

1)

People v. Joe, Tom and Sue

Did Joe commit the crime of conspiracy when he asked Tom to help him steal the stove from Val's house?

Conspiracy: CL: Two or more agree to commit an unlawful act or a lawful act unlawfully. Need intent to commit substantive crime. Modern: Requires an overt act by one of the parties

Joe solicited Tom to help him ^{rule? Morgan? etc.} commit a larceny against Val of the stove. Because Tom agreed to help him do this a conspiracy was formed thereby satisfying the CL requirements. Then, when Joe started the pick-up truck it satisfied the modern requirements because it was in furtherance of the conspiracy's objective, to steal a stove and a dishwasher from Val. Then they meet Sue, a hitchhiker and tell her of the plan and she decides to accept a ride from them anyway, and once they get to Val's house helps them hoist up the stove into the truck.

Joe and Tom and SUE have a conspiracy because they all agreed either expressly or implicitly (starting the car, getting in the car and not objecting to a crime and then helping move the stolen merchandise,) they will be liable for any crimes committed by each other in furtherance of the conspiracy (natural and probable consequences) as long as one does not withdraw with an affirmative action.

Have all three committed a criminal trespass?

Criminal Trespass: the unlawful entrance onto another's property or structure.

Val's has a locked gate that Joe hacks open, clearly no one has Val's permission to be there because he fired Joe and the other two were never employed.

All three have committed criminal trespass against Val.

Have all three committed malicious mischief against Val's gate?

Malicious mischief: maliciously destroying or damaging of another's property.

When Joe hacks open the gate he has destroyed the lock/damaged the gate. All three with share in the liability of the crime because it was in furtherance of the conspiracy.

All three are liable for malicious mischief against Val's gate.

Have J, T, and S committed a burglary of Val's house?

Burglary: CL: Breaking an entering of dwelling house of another at night with intent to commit a felony therein. ML: without night time, no breaking and can be fulfilled with a theft crime.

When they arrive at Val's there is a locked gate that Joe hacks open, which would be a breaking of the curtilage, not of the dwelling. When they arrive he sees the stove in the garage which as suggested by the facts is open and so no breaking at the house. It is also unclear as to what time of day this story takes place, so if not at night time there could be no CL burglary. However, there is an entering (the garage is a structure) and there is intent to steal the stove.

All three are liable for modern burglary through conspiracy/accomplice liability and all three helped move the stove so all three entered the structure. None are guilty of CL burglary because there was no breaking and we do not know when the events took place.

Have all three committed a larceny of the stove and box labeled "dishwasher"?

Larceny: trespassory taking and carrying away of another's property with intent to permanently deprive (or significantly affect owners ability to retrieve property)

Attempt: a move beyond mere preparation into the zone of perpetration of the substantive crime.

Here, all three helped load up the stove into the truck, taking a stove that belonged to Val without his permission, with the intent to permanently deprive him of its use. They drive away with the stove and so have moved the stove and have it under their control. Joe, might have a claim of right defense to the larceny because Val never paid him the 1k he owed him for the construction job. However, when Joe sees the stove he notices that it is trimmed with gold making it worth more than 1k. This would eliminate his defense because he still takes the stove knowing its increased value. The box labeled "dishwasher" was actually filled with broken pieces of brick from the construction and so all three would potentially argue that they were not taking anything of value. The actual object might have been abandoned and worth nothing but they could still be charged with an attempt because if the facts were as they thought they were they would have still committed a crime.

All three are liable for larceny of the stove and attempt to steal the dishwasher.
*what if Joe had a claim of right defense?
 How would that affect the conspiracy?*

Are all three liable for the death of Zeke?

Does anything in the facts suggest a voluntary?

Homicide is the killing of another human being that can either be lawful or unlawful. Unlawful is murder, requires malice aforethought a people endangering state of mind that is not mitigated or justified by the circumstances. Malice can be found either implied or express, implied malice is found with intent to cause SBI or GBI, recklessly (depraved heart), or through Felony Murder, the felony must be inherently dangerous for modern includes when the felons are fleeing until they reach a zone of safety, CL included rape, burglary, robbery, etc.... Express malice is found with premeditation, weighing the pros and cons, then lying in wait, or poisoning, etc...having an intent to kill.

Voluntary manslaughter is found through heat of passion with adequate provocation, that provoke D, a reasonable person would be provoked and not cool down and D does not cool down. It can also be found through imperfect self defense when excessive force was used for a reasonable man, but subjectively D thought it was necessary. Involuntary manslaughter is found through criminal negligence, which has to be EXTREME negligence or misdemeanor manslaughter, violation of a misdemeanor malum en se, or malum prohibitum.

Here, all three were fleeing from several felonies, including a burglary, rape, larceny, etc... Under the CL could easily be liable for felony murder rule for having the untied boxes fall and hit Zeke and kill him because this was part of their escape and it is foreseeable that part of the loot might fall off the car if tied down negligently. Modernly, larceny and burglary are not necessarily inherently dangerous if there are no weapons and there were no weapons. But since Joe committed a rape against Sue, might be able to use that to find him liable and the other's liable through accomplice liability excluding Sue. Sue might have a defense of Duress because she refused to get in the truck when they were leaving the area and that would count as

*→ in CA it
 can be only
 459.
 see § 159*

an affirmative act, severing her liability for the crimes of her accomplices
 The facts do not support voluntary manslaughter, but criminal negligence could be found through Tom negligently tying down the box and misdemeanor manslaughter if the felonies committed were not inherently dangerous, depending on if the jurisdiction follows modern or CL. Also just because the tires were bald and there were no seatbelts, and it can be argued that Z contributed to death this is NO DEFENSE to the actions of the the three.

Joe and Tom could be found liable for Zeke's death through CL felony murder while Sue would be excused for Duress. V's contributory negligence not a defense

People v. Sue

Larceny of the knife, No intent to permanently deprive

Burglary when stole knife: No had no intent to do larceny so no intent to committ a theft crime or felony.

*what about her eagerness to "get more stuff" ?
 Any evd she intends to return the knife?*

People v. Tom

Did Tom commit an assault and battery of Sue?

Assault: is an attempted battery under CL. Modern: fear of apprehension of battery.

Battery: unlawful use of force against another.

Tom fondled Sue and she "rebuffed him" and said she liked guys that looked like Joe instead. Therefore it was an unlawful touching. There is no mention of apprehension so only meets CL standard. This crime was also not naturally foreseeable or in furthernece of the conspiracy and so only Tom is liable for assault and battery against Sue.

sexual

People v. Joe

Did Joe rape Sue?

not his wife

Rape: is having intercourse with another against their will (without consent)

Here, Sue had said earllier when Tom tried to make moves on her that she preferred guys that looked like Joe. Also she "cried softly" when Joe removed her clothing and had sexual intercourse with her. However, Sue was suspecting he might "try something" on her and so she grabbed a knife and put it in her purse when they entered the house. Also, she did not want to get back in the truck with them when they were leaving the scene of the crime. The facts strongly suggest it was against her will.

Joe is liable for raping Sue, again the crime does not seem in futherence of the conspiracy and so he would be the only one liable. *JOE'S subjective awareness of "consent". "MAYBE" Rule?*

Did Joe commit a burglary of Val's house?

Burglary, supra

Joe forces the door of Val's house with Sue's hand and enters the kitchen, suggesting they lie down and have intercourse therein. If this story takes place at night time it would still not fulfill all elements of CL burglary, there was a breaking (forcing of the door), entrance into the kitchen, but it might not be a dwelling because the house seems to be unfinished and therefore not inhabited as of yet. Also again we do not know if its nighttime. However under modern burglary all elements would be fulfilled because he entered the structure with intent to rape Sue as shown by his smirk and immediate question about having intercourse.

Joe is guilty of Modern burglary and this is not infurthernece of conspiracy so the others would not be liable.

Steak knife = evid. of habitation?
Kidnap of Sue? False Dup.? More on duress rule for Sue.
Toni's crim. intent vs. Joe's. Real meeting of the minds?

2)

Crimes of George

Has George committed an assault and battery on the 3 teenage boys wearing hoodies?

Attempt: Movement beyond mere preparation into the zone of perpetration by taking a substantial step towards substantive crime

Assault: an attempted battery. CL: an unsuccessful battery Modern: putting the other person in fear and apprehension of a battery

Battery: unlawful use of force on another

George is a former mental patient diagnosed with paranoid schizophrenia living in a half-way house. He has a no alcohol condition placed on him by his treating psych. Unfortunately Rick, the director buys "near beer" normally, but the clerk at Safeway has made a mistake and given him real beer, George discovers this and drinks it. George becomes intoxicated and this makes him think that the teenagers are emissaries of the devil and so he grabs a baseball bat and strikes the, knocking one out and breaking the arm of Sid. This kids likely see him swinging and he makes contact meaning a CL and modern assault has been fulfilled. It is also unlawful force to hit others with baseball bats. HOWEVER, George could use the insanity defense, under the M'naughten rule a person is insane if they do not know the nature and quality of their acts or if they cannot tell right from wrong. George most likely knows the nature and quality because he wants to stop the devil so he would grab something to hit the devils but he does not appear to know right from wrong because the facts do not say anything about that. There are other tests such as the irresistible impulse test, Durham product test. George would qualify for insanity under those as well because trying to swat at devil minions seemed irresistible even if the facts suggested he knew it was wrong and the Durham test because his actions were the product of his insanity which we know is heightened when he consumes alcohol and he did here.

George is not guilty of assault and battery of three teens because of the affirmative defense of insanity. *Stand your ground / No retreat / Defense of habitation.*

Is George guilty of murder of Moe?

Homicide is the killing of another human being that can either be lawful or unlawful. Unlawful is murder, requires malice aforethought a people endangering state of mind that is not mitigated or justified by the circumstances. Malice can be found either implied or express, implied malice is found with intent to cause SBI or GBI, recklessly (depraved heart), or through Felony Murder, the felony must be inherently dangerous for modern includes when the felons are fleeing until they reach a zone of safety, CL included rape, burglary, robbery, etc.... Express malice is found with premeditation, weighing the pros and cons, then lying in wait, or poisoning, etc...having an intent to kill.

Voluntary manslaughter is found through heat of passion with adequated provocation, that provoke D, a reasonable person would be provoked and not cool down and D does not cool down. It can also be found through imperfect self defense when excessive force was used for a reasonable man, but subjectively D thought it was necessary. Involuntary manslaughter is found through criminal negligence, which has to be EXTREME negligence or misdemeanor manslaughter, violation of a misdemeanor malum en se, or malum prohibitum.

George broke Sid's arm, Sid frantically ran away and jumped into Moe's car, who is the father of the boy that George knocked out. Sid tried to get Moe to go back for his child but he refuses and so Sid grabbed the steering wheel but his broken arm caused him to not do so smoothly and so they swerved into a tree and killed Moe. This is an issue of causality. To be liable for murder one has to be the cause in fact and the proximate cause of the death. The cause of fact is found "but for" D's actions, V would not have died if there is only one D. If there is more than one D then it is the substantial factor test, that each D's action be highly responsible for bringing about V's death. Proximate cause is found when V is foreseeably died from D's action and there is no supervening cause. There are independent acts and dependent acts, independent acts would have happened without D's act while dependent acts but for D would not have happened. To supersede D's liability for a dependent act it has to be something very abnormal such as a drunk doctor, because normally doctor's negligence is foreseeable. To supersede Ds' liability for an independent act just has to be foreseeable.

Here, George broke Sid's arm, which set a chain of events in motion that arguably could go all the way back to the Safeway clerk (which I will discuss infra) "but for" George breaking Sid's arm and knocking out his friend Sid would have never entered Moe's car and he would have never had to grab the wheel if Moe had not refused to go back for his son (which will also be discussed infra) It can be argued that Sid was an automaton, he was frantic and not in control of his actions, just like the prisoner in that case that was stabbed and ended up stabbing a Good guard. (Sid will be discussed more infra) It is not unforeseeable that Sid, reacting to George's attack might behave frantically and endanger more people by his actions, therefore Sid does not break the chain of causation and George, if he were not insane as discussed previously would be liable for Moe's death under misdemeanor manslaughter because he committed a misdemeanor against Sid which started the whole chain of events.

George, if he were not insane would be guilty of Moe's death under misdemeanor manslaughter.

Crimes of Safeway clerk:

Is the Safeway clerk liable for Moe's death?

Murder, supra

The sawfeway clerk sold the wrong type of beverage to Rick, beer instead of near beer, "but for" her action, setting arguable a chain of events that led to Moe's death. The clerk would not be liable because she is not the proximate cause: it is not foreseeable that selling someone beer instead of near bear would lead to a murder because her act was independent, there is a chance that even without the beer George could have become violent from his mental disease.

The clerk is not responsible for the murder because the supervening cause of George's adverse reaction to the beer breaks the chain.

SAFEBWAY

Crimes of Rick:

Is Rick guilty of Moe's death?

Murder, supra

Rick is the director of the half-way house for former mental patients. It is arguable that he has a contractual duty to take care of the inmates and look after their safety, and not doing so is an act of omission that he could be liable if George died, but it is unclear that he could be liable for George killing someone else. It was extremely negligent of him not to double check that he had grabbed the correct near beer instead of the real beer and potentially his negligence could be found to be criminal and he could also be guilty of criminal negligence if it was found that giving alcohol to former mental patients was extremely dangerous. It might be argued that Rick involuntarily drugged George and therefore could be liable for his actions, however there was no intent to drug George.

Rick is guilty of involuntary criminally negligent homicide for negligently giving a mental patient George alcohol that knowingly made him a danger to himself and the community. *A bit more analysis here, but well stated.*

Crimes of Moe;

Is Moe potentially guilty of murder for not helping his unconscious son?

murder, supra

Moe had a duty to go back and help his son that was knocked out by George. If George ended up killing him, then he would be liable for criminal negligence. A father has a duty to help his son if he can and he had the ability to because Sid told him he was in trouble and he refused to go back for him.

Moe would be liable for the death of his unconscious son, but it is unclear from the facts if anything further happens to him then unconsciousness. He is not guilty of murder.

He's also dead, but good point