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Crimes of Velma-



Battery of Darrell

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Battery is the unlawful application of force to the person of another.

When Velma grabbed Darrel's paper, and smacked him on the head with it, she unlawfully applied force to his body.

Velma is guilty of battery on Darrell.

Assault of Darrell

Assault is an attempted battery, or the infliction of reasonable apprehension of an imminent battery.

Under common law, all batteries include an assault, so because Velma is guilty of battery, she is also guilty of assault of Darrell, even if he did not apprehend the battery.

Velma is guilty of assault of Darrell.

Larceny of Susi's Dafodills

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

In common law, if property was fixed to the real estate, it was not personal property because the land possessed the tree/flower, not the person who lived on the land. In this case, the daffodills were attached to the land, so Susi did not actually possess them. Thus, Velma did not take and carry away the personal property of another, so she did not commit a larceny.

Velma is not guilty of larceny of the daffodills.

Malicious mischief of Susi's daffodills

Malicious mischief is the destruction or damaging of property with malice.

When Velma pulled up Susi's daffodills, she damaged them by uprooting them.

Velma is guilty of malicious mischief of the daffodills.

Burglary of Susi's house

Burglary is the breaking and entering of the dwelling

house of another at night with the specific intent to commit a felony therein.

Velma did break and enter Susi's house. At common law, a breaking can be any use of force needed to enter the dwelling house, and in this case, she opened a window to enter Susi's house. The facts are silent on whether this occurred at night. We may be able to infer that it was at night because Velma waited until the lights were out, and the bedroom was dark when she was in the house. Velma probably entered with the intent to take what she assumed were her own tulips. However, even if the tulips were from her garden, if Susi picked them, they actually belonged to the land and were not in the possession of Velma at the time of taking. So if Velma entered the house with the intent to take the tulips, she entered with the requisite mens rea to commit a larceny because the tulips were Susi's personal property at that time, and she intended to carry them away and permanently deprive Susi of them. Even though the larceny was not complete, the burglary still would be.

If the act occurred at nighttime, Velma would be found guilty of burglary.

Attempted larceny of the tulips

An attempt is taking a substantial step, beyond preparation, toward the commission of the crime.

Velma broke into Susi's house with the intent to commit larceny of the tulips, which were probably from her land but were not her personal property (as discussed supra), and were in the possession of Susi, but her act was thwarted by Susi and Darrell.

Velma is guilty of attempted larceny of the tulips in Susi's house.

Battery of Susi

Battery defined supra.

When Velma threw the vase at Susi's head and hit her with it, that caused an unlawful application of force to Susi's body.

Velma is guilty of battery of Susi.

Assault of Susi

Assault defined supra.

Because Velma is guilty of battery of Susi, she is

also guilty of assault of Susi. Susi may have also seen the vase coming at her, creating apprehension of the imminent battery.

Velma is guilty of assault of Susi.

Homicide of Darrell

Homicide is the killing of one human at the hands of another human.

Murder is homicide with malice aforethought.

Malice aforethought is an unmitigated, unjustified, and unexcused person-endangering state of mind, and can be express or implied.

Express malice murder is when there is an unmitigated intent to kill another. In this case, Velma saw Susi come out of the bedroom with Darrell. The facts imply that Velma and Darrell lived together, and one gave the other the engraved gold watch. If Velma saw them come out of the bedroom together, was enraged, and then actually consciously decided to kill Darrell, that would be express malice murder.

(but see Implied Malice Murder, and Voluntary Manslaughter below)

Malice can be implied in three ways: 1. Willful and wanton and total disregard for the value of human life (WW murder); 2. Intent to commit great bodily injury or serious bodily injury (GBI); 3. Felony murder rule.

In this case, Velma was probably in the commission of a burglary, which is a common-law felony. Since the death occurred in the commission of this felony, malice would be implied and she could be found guilty of implied malice murder under this theory. If she was not in the commission of a felony, and did not have express malice, she could still be found guilty of murder if she intended to commit GBI on Darryl. The shooting of the gun at him would imply that she had the mens rea to commit GBI, and so could be found guilty of implied malice murder under this theory also. Even if she had no intent to commit GBI, the use of a firearm toward a human is sufficient to find implied malice under the WW murder theory.

malice implied theory

Velma could be found guilty of murder of Darrell, either express or implied.

Can the homicide of Darryl be mitigated to Manslaughter?

Manslaughter is unlawful homicide without malice.

Voluntary manslaughter is unlawful homicide with the intent to kill, but it can be mitigated because there is 1. imperfect self defense, or 2. Heat of passion.

There are no facts to support an imperfect self defense theory. However, since Velma was suprised and probably enraged by seeing Susi and Darrell coming out of the dark bedroom together, Velma would argue that would constitute sufficient provocation for a heat of passion defense. If she then pulled her gun and shot Darrell without thinking, in the heat of that passion with no cooling off period, then the homicide may be mitigated to Voluntary manslaughter, unless she is found guilty of murder, as discussed supra.

Involuntary manslaughter is an unlawful homicide without the intent to kill, but which occurs during the commision of an unlawful act not amounting to a felony (misdemeanor manslaughter) or during the commission of a lawful act done without due caution and circumspection (criminal negligence).

In this case, the killing was done in the commission

of an unlawful act (burglary or trespass) so there is no support for a criminal negligence conviction. It is also unlikely that Velma would be found guilty of a misdemeanor manslaughter, because the arguments for murder and voluntary manslaughter (discussed supra) are much stronger.

Velma could be found guilty of voluntary manslaughter of Darrell, if not murder, as discussed supra.

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Crimes of Ray and Billy-

Conspiracy to burglarize Velma's house

Conspiracy is the agreement to commit an unlawful act, or to commit a lawful act in an unlawful manner.

When Ray and Billy decided to go into Velma's house with the intent to look for valuables, they were making an agreement to do an unlawful act.

Ray and Billy are guilty of conspiracy.

Burglary of Velma's house

Burglary defined supra

When Ray and Billy decided to go into Velma's house, they did so with the intent to look for valuables. It can be implied that they intended to not only look for valuables, but to take valuables when they found them. The facts said the door was unlocked, which means it probably was closed or they would not need to find out it was unlocked to enter. If they opened the door and entered Velma's house, and it was nighttime (as discussed supra) and they intended to commit larceny of the valuables inside, then all the elements for burglary would be met.

Ray and Billy are guilty of Burglary of Velma's house.

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Crimes of Billy-

Larceny of gold watch

Larceny defined supra.

When Billy took the gold watch from Velma's house and carried it away, it can be implied that he intended to permanently deprive Velma of the watch, because he took it the next day and tried to sell it.

Billy is guilty of larceny of the watch.

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Crimes of Paul-

Larceny by trick of the gold watch

Larceny defined supra.

Paul got possession of the watch from Billy by telling him that it was worthless, and he would trade it for his taco lunch. There was no actual taco in the package, and his lie made Billy give the watch to Paul, so that constitutes larceny by trick. Paul did not get title to the watch because Billy had possession only, and could not transfer title to Paul.

Receiving stolen property (gold watch)

Guilt for receiving stolen property is found when the receiver knew or should have known that the item was stolen.

Paul was Billy's friend and had worked in a pawn shop. He probably knew or should have known that the watch was stolen, especially since Billy did not offer an explanation of how he got a gold watch with other people's names engraved on it.

Paul is guilty of receiving stolen property.

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Crimes of Frida-

Larceny of gold watch

Larceny defined supra.

Frida picked up the watch and saw the engraving, but carried it away anyway. The facts are silent as to whether she picked it up with the intent to find the true possessors (Darrell and Velma). Since there was a clue to ownership, if she picked it up and carried it away with the intent to keep it, that was a trespassory taking because lost property is still constructively possessed by the true possessor.

Frida is guilty of larceny of the watch if she doesn't try to find the true owner.

Blue Book

NAME _____

SUBJECT *Criminal Law*

INSTRUCTOR *Ravitch*

EXAM SEAT NO. _____ SECTION _____

DATE *April 10th, 2012* GRADE _____

10^{7/8} x 8^{1/4}

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Question 2

Crimes of Ted:

(85)

Battery of Alice. Battery is the unwanted touching of another. Ted battered Alice when he jumped from the bushes, grabbed her and pulled her down, wrestling with her to try to remove her pants.

Alice's cries for help are further evidence that Ted's touching was not consented to. Ted committed battery against Alice.

Attempted rape of Alice. Rape is the nonconsensual act of intercourse with a woman by force, fear, or intimidation. All of Ted's actions up until when Bob and Carol discovered Ted attacking Alice show

that he fully intended to rape her. His efforts were frustrated when Bob and Carol came and found them, but he intended to commit the act and took a substantial step towards its commission by removing Alice's pants. ^{Therefore,} Ted ~~battered~~ attempted to rape Alice.

Ted assaulted Bob. Assault is the apprehension of an imminent battery, or an attempted battery.

When Ted pulled out his knife and told Bob he had better stay away, he was committing assault with a deadly weapon against Bob.

Ted battered Bob. See definition of battery, *supra*. Ted battered Bob when he stabbed him twice in the arm.

Ted's final crime was the ~~robbery~~ ^{robbery} of Bob's cell

phone. ~~Robbery~~ ^{Robbery} is the trespassory taking and

carrying away of the personal property of another

with the ^{specific} intent to permanently deprive ^{by force or fear.} Ted grabbed

Bob's cell phone, constituting a trespassory taking.

He ran away with it, meeting the ^{necessary} element of

asportation. ~~de~~ Judging from the facts, Ted ~~did~~

specifically intended ~~to specifically~~ to permanently deprive as

it is highly unlikely that he would return the

property later after Bob had witnessed all of his

previous crimes. His use of the knife is assaulting

and battering Ted meets the element of force,

fear and intimidation required for robbery.

Crimes of Sam:

Burglary of Bob and Carol's house. Burglary is the breaking and entering of the dwelling house of another at nighttime with the intent to commit a felony therein. The broken window meets the element of a breaking, and it is obvious that there was an entering due to the missing wallets. It happened at nighttime, most likely, because Bob and Carol returned at night. Sam committed the felony of larceny within Bob and Carol's dwelling house. Therefore, all elements of burglary are satisfied.

Sam attempted to commit arson of Jason's house. Arson is the intentional and malicious burning of the dwelling house of another. Sam stuffed the bag of oregano under the stairs and lit a match, lighting the oregano, causing it to smolder. His unsuccessful attempt at burning the house constitutes an attempted arson because his intended act was frustrated but he had taken a substantial step by lighting the oregano on fire.

Sam would also be guilty of ^{trading} stolen property for the bag of oregano. Even though ~~the~~ the bag was full of oregano and not marijuana, he believed it to be ~~marijuana~~ inside the bag and therefore his factual

impossibility is no defense.

Crimes of Jason:

False pretenses of the \$10,000 from Bob and Carol's account. False pretenses ~~is~~ occurs when a person obtains title and ownership of the personal property of another by an intentional false statement or material misrepresentation of a past or present fact with the intent to obtain permanent possession. Jason tried to obtain ownership and title of the money when he made a withdrawal of \$10,000. He assumed the identity of Bob by using Bob's account and materially misrepresented who he was.

Jason sold three other bags of ^{fake} marijuana (oregano) to Sally, Siim, and Junior. He has a defense against the crime of selling drugs because it was a legal impossibility. Selling oregano does not constitute a crime, therefore he is not guilty. The prosecution could try, however, to get him for larceny by trick, ~~false pretenses~~ where consent is vitiated by fraud or deceit. See definition of ~~false pretenses~~, ~~larceny~~. He materially misrepresented the fact that the oregano was marijuana in order to obtain possession of the wallet, deceiving Sam, leading him to trade for the bag of oregano.

Crimes of Sally, Slim and Junior:

Sally, Slim and Junior would all three be guilty of purchasing illegal drugs. Even though the "marijuana" turned out to be oregano, in fact, they believed it to be illegal and bought it anyway, and a factual impossibility is not a defense.