionally disregarded them and decided to drive drunk on the road at an excessive rate of speed. Therefore, Calvid could be found to have committed the murder of Priscilla.

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STATE V. BOB

**Larceny of saplings:** larceny is the trespassory taking of the personal property of another with asportation and the specific intent to permanently deprive the possessor of the property.

Here, Bob and Hugo pulled up 30 saplings in order to take them and sell them back to their owners. The trespassorily to the property of another with the specific intent to permanently deprive. Unfortunately, under common law, they could not be found guilty of larceny because the saplings were still part of the real property. They were attached to the earth. They would have had to pull out the saplings and left them there, left, and given adequate time for the owners of the property to possess them. Therefore, we have an issue with possession in this case. The owners did not technically have possession of the property before it was taken. Therefore, Bob cannot be found guilty of larceny of the saplings at common law.

**Modern Law Burglary:** (common law burglary defined infra under Hugo) at modern law, burglary is the entering of a structure with the specific intent to commit a felony or theft therein.

The facts in the present case show that Hugo had come out of someone's house and told him that there was a pile of money on the table and that the house had been unlocked. Bob entered the house with Hugo with the specific intent to steal the money that was there. Therefore, Bob can be found to have committed a burglary at modern law.

**Felony-Murder of Maude:** Felony-Murder is a death at the hands of another that occurs during the commission of an inherently dangerous felony.

Burglary is considered one of the inherently dangerous felonies under common and modern law. Bob was in the commission of a burglary when Maude appeared with a baseball bat. Bob grabbed for the bat and she fell, getting mortally wounded in the process. Cases like these are the reason that certain felonies apply to the felony-murder rule. It is foreseeable that someone would get severely injured during the commission of these inherently dangerous felonies and the public needs to be protected from such offenses. Bob was in the commission of a felony when Maude died as a result of their act and can be found guilty under the felony-murder doctrine.

**Murder of Hugo:** murder is death at the hands of another with malice aforethought. Malice aforethought is an unjustifiable, inexcusable, and unmitigated person-endangering state of mind. At common law, murder can be both expressed and implied.

Under this set of facts, it can be shown that Bob committed an expressed malice murder of Hugo. Hugo was the only witness to the fact that it was Bob who had committed the actual murder of Maude. Hugo had his hands up and was trying to explain things to Rex. While he was trying to explain, both Bob and Rex fired at Hugo. Either shot could have been a fatal shot, so

Bob could be found guilty of Expressed Malice Murder.

#### STATE V. HUGO

**Larceny of saplings:** larceny is the trespassory taking of the personal property of another with asportation and the specific intent to permanently deprive the possessor of the property.

Here, Bob and Hugo pulled up 30 saplings in order to take them and sell them back to their owners. The trespassorily to the property of another with the specific intent to permanently deprive. Unfortunately, under common law, they could not be found guilty of larceny because the saplings were still part of the real property. They were attached to the earth. They would have had to pull out the saplings and left them there, left, and given adequate time for the owners of the property to possess them. Therefore, we have an issue with possession in this case. The owners did not technically have possession of the property before it was taken. Therefore, Hugo cannot be found guilty of larceny of the saplings at common law.

**Common Law and Modern Law Burglary:** (modern law burglary defined supra). Common law burglary is: 1) breaking, and 2) entering of 3) dwelling of another 4) at night, with 5) the specific intent to commit a felony or theft therein.

The facts in the present case show that he broke into the house using his pocket knife, thus satisfying the breaking element. He entered the house. It was a dwelling of another as Maude was there asleep. This was at night and he had the specific intent to commit a felony or a theft in the house. Once he broke into the house, he was called by Bob. He left the house then immediately returned to steal the money that was there. He could be found guilty of both modern law burglary and common law burglary as all of the elements were satisfied.

**Felony-Murder of Maude:** Felony-Murder is a death at the hands of another that occurs during the commission of an inherently dangerous felony.

Burglary is considered one of the inherently dangerous felonies under common and modern law. Hugo was in the commission of a burglary when Maude appeared with a baseball bat. Bob grabbed for the bat and she fell, getting mortally wounded in the process. Cases like these are the reason that certain felonies apply to the felony-murder rule. It is foreseeable that someone would get severely injured during the commission of these inherently dangerous felonies and the public needs to be protected from such offenses. Although it was Bob who reached for Maude and caused her death, both perpetrators of the crime can be found guilty of the crime of felony-murder when an innocent victim dies during their crime. Hugo is therefore just as liable for the crimes of Bob as he would be for his own. Therefore, Hugo can be found guilty under the felony-murder doctrine.

#### STATE V. MARY

**Assault with a deadly weapon:** assault is an attempted battery, or putting someone in reasonable apprehension of an imminent battery.

In the present case, Bob and Hugo ran from the house they were burglarizing. Mary held them at gunpoint and demanded the money. Beings that Mary oversaw the the property and the employment of the business, she had reason to confront Bob and Hugo, who were in the process of stealing. However, it is shown through her mens rea that she was intending to protect the property. She demanded the money back from Bob and Hugo; however she demanded it back to take possession of it herself. Therefore, there was no justification for the assault with the gun on Bob and Hugo.

**Robbery:** robbery is theft through force or fear.

The facts of the case show that Mary held a gun on both Bob and Hugo. She had a right

to demand the money back from them as an employee of the business. However, instead of rightfully taking the money back for the business, she took the money for herself. The fact that Hugo and Bob had just illegally taken the money does not preclude the robbery of the same. Therefore, Mary could be found to have committed a robbery of Bob and Hugo. *good*

**Modern Law Burglary:** (defined supra)

After Mary took the money back from both Bob and Hugo, she entered the house that had just been burglarized, with the specific intent to take the rest of the money that was on the table. She could not be found to have committed a burglary at common law. She did not break into the house; which would be seen simply as a crime of opportunity. Therefore, Mary could be found to have committed burglary at modern law. ✓

**False Pretenses:** False pretenses is the illegal taking of possession and title of the property of another with a material misrepresentation of past or present facts.

When Doug and Rex arrive, Mary had possession of all of the money. She made a material misrepresentation of present facts when she told both Doug and Rex that the money was gone when she arrived. By taking the money and fleeing the scene, she gained both title and possession of the money. Therefore, she could be found to have committed false pretenses of the money. *it's a vol. transfer based on the misrepresentation*

**Battery of Hugo:** battery is the unlawful, harmful touching of another.

In the present case, both Hugo and Bob tried telling Doug and Rex that Mary was the one who actually had the money. When they tried speaking, she fired her gun at Hugo and hit him in the leg. This caused an unlawful, harmful touching of another. Therefore, she could be found to have committed a battery of Hugo. *They knew? She had \$?*

STATE V. REX

**Murder of Hugo:** murder is death at the hands of another with malice aforethought. Malice aforethought is an unjustifiable, inexcusable, and unmitigated person-endangering state of mind. At common law, murder can be both expressed and implied.

Under the present set of facts, it appeared to Rex that Hugo was the murderer of Maude. Doug was in the process of confronting Hugo and Hugo was walking with his hands raised. It was clear that Hugo did not have a weapon in his hands and was merely trying to explain what had happened. Malice can be shown through the fact that Rex shot and killed Hugo, who was apparently unarmed and had his hands up in the air. Therefore, Rex can be found to have committed the murder of Hugo.

The defense will argue this is a case of Manslaughter. Manslaughter is death at the hands of another without malice.

**Involuntary Manslaughter** at modern law in criminally negligent murder or can be shown through an imperfect self defense or excessive force in self defense.

Involuntary manslaughter may be shown in this case. Rex believed that he was dealing with Maude's murderer. Hugo was covered in blood and was approaching Doug. After having already (seemingly) committed a murder, both Doug and Rex would have reason to believe that Hugo was dangerous. Hugo started toward Doug, which could be seen to have been a confrontation rather than an attempt to explain. Doug had been yelling at Hugo and the situation had seemed to be escalating. However, many courts have not mitigated the use of excessive force in the defense of others. Still, it can be found that Rex committed involuntary manslaughter of Hugo.

STATE V. DOUG

**Assault of Hugo:** (defined supra)

In the present case, Doug found his mother dead in the house. He went back outside and assumed that Hugo had committed the crime because he had blood all over him. He started screaming at Hugo. He could have created a reasonable apprehension of an imminent battery. A situation such as this could easily have escalated into a battery between Doug and Hugo. Therefore Doug could be found to have committed an assault on Hugo.

**END OF EXAM**