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===== Start of Answer #1 (1619 words) =====

People vs Brian.

Brian takes bike.

95

Larceny - the trespassory taking and carrying away the personal property of another with the intent to permanently deprive the owner or possession.

The taking here was trespassory as it was without Tess' consent. We can infer that Brian broke the chain and took the bike. He put it in his truck and drove away, satisfying the taking away element. The bike belonged to Tess and is her personal property. Based on what Brian did with the bike it seems clear he intended to convert it when he took it.

Brian has committed larceny and no defense is apparent.

Brain breaks chain.

Malicious mischief - the malicious damaging or destroying the property, real or personal, of another.

Brain broke the chain holding the bike. His intent was wrongful when he did it and the chain belonged to Tess. He is guilty of this crime.

Brian shoots at Tess

Attempt - a person is guilty of attempt if they have a fully formed intent needed for the attempted crime and make a failed attempt to complete it.

Murder - homicide committed with malice aforethought.

Malice can be express or implied. Malice is express when there is an intent to kill absent any mitigating factors. Malice can be implied in three ways: by an intent to inflict grievous bodily injury; by a reckless and conscious disregard for the value of human life; and under the felony murder doctrine.

Brian may well have intended to kill Tess: he looked at her, pointed in her direction, and pulled the trigger. This is evidence of a fully formed intent to inflict serious bodily injury at the very least. Even though he missed, he is still liable for making the attempt because he had the fully formed intent needed for murder, tried to commit it, and failed through no fault of his own.

Brian crashes into Chris' car and the passenger dies.

Homicide - the killing of one person by another.

Brian caused the accident that killed Rod. Homicide has been established.

Murder - homicide committed with malice aforethought.

Malice can be express or implied. Malice can be implied in three ways: by an intent to inflict previous bodily injury; by a reckless and conscious disregard for the value of human life; and under the felony murder doctrine.

There is no evidence that Brian intended to cause the accident. However, he did run a red light. He would have been aware that doing so created a very substantial risk of an accident. When he chose to disregard that substantial risk of injury or death to others, he acted recklessly. This is enough to imply malice. *really?*

There is nothing to suggest any other cause for Rod's death. Brian's reckless driving was the actual cause, and because nothing intervened between this act and Rod's death, he is also the proximate cause.

Malice may also be implied under the felony-murder doctrine. Under this doctrine, when death occurs during the commission of a felony (an inherently dangerous felony at modern law) the felon is liable for murder. Brain was making his escape from committing larceny and attempted murder, meaning that he was still in the commission of a felony. His reckless driving was part of making his escape and was the direct cause of Rod's death. At common law, Brain is liable for felony-murder. Under modern law, larceny may or may not be an inherently dangerous felony. Courts that consider the crime in the abstract would likely say it was not, and jurisdictions that look to the particulars of the crime would say that it was (Brain shot at Tess during the larceny). Brian was still making his escape from attempted murder as well though, and there can be no argument that this crime is inherently dangerous.

Brian would be found liable for felony-murder.

Brain sells bike at pawnshop.

*What about
manslaughter under
mistake manslaughter for
criminal negligence
theories?*

False pretenses - this crime is committed when a person make a false representation of a past or present material fact in order to gain title to personal property. The false representation must be relied upon by the victim.

Brian falsely represented the condition and value of the bike in order to explain the low asking price. This was a falsehood and it was regarding a material fact. However, the evidence suggests that Mike did not believe this and, hence, did not rely on it. He immediately turned around and sold the bike for its true, very high, value. Brian has not committed false pretenses unless Mike actually believed his lie.

Good

PEOPLE VS MIKE

Mike buys bike for \$50.

*but he lied about
ownership and for \$50 -*

Receiving stolen property - receiving property that the person knows to be stolen.

Mike bought a bike for \$50 and immediately sold it for \$1500. This is strong evidence that he knew it was stolen. He was told a lie about its value, but again, this same evidence shows that he probably didn't believe it. If the jury believes that Mike bought it with knowledge it was stolen, he is guilty. Under the MPC, this would be facilitated by the presumption that those who deal in goods are more likely to spot the clues showing that an item is stolen.

*Sale for 1500? - FP?
purchase for 50? - LBT?*

PEOPLE VS TESS

Tess shoots Ned and he later dies.

Homicide - the killing of one person by another.

Tess shot Ned and he later died as a result - homicide has been committed.

Murder - homicide committed with malice aforethought.

Malice can be express or implied. It is express when there is an intent to kill absent any excuse or justification. Malice can be implied in three ways: by an intent to inflict grievous bodily injury (absent excuse or justification); by a reckless and conscious disregard for the value of human life; and under the felony murder doctrine.

Tess came home to evidence that there was an intruder in her home. She armed herself and called for the intruder to exit. When she saw a shadow, she aimed and fired. This would be express malice if her intent was to kill the intruder. It would be implied malice if she meant to shoot him, even though she just meant to wound him. Even absent either intent, it is still evidence of a total and conscious disregard for the very high probability of the results.

There is no question if Tess was the actual cause of death. When she shot Ned, she set into motion the events that led to his death. The fact that Ned appears to have died from an allergic reaction to penicillin administered by a paramedic raises a proximate cause issue. Tess may argue that it was the paramedic's negligence that caused the death, breaking the causal chain. But this argument will fail. She was still a substantial factor in causing the death and the paramedic would never have been in this position without her act. Only a completely bizarre set of events would break the causal chain in this situation.

Tess does have a good claim of self-defense and prevention of crime. A person has a right to use force against another to repel force used against them. A person also has a right to use force to stop a crime in progress. However, deadly force can only be used against a threat of imminent bodily injury or death. Deadly force can only be used to prevent or stop a crime when it appears that force will be used by the person committing the crime. Nothing in the facts suggest this. There is no indication that Tess felt physically threatened, or thought that another was being threatened - she armed herself and called the presumed felony to her. This would mean that her belief in the need to use deadly force was unreasonable and the force was excessive. Although this keeps her defense from being perfect, it will mitigate the crime of murder down to manslaughter.

Manslaughter (voluntary) - homicide committed without malice.

Voluntary manslaughter (VM) is committed when there is an intent to kill or inflict serious bodily injury as well as mitigating factors. As discussed above, Tess' failed claim of self-defense would mitigate her actions down to VM from murder.

Manslaughter (involuntary) - homicide committed without a deadly intent, but through criminal negligence or during the commission of a misdemeanor.

If Tess' actions are not enough to show recklessness, it may still show criminal

negligence. It may have been grossly negligent for her to shoot at the intruder without verifying who it was and what their intentions were.

PEOPLE VS CHRIS

Chris comes to aid of wrong person.

Battery - use of force against another that is harmful or offensive.

Chris intentional punched Officer Bill. Absent any defense, he has committed battery.

Chris will try to argue that he had a right to come to another's defense. Common law does not allow a person to come to the aid of a stranger, but modern law does. There is another key difference in the way defense of another is treated. Some require the person to stand in the shoes of the person they defended, meaning that a mistake as to who was the aggressor will negate the defense. The modern trend does allow the defense in this situation, so long as the mistake was objectively reasonable. If Chris can show that his mistake was reasonable (perhaps there was nothing indicating Bill's status from a distance), he will have a valid defense to battery.

Good

PEOPLE VS NED

Ned goes into Tess' house.

At first glance this may appear to be a burglary. However, all the facts tell us is that Ned was going over to investigate a noise. If this is true, it negates the specific intent needed for burglary.

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

===== Start of Answer #2 (1170 words) =====

State v. Riley

90

1. Is Riley guilty of larceny of Ned's cattle?

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

When Riley noticed she had a few extra head of cattle grazing, she was subject to the special rules of found property. A person who finds personal property not belonging to them must make every effort to identify to find the rightful possessor, and if possible, return the property. When Riley specifically saw Ned's brand on the cattle in her property, but did nothing to alert or notify him, she committed larceny.

2. Is Riley guilty of obtaining property by false pretenses•

False pretenses is the misrepresentation of a past or present fact in order to gain title.

When Riley accepted money for Ned's cattle from Bob, she misrepresented to Bob that she was the rightful possessor of the cattle in order to gain title (money) for them. Riley is guilty of obtaining property by false pretenses.

3. Is Riley guilty of attempted murder•

An attempt is where the defendant has a specific-intent to commit the target crime and takes a substantial step towards the commission of the crime and

goes from mere preparation into the zone of perpetration.

Murder is the killing of another human being with malice aforethought. Malice is a person-endangering state of mind. Malice can either be express or implied. Express malice is the specific intent to kill. Malice can be implied in three ways. First, where the defendant shows a wanton, willful and total and conscious disregard for the value of human life. Second, where the defendant intends to inflict serious/grievous bodily injury and death is the proximate result. And third, during the commission or attempted commission of a felony (modernly, the felony must be inherently dangerous in the abstract), a person is killed. Malice is implied in the underlying felony.

Here, when Riley opened up the front door and shot Ned, it could be argued that she had the specific intent to kill (express malice murder). Malice could also be implied because pointing a loaded gun at someone and shooting shows both a wanton and willful disregard for the value of human life as well as the intent to inflict serious bodily injury. Riley will assert that she was so intoxicated that she was incapable of forming the specific intent to kill Ned, therefore lacked the mens rea to be guilty of murder. Also, attempt is a specific intent crime.

State v. Ray

1. Did Ray commit homicide (of Scott)?

Homicide is the killing of a human being by another human being (death at

the hands of another). Homicide can be lawful or unlawful. Lawful homicide can be justifiable (ie, killing in the time of war) or excusable (ie, perfect self-defense). Unlawful homicide can be murder or manslaughter.

"But for" Ray shooting at Scott, Scott would not have died.

There were no superseding/intervening acts to break the causal chain, therefore, Ray is responsible for the homicide of Scott.

See murder, supra. We can infer from the facts that Ray had the specific intent to kill, therefore is guilty under an express malice murder theory. Ray could also be found guilty of murder under the felony-murder doctrine. Ray shot Scott during the commission of a robbery, and robbery is an inherently dangerous felony in the abstract, so felony-murder would apply under both common and modern law.

Manslaughter is the killing of another human being without malice aforethought. Manslaughter can be voluntary (VM) or involuntary (IVM).

VM can be accomplished in two ways. First, where the defendant kills after being engendered by adequate provocation with no cooling off period. Malice is vitiated by adequate provocation. Second, where the defendant kills by an imperfect self-defense. Either by using excessive force where the law would have allowed minimal force or by subjectively believing the need to defend yourself where objectively it was unreasonable. The facts do not suggest a discussion of VM.

IVM can be accomplished in two ways as well. First, during the commission of a lawful act without due care or circumspection, known as criminal negligence. And second, during the commission of an unlawful act not amounting to a felony, known as misdemeanor manslaughter. Since Ray

was in the commission of a robbery, which is a felony, misdemeanor manslaughter would not apply and his actions were well beyond criminal negligence.

2. Is Ray guilty of attempted murder (of Bob)?

See attempted murder, supra.

Same as discussed above for Scott (with the exception that it is unclear from the fact pattern if Bob died or not), Ray could be found guilty of attempted murder (or murder if Bob died), under an express malice murder theory or implied malice murder theory under the felony-murder doctrine.

3. Is Ray guilty of larceny (of the truck and cattle)?

See larceny, supra.

Ray jumped into Bob's truck and committed a trespassory taking of the personal property of another. Since Bob was inside the market suffering from the bullet wound, he clearly did not give his consent. The issue that is questionable here is whether he intended to permanently deprive Bob of his truck and the cattle. The fact that he abandoned them on the side of the road just a short while later suggests he just used the vehicle to escape the crime scene. However, by taking the personal property of another and leaving it where it would be impossible or difficult to find them could suffice for proving intent to permanently deprive.

Ray may be guilty of larceny.

State v. Ned

1. Is Ned guilty of burglary•

Burglary is the trespassory breaking and entering the dwelling house of another at nighttime with the intent to commit a felony therein. Modernly, the elements of breaking, dwelling house and nighttime are not required and the felony therein and been expanded to include any theft related offense. Burglary is a crime against the habitation.

When Ned climbed through the hole in the fence to Riley's property, he committed a trespassory entry. The facts state that Ned and Riley have had a longstanding history of disputes, so we can infer Riley did not want Ned on her property. There is neither an actual or constructive breaking in this case because the hole was already in the fence and although Ned was in the curtilage, he did not enter her dwelling house. It is also unclear from the facts what time of day this occurred. There is nothing that suggests it is dark out or the sun is setting. Furthermore, it appears Ned is not going over to Riley's to commit a larceny or felony, but is asserting a claim of right over his cattle that he believes have wandered over to her property.

Ned has not committed either a common law or modern law burglary.

END

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End of Answer #2
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END OF EXAM