

1)

===== Start of Answer #1 (1890 words) =====

85%

People v. Clo

Is Clo guilty of committing False Pretenses when she Switched price tags on the dresses and purchased it?

False Pretenses is the false representation of a past or present material fact that causes the victim to pass title to the wrongdoer, who knows his representation to be false and thereby intends to defraud the victim.

Here, Clo knowingly and purposefully switched price tags between the \$300 pretty dress and the \$50 ugly dress. She then purchased the \$300 for \$50 using the false price tag, which she knew to be false. The store passed title in the transaction: Clo received the dress to keep permanently.

Therefore, Clo is guilty of committing a false pretense.

Is Clo guilty of committing a Larceny when she took the dress by a false pretense?

Larceny is the trespassory taking and carrying away of the personal property of another with intent to permanently deprive. Larceny by-trick is larceny, but where there would otherwise be no trespass due to the consent of the victim, their consent is vitiated by lies, fraud, or deceit.

Here, Clo trespassed when she purposefully and knowingly switched the tags on the dress, resulting in the store making \$250 less in revenue. She effectively took and carried away that value when she paid only \$50 for the dress instead of \$300. Clo intended to permanently deprive the store of receiving that money, as there are no facts to suggest she would return to pay the full value.

Therefore, Clo will be guilty of taking and carrying away the extra \$250 (in the form of the dress), and therefore, its Larceny.

Is Clo responsible for Betty's Homicide when she chased her and died in pursuit?

which is it?

Homicide is the lawful or unlawful killing of a human being by another human being. Lawful homicides are justifiable or excusable. Unlawful homicides are murder or manslaughter.

Here, Betty was chasing Clo as a result of Clo's theft, and died in pursuit.

Therefore, Clo is responsible for Betty's Homicide.

Is Clo guilty of murder?

Murder is the unlawful killing of another with malice aforethought. Malice is a man endangering state of mind. Malice may be either express or implied.

Express Malice Murder means intent to kill. Express Malice Murder can be mitigated to Voluntary Manslaughter.

Here, there are no facts to suggest that Clo intentionally killed Betty.

Therefore, there is no Express Malice Murder.

Implied Malice Murder is murder, but the requisite malice will be implied from any of the following circumstances:

1. *Felony Murder Rule*: While in the commission of a felony, some dies.

At Common Law: Felonies are MRMRS LAMB

At Modern Law: Felonies must be inherently dangerous in the abstract (Larceny is not).

2. *Intent to inflict Great or Serious Bodily Injury* short of death, but the person dies.

3. *Wanton, Wilful, Conscious disregard for the value of human life* (depraved-heart murder).

Implied Malice Murder may be mitigated to Involuntary Manslaughter.

Here, Betty died in pursuit of Clo. Betty was pursuing Clo due to Clo's Larceny of the dress. Clo was not

outside the res gestae of the crime (she had not reached a place of safety), and therefore Betty's pursuit was still part of the Larceny.

Therefore, at common law, Clo may be found guilty of Implied Malice Murder under the Felony Murder Rule for Larceny.

Modernly, however, Larceny is not inherently dangerous in the abstract, so no murder.

Is Clo Guilty of Voluntary Manslaughter?

Voluntary Manslaughter is the intentional killing of another without malice aforethought.

Voluntary Manslaughter comes in two forms:

1. *Heat of Passion* killings, which require heat of passion, adequate legal provocation, no cooling off period, and a causal link between the act or omission and the death.

2. *Imperfect Self Defense*, which involves the subjective belief deadly force is reasonable for self preservation, but it is not objectively reasonable.

Here, there are no facts supporting a charge of Voluntary Manslaughter under either prong.

Therefore, Clo will not be guilty of Voluntary Manslaughter.

Is Clo Guilty of Involuntary Manslaughter?

Involuntary Manslaughter is the unintentional killing of another without malice aforethought.

Involuntary Manslaughter has two forms:

1. *Misdemeanor Manslaughter Rule*: While in the commission of an unlawful act not amounting to a felony, death is the proximate result.

2. *Criminal Negligence*: While in the commission of a lawful act, without due caution and circumspection, death is the proximate result.

Here, Clo was in the commission of an unlawful act (not amounting to a felony) when she committed false

pretenses to obtain the dress, and Betty's death was the proximate result. In addition, *modernly*, Clo could be charged under the misdemeanor manslaughter rule with both the false pretense *and, modernly*, the larceny.

Therefore, Clo will be found guilty of Involuntary Manslaughter under the Misdemeanor Manslaughter Rule.

Is Clo guilty of the Burglary of Adam's room?

Burglary is the trespassory breaking and entering into the dwelling of another in the nighttime with the intent to commit a felony (therein). At common law, the dwelling must be within the curtilage.

Here, Clo was a guest at Adam's party, which was presumably at his house, but it's unlikely that she was invited into the bedroom. It's not clear from the facts whether the door was opened to enter his bedroom. If the door was opened, then there was a breaking, at night, and she entered his bedroom, which is trespassory if it wasn't invited. Clo had seen purses and coats in the bedroom. If Clo was intending to take the money upon her entering (larceny, *infra*), then she will be found guilty of common law Burglary.

Therefore, if the entry into the bedroom was trespassory (uninvited), and if she opened the door, and if she intended to steal the money when she entered, then she will be found guilty of common law burglary.

Modernly, however, burglary no longer requires the elements of breaking, dwelling, or nighttime, and felonies includes any theft related offense (false pretenses and embezzlement).

Therefore, since breaking is not required, it does not matter whether the door was opened or closed. So long as Clo was not invited into the bedroom, and she intended to steal the money upon entering, then she will be guilty of burglary, *modernly*.

Is Clo guilty of Larceny of the Money from the purses?

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

Here, Clo rummaged through purses not belonging to her, and without permission, which was trespassory. She took the money, which did not belong to her, and carried it away with the intent to keep it and deprive its owners.

Therefore, Clo will be found guilty of Larceny of the purses.

Does putting the money back vitiate or defend Clo's Larceny of the money?

No, Clo took and carried away the money as soon as she removed it from the purses, and her intent to deprive the owners was contemporaneous with that taking and carrying away.

Her later regret will not vitiate the charge of Larceny.

Therefore, Clo will still be guilty of Larceny of the money from the purses even after returning it.

Is Clo guilty of Larceny of the \$1,000 in the Envelope marked 'Clo'?

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

Here, Clo took the \$1,000, which she kept and carried away. However, if Clo asserts a Claim-of-Right defense, her genuine but mistaken belief that the \$1,000 was meant for her will vitiate any intent to permanently deprive.

Therefore, Clo will not be guilty of the Larceny of the \$1,000 if she evokes a Claim-of-Right/Mistake of Fact defense.

Is Clo guilty of a False Pretense when she returned the dress for \$300?

False Pretenses is the false representation of a past or present material fact that causes the victim to pass title to the wrongdoer, who knows his representation to be false and thereby intends to defraud the victim.

When Clo went to return the dress, she misrepresented that she had paid \$300 (she had only paid \$50) and that she had lost the receipt, and Donnatella, relying on this misrepresentation of fact, allowed her to return it for the full \$300. Donnatella passed title to the money when she gave it to Clo.

Therefore, Clo will be guilty of a false pretense of the \$300.

Is Clo guilty of a Larceny for taking the \$300?

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

Clo, after receiving the \$300 by false pretense (*supra*), then took and carried away the \$300 with the intent to permanently deprive the store.

Therefore, she will be guilty of Larceny of the \$300.

It is one or the other - not both!

Is Clo guilty of Burglary when she went to return the dress?

Burglary, *supra*.

There is no common law burglary, because Clo entered the store during the day, and the store was not a dwelling.

Therefore, Clo did not commit common law burglary.

Burglary, *modernly, supra*.

Modernly, Clo entered the store with the intent to return the dress for full value, which included the intent to commit a larceny (*supra*) of the \$300 once received.

Therefore, Clo will be guilty of modern law Burglary of \$300.

Is Clo guilty of the Assault and Battery of David when she hit him with her car?

Battery is the unlawful application of force upon the person of another. Unlawful means unconsented-to.

Assault, at *common law*, is an Attempted Battery.

Assault, *modernly*, is placing a person fear or apprehension of receiving a battery.

An attempt is a substantial step toward the commission of a crime, and/or an act beyond preparation into the zone of perpetration. An attempt may be vitiated by a legal impossibility, but not a factual impossibility.

Clo sped out of the parking lot when she left in a hurry and hit David, who clearly did not consent to being

hit with a car.

Therefore, Clo will be guilty of Battery.

There are no facts to indicate whether Clo attempted to hit David or not. If she did, then there will be an Assault at common law. If David feared or apprehended the battery, then there will be an assault at modern law.

Therefore, Clo will be guilty of assault only if she attempted to hit David, or put him in fear or apprehension of being hit (modernly).

Is Clo guilty of the Attempted Murder / Manslaughter of David?

Murder, Manslaughter, *supra*. Attempt, *supra*.

It's not clear from the facts whether Clo intended to hit David. It's likely she did not intend to kill him.

Therefore, no express malice murder.

If Clo intended to hit him, which would clearly cause great or serious bodily injury, then she may be found guilty of murder under implied malice from intent to inflict great or serious bodily injury.

If Clo was driving so wantonly that hitting David was so inevitable it may be that her conduct was wanton and willful, but the facts do not make this clear.

Clo could possibly be charged with Attempted Voluntary Manslaughter, depending on whether intent to inflict great bodily injury or wanton willful, conscious disregard of human life is proven.

There is no such thing as Attempted Involuntary Manslaughter, so criminal negligence and misdemeanor manslaughter rule are not appropriate.

===== End of Answer #1 =====

2)

===== Start of Answer #2 (1720 words) =====

People v. Ace

80/70

Did Ace commit Burglary when he entered Charles' home?

Burglary is the trespassory breaking and entering into the dwelling of another in the nighttime with the intent to commit a felony (therein). At common law, the dwelling must be within the curtilage.

Ace did trespass when he entered Charles' property. He broke when he moved the curtains (regardless of the window being open, the slightest movement of the curtain will constitute a breaking), and he thereafter entered his house. Ace did this at night.

However, it's unclear if Ace intended to commit a felony upon his entering. It appears he was attempting to beat Charles up, which would be a battery (misdemeanor), and not a felony.

Therefore, Ace did not commit a burglary upon entering the home.

Modernly, burglary has eliminated breaking, dwelling, and nighttime, and the list of felonies has been extended to include any theft related offense (false pretenses and embezzlement).

However, there are no facts to suggest that Ace intended to commit any felonies.

Therefore, Ace did not commit a burglary at modern law.

Did Ace commit a Larceny of the butcher knife when he took it from Charles' kitchen?

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

The knife did not belong to Ace, and he was in Charles' house by trespass. He took the knife, and carried it with him. There are no facts suggesting whether or not he intended to permanently deprive Charles of the knife, however.

Therefore, there is likely no larceny.

Did Ace commit a Burglary when he entered Charles' bedroom?

Burglary, *supra*.

Here, Ace opened the bedroom door and entered, sufficient for a breaking and entering in the night. The house was Charles' dwelling house. Although it's not immediately clear whether Ace intended to commit a mayhem (infra) upon entering, he grabbed a knife before proceeding to the bedroom, leading to a reasonable inference that he intended to commit a mayhem (a felony).

Therefore, Ace will be guilty of Burglary at common law.

Modernly, burglary has eliminated breaking, dwelling, and nighttime, and the list of felonies has been extended to include any theft related offense (false pretenses and embezzlement).

These changes do not change the outcome of the common law burglary facts discussed *supra*.

Therefore, Ace will be guilty of Burglary at modern law.

Did Ace commit a Mayhem of Bobbi's foot?

Mayhem is the malicious dismemberment of the body part of another. Malice is a limb endangering state of mind.

Here, Ace began violently swinging the butcher knife, and wanted to teach Charles a lesson by cutting off his foot. His express malice in intentionally dismembering Charles' foot is sufficient.

Ace may argue that he intended to cut off Charles' foot, and not Bobbi's foot, so the requisite malice was not there. The intent, however, is to dismember the limb of another—not to dismember a specific person's limb.

Ace may also argue that he only *attempted* Mayhem because Bobbi's foot was prosthetic, and not real. An attempt is a substantial step toward the commission of a crime, and/or an act beyond preparation into the zone of perpetration. Ace may try to argue that it was a legal impossibility for him to commit the attempted mayhem, because Bobbi's foot is prosthetic. However, his mistake in cutting off her prosthetic foot was a factual impossibility, not a legal impossibility, and his mistake of fact will not vitiate a charge of attempt. Regardless, he actually completed the act.

Therefore, Ace will be found guilty of Mayhem of Bobbi's foot.

Did Ace commit Assault and Battery of Bobbi when he cut off her foot?

Battery is the unlawful application of force to another. Unlawful means unconsented-to.

Assault, at common law, means an *attempted battery*. *Modernly*, an Assault is placing a person in fear or apprehension of receiving a battery.

An attempt is a substantial step toward the commission of a crime, and/or an act beyond preparation in the the zone of perpetration.

Here, Ace attacked who he assumed to be Charles, but turned out to be the sleeping Bobbi with a knife. This was an unconsented to act.

Therefore, Ace will be found guilty of common law assault and battery of the foot. *Modernly*, however, no assault, because Bobbi was asleep and did not fear or apprehend the battery.

Is Ace responsible for the Homicide of Charles?

Homicide is the lawful or unlawful killing of a human being by another human being. Lawful homicides are justifiable or excusable. Unlawful homicides are murder or manslaughter.

Here, Ace stabbed Charles, and Charles died.

Therefore, Aces is responsible for Charles' Homicide.

Is Ace guilty of the murder of Charles?

Murder is the unlawful killing of another with malice aforethought. Malice is a man endangering state of mind. Malice may be either express or implied.

Express Malice Murder means intent to kill. Express Malice Murder can be mitigated to Voluntary Manslaughter.

Here, Ace likely intended to kill Charles when he attacked him with the knife.

Therefore, if he intended that Charles die, Ace will be guilty of Murder (express malice). Ace may mitigate to Voluntary Manslaughter (discussed infra).

Implied Malice Murder is murder, but the requisite malice will be implied from any of the following circumstances:

1. *Felony Murder Rule*: While in the commission of a felony, some dies.

At Common Law: Felonies are MRMRS LAMB

At Modern Law: Felonies must be inherently dangerous in the abstract (Larceny is not).

2. *Intent to inflict Great or Serious Bodily Injury* short of death, but the person dies.

3. *Wanton, Wilfull, Conscious disregard for the value of human life* (depraved-heart murder).

Implied Malice Murder may be mitigated to Involuntary Manslaughter.

Here, Charles died when Ace attacked him with the knife. He was committing a burglary (a felony), and possibly not yet outside of the *res gestae* of the mayhem.

Therefore, Ace may be found guilty of Murder under the Felony Murder Rule.

More likely, Ace was at least intending to inflict Great or Serious Bodily injury when he stabbed Charles, and Charles died.

Therefore, Ace will be found guilty of Murder for Intent to inflict Great or Serious Bodily Injury.

Is Ace Guilty of Voluntary Manslaughter?

Voluntary Manslaughter is the intentional killing of another without malice aforethought.

Voluntary Manslaughter comes in two forms:

1. *Heat of Passion* killings, which require heat of passion, adequate legal provocation, no cooling off

period, and a causal link between the act or omission and the death.

2. *Imperfect Self Defense*, which involves the subjective belief deadly force is reasonable for self preservation, but it is not objectively reasonable.

Here: Ace was acting out of the heat of passion (an emotional urge so great as would sway the reason of a reasonable person) as his passions were inflamed by seeing a picture of his spouse with Charles, and then seeing her in his bed, and could argue that seeing his wife in Charles' bed was a legally adequate provocation, which he took as evidence of an affair. Ace had no opportunity to cool off between seeing his wife in Charles' bed, and Charles' entrance into the bedroom. Ace's actions caused Charles' death.

Therefore, Ace will be guilty of Voluntary Manslaughter (if not Murder, supra).

Is Ace Guilty of Involuntary Manslaughter?

Involuntary Manslaughter is the unintentional killing of another without malice aforethought.

Involuntary Manslaughter has two forms:

1. *Misdemeanor Manslaughter Rule*: While in the commission of an unlawful act not amounting to a felony, death is the proximate result.

2. *Criminal Negligence*: While in the commission of a lawful act, without due caution and circumspection, death is the proximate result.

Here, there are no facts to support involuntary manslaughter.

Therefore, Ace will not be found guilty of Involuntary Manslaughter.

Is Ace guilty of Burglary of the Garage?

Burglary, supra.

Ace, in attempting to conceal the crime, and still in the nighttime, kicked open Charles' door, and entered the garage. If Ace was contemporaneously intending to commit Arson (infra), then he will have committed common law burglary.

Therefore, if Ace were intending to commit Arson upon his breaking and entering, he will be guilty of Burglary of the garage, both at common law and modernly.

Is Ace guilty of Arson of the house?

Arson is the malicious burning of the dwelling house of another. Malice is a dwelling endangering state of mind.

Ace intended to cover up his crime when he went looking for a gas can, emptied it inside the house, and lit the gasoline on fire.

Therefore, Ace is guilty of Arson.

Is Ace guilty of Mayhem for Bobbi's other lost leg?

Mayhem, supra.

Although Ace may not have intended for Bobbi to lose her leg when he left her in the snow and drove off, he should have realized it was substantially certain to result, since she could not walk (having lost her prosthetic foot to mayhem, supra), and it was freezing outside (snow). It is a substantial certainty that someone will get frostbite if they are left outside in the snow. It can be presumed that, because she was sleeping, she was not wearing anything substantial to prevent frost bite.

Therefore, malice will likely be implied, and Ace will be found guilty of Mayhem of Bobbi's other leg.

Furthermore, because Ace is the one who imperiled Bobbi by placing her in the circumstances of having a missing limb, and being in the snow, he owed her a duty under the law to protect her.

Is Ace guilty of Attempted Murder / Manslaughter of Bobbi?

Murder, supra.

Manslaughter, supra.

Attempt, supra.

It is unlikely that by leaving Bobbi in the snow, Ace intended to attempt her death. Therefore, there is no

murder under express malice.

Ace was being wanton, willfull, and was in conscious disregard when he left an imperiled Bobbi to stand alone in the snow, with just one foot (a condition he created). Only someone with a depraved heart would leave someone in that condition. Furthermore, she being his wife, and he having been the one who imperiled her, he owed her a legal duty to aid in her rescue. His leaving her constituted a negative act-- that is, an omission to act where action is required by law.

Therefore, Ace will likely be found guilty of Attempted Voluntary Manslaughter.

===== End of Answer #2 =====

END OF EXAM