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People v A, B, CAre A, B and C guilty of conspiracy to injure (assault/battery) D?**Conspiracy** is an agreement between two or more for an unlawful purpose.**Modernly**, an overt act is required.**Assault**, at common law, is an attempted battery.**Modernly**, assault is placing another in a reasonable apprehension of an imminent battery.**Attempt** is a step beyond preparation and into the zone of perpetration, or a substantial step towards the commission of a crime.**Battery** is an unlawful application of force upon another. It may be by direct force or force set for in motion by way of an instrumentality.

A, B, and C decided and agreed to injure D. A, B, and C made an agreement for an unlawful purpose.

Modernly, an overt act is required. When A, B and C hired J, this was an overt act towards the commission of the target offense.

Under accomplice liability theory, all co-conspirators are liable for the acts of others so long the acts are the natural and probable consequences in furtherance of the original conspirator plan.

A, B, and C will be guilty of conspiracy at common and modern law.

Are A, B, and C guilty of solicitation when they hired James to injure D?

Solicitation is the enticing or encouraging of another to commit a crime.

Together, A, B and C hired J to whack D in the shin to take him out for the season.

J agreed. Because J agreed, this solicitation will now merge into a conspiracy.

A, B and C are guilty of solicitation.

Are A, B, and C guilty for J's homicide?**Homicide** infra.

No facts suggest that A, B and C wanted to specifically kill J, so they will not be guilty of express malice murder.

No facts suggest that A, B, and C acted in a wanton willful total conscious disregard for J's life as he was killed by D. Nothing supports a GBI/SBI charge as ABC did not intend to inflict any harm to J. An argument could be made that while in the commission of a felony, J's death was the proximate result. However, the Washington rule does not allow this. The Washington rule states that co-conspirators cannot be liable under a theory of FMR when a

third party kills a co-conspirator attempting to thwart the crime. D killed J to stop him from continuing with the conspirator plan.

ABC will not be guilty of implied malice murder.

No facts suggest anything to allow ABC to mitigate to heat of passion or imperfect self-defense, therefore they will not be guilty of voluntary manslaughter.

No facts suggest that ABC were in the commission of a lawful act done with no due caution or circumspection, therefore CNH will not apply. And no facts suggest that ABC were in the commission of an unlawful act not amounting to a felony to trigger the MMR.

ABC will not be guilty for J's death.

People v A, B, C, and J

Are A, B, C and J guilty of conspiracy to injure D?

Conspiracy supra.

When A, B and C solicited J to join them in injuring D, a conspiracy was formed at modern law because all members made an agreement for an unlawful purpose.

Modernly, an overt act is required. When J snuck into D's shower area of his home gym, this would be enough to satisfy an overt act for modern law.

A, B, C and J will be guilty of conspiracy at common and modern law.

Did A, B, and C make an effective withdrawal?

An effective withdrawal requires a clear, unequivocal communication to all members of the parties.

B changed his mind, and left a message with A and C, telling them to cancel the plot. A and C received the message, but forgot to tell J. Because J was not made aware of the effective withdrawal by the other members, the conspiracy is still on going, and all members are still included for any acts done in the furtherance of the original conspirator plan.

Are A, B, C and J guilty of burglary when J snuck into D's home gym area?

Burglary is the trespassory breaking and entering of a 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 is expanded to any theft related offense therein.

(Entry of a structure with the intent to commit a felony or any theft related offense therein.)

The facts state it is night, and this was trespassory as J did not have consent to be in D's home gym. The home gym is presumably in D's dwelling house, thus satisfying the dwelling house element. J snuck in, therefore satisfying the entering element when his body crossed the threshold. No facts suggest a breaking, however, the slightest movement of the structure will satisfy the breaking element. However, J's intent is not clear. J was to only injure D's shin, which at most would be an assault and battery (discussed infra), which is not a felony. If J intended to commit a mayhem (discussed infra) prior to his entrance, the felonious intent element will be satisfied.

Modernly, J snuck into (entered) D's shower area of his home gym (dwelling house), but J's intent is unclear.

A, B, C and J will not be guilty of burglary at modern law unless his felonious intent was formed prior to his entrance, and J will not be guilty of burglary at common law unless his felonious intent was formed prior to his entrance and there is more evidence of a further breaking.

Are A, B, C and J guilty of assault and battery when J swung a machete at D?

Assault supra

J took a substantial step towards the commission of an unlawful application of force upon D when he swung a machete at him. This is enough for a common law assault.

Modernly, assault requires apprehension. The facts state that J surprised D, and that D was "fearing death". It is reasonable to infer that D was placed in a reasonable apprehension of an imminent unlawful application of force when J was swinging a machete at him.

A, B, C and J will be guilty of assault at common law and modern law.

Are A, B, C and J guilty of Mayhem when J severed D's wrist?

Mayhem is the malicious dismemberment or gross disfigurement of the body part of another. Malice is a limb-endangering state of mind, and it may be expressed or implied.

When J was swinging the machete at D and ultimately severed his wrist, he maliciously dismembered D's limb. The issue is whether or not J harbored a limb-endangering state of mind. The original plan was to only harm D's shin, because J brought a machete with him, it may imply that he intended to dismember D's limb. Nonetheless, when J was swinging the machete around, he implied a limb-endangering state of mind when he was aware of the substantial risk and injury that a machete could bring, and consciously disregarded it. The conscious disregard ultimately severed D's wrist.

A, B, C and J will be guilty of mayhem

People v D

Is D guilty of assault and battery when he grabbed J?

Assault supra.

Fearing death, D took a substantial step towards the commission of an unlawful application of force when he attempted, and later succeeded, in grabbing J and shoved a running shower hose down his throat. This is enough for a common law assault.

Modernly, in order for D to be liable J must have been apprehensive due to D's conduct. No facts suggest that J was, however, had he been, there would be a modern law assault, as it is reasonable that if someone shoved a shower hose down another's throat, they would certainly be placed in an apprehension of an imminent battery.

D will certainly be able to assert the defense of self-defense. J is allowed to use the amount of force necessary in his defense that he believes is reasonably necessary, he may even use deadly force when he is not the aggressor and it is subjectively and objectively reasonable to do so. Because his hand was just severed, the amount of force D used was not disproportionate to his defense, as it was likely subjectively and objectively reasonable.

D will not be guilty of assault and battery.

Is D guilty of J's homicide?

Homicide is the killing of one person by another. It may be lawful or unlawful. Lawful homicides are those that are justified or excused. Unlawful homicides are those that are murder and manslaughter.

D caused J to die when he shoved a shower hose down his throat.

Therefore, D will be culpable for J's homicide

Is D guilty of J's murder?

Murder is homicide plus malice aforethought. It is the killing of one person by another with malice aforethought. Malice aforethought is a man-endangering state of mind. Malice may be expressed or implied. **Express** malice murder is the specific intent to kill. **Implied** malice murder is murder with the requisite malice implied in three fashions: 1) **FMR** - while in the commission of a felony, and death is the proximate result. Modernly, felonies to trigger the FMR must be inherently dangerous in the abstract, and the common law felony of larceny will not trigger the FMR, modernly, 2) **Wilful wanton total conscious disregard for human life**, death is the proximate result. 3) **Intent to inflict GBI/SBI**, death is the proximate result.

No facts suggest that D had an express intent to kill J as he was defending himself from J's attack, therefore D will not be guilty of express malice murder.

D was not in the commission of a felony, therefore the FMR cannot apply. Perhaps an argument could be made for wanton wilful behavior, but D's actions do not raise to such a level of disregard for human life because he was only defending himself. Possibly an argument could be made for GBI/SBI, but nothing indicates that D intended to inflict any amount of damage, as he was defending himself.

D will not be guilty of murder.

Manslaughter is the killing of another with no malice aforethought. It comes in two forms. **Voluntary Manslaughter** is the intentional killing of another with no malice aforethought, it also comes in two forms: 1) heat of passion - a killing done from passion rather than reason, with no cooling off period, adequate provocation, and a causal link between act and death. 2) imperfect self-defense: where an actor believes the force for the preservation of life is subjectively necessary, but objectively it is not. **Involuntary Manslaughter** is the unintentional killing of another with no malice aforethought, it also comes in two forms: 1) **MMR** - while in the commission of an unlawful act not amounting to a felony, death is the proximate result. 2) **CNH** - while in the commission of a lawful act done with no due caution or circumspection, death is the proximate result.

An argument could be made for heat of passion, as sudden violence is adequate provocation, D did not have any cooling off period and acted off of passion rather than reason, and there is a causal link between act and death. If this line of reasoning does not work, then perhaps imperfect self-defense will. D may be able to assert the defense of self-defense and defense of habitation. D is allowed to use the amount of force necessary in his defense that he believes is reasonably necessary, he may even use deadly force when he is not the aggressor and it is subjectively and objectively reasonable to do so. D is allowed to use deadly force in defense of habitation to protect his habitation from a breach or an arson. Because J already breached, this defense will not avail. However, the castle doctrine allows an occupant of a dwelling to use self-defense including deadly force if reasonably necessary within the home against an intruder intending to commit a felony therein. D has no duty to

retreat and may stand his ground. D subjectively believed that his life was endangered, and deployed force based on that belief. Detached reflection cannot be demanded in the presence of an uplifted knife. If it is found that D was acting unreasonable, then D will be found guilty of voluntary manslaughter by way of imperfect self-defense. If D was found to be acting reasonable, then D will not be guilty, and the homicide will be excused due to his perfect defense.

If D were to be able to mitigate to involuntary manslaughter, CNH would not apply as no facts suggest D was in the commission of a lawful act, unless it is found his self-defense was lawful. MMR may apply as D was in the commission of a battery when he shoved a shower hose down J's throat, thus triggering the MMR.

D may be guilty of Involuntary manslaughter by way of MMR, voluntary manslaughter by imperfect self-defense, or the homicide will be excused if he is found to have acted in perfect self-defense.

Is Dr. Love guilty of Larceny?

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

Dr. L satisfied the taking element when he exerted control of the severed wrist, and completed the carrying away element when he made the slightest movement. This was trespassory as D did not consent to Dr. L keeping his wrist. D's wrist is arguably his personal property, and Dr. L's intent to permantly deprive is evidenced by him being such a big fan, that he wanted to keep it.

Dr. L will be guilty of larceny.

Is Dr. Love guilty of embezzlement?

Embezzlement is the fraudulent misappropriation or conversion of personal property of another by one who is in lawful possession.

Dr. L, being a doctor, was in charge to sew back D's wrist. and was in lawful possession of D's severed wrist and ultimately decided to keep D's wrist. Dr. L misappropriated the personal property of D

Dr. L will be guilty of embezzlement.

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People v X

Is X guilty of Assault and Battery when he threw a book at Z?

Assault, at common law, is an attempted battery.

Modernly, assault is placing another in a reasonable apprehension of an imminent battery.

Attempt is a step beyond preparation and into the zone of perpetration, or a substantial step towards the commission of a crime.

Battery is an unlawful application of force upon another. It may be by direct force or force set for in motion by way of an instrumentality.

X left the zone of preparation when he believed Y was being attacked, and entered the zone of perpetration when he threw the book at Z. This is enough for a common law assault because X took a substantial step towards the commission of an unlawful application of force upon Z by way of instrumentality.

No facts indicate if Z was apprehensive or not, as apprehension is required for modern law assault. If Z did see the book coming at him, it is reasonable to infer he was placed in a reasonable apprehension of an imminent battery.

X may be able to assert defense of others. X is allowed to use the amount of force he would for himself for others, which is deadly force in deadly situations and non deadly force in non deadly situations. In a majority jurisdiction, how you subjectively see is how you respond, and in a minority jurisdiction you stand in the shoes of the person being defended. X's force of throwing a book was not subjectively or objectively unreasonable to his perceived threat of violence. X may even be able to assert a reasonable mistake of fact. X truly believed his bookkeeper was being attacked, and fearing for her safety, acted in a reasonable way, as the amount of force used in proportion to the threat assessed was not unreasonable.

X will not be guilty of assault at common or modern law.

People v Z

Is Z guilty of assault and battery when he was screaming and choking Y?

Assault supra.

Because Z was practicing with Y, there was no imminent threat of danger, therefore no assault.

Not guilty of assault.

People v Y

Is Y guilty of larceny of X's gavel?

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

When Y exerted control of the gavel, she completed the taking element, and when she made the slightest movement, she satisfied the carrying away element. This was trespassory as Y did not have X's consent to his gavel, even if she worked in his office. The gavel was X's personal property thus having intrinsic value. No facts suggest that Y intended to premaritally deprive, however, if the fire did burn down X's office and the gavel was inside, then Y permanently deprived X of his gavel by rendering its return impossible.

Y may be guilty of larceny if the gavel was burned in the fire.

Is Y guilty of Attempted Murder of X?

Attempt supra.

Homicide is the killing of one person by another. It may be lawful or unlawful. Lawful homicides are those that are justified or excused. Unlawful homicides are those that are murder and manslaughter.

Murder is homicide plus malice aforethought. It is the killing of one person by another with malice aforethought. Malice aforethought is a man-endangering state of mind. Malice may be expressed or implied. **Express** malice murder is the specific intent to kill. **Implied** malice murder is murder with the requisite malice implied in three fashions: 1) **FMR** - while in the commission of a felony, and death is the proximate result. Modernly, felonies to trigger the FMR must be inherently dangerous in the abstract, and the common law felony of larceny will not trigger the FMR, modernly, 2) **Wilful wanton total conscious disregard for human life**, death is the proximate result. 3) **Intent to inflict GBI/SBI**, death is the proximate result.

Manslaughter is the killing of another with no malice aforethought. It comes in two forms. **Voluntary Manslaughter** is the intentional killing of another with no malice aforethought, it also comes in two forms: 1) heat of passion - a killing done from passion rather than reason, with no cooling off period, adequate provocation, and a causal link between act and death. 2) imperfect self-defense: where an actor believes the force for the preservation of life is subjectively necessary, but objectively it is not. **Involuntary Manslaughter** is the unintentional killing of another with no malice aforethought, it also comes in two forms: 1) **MMR** - while in the commission of an unlawful act not amounting to a felony, death is the proximate result. 2) **CNH** - while in the commission of a lawful act done with no due caution or circumspection, death is the proximate result.

Y, believing X had gone crazy, began striking X violently until he became motionless. The facts do not suggest Y had an express intent to kill X, but by repeatedly striking him, it could be infer that she did want him dead.

Y may be guilty of attempted express malice murder.

There cannot be an attempted implied malice murder as attempt is a specific intent crime.

No facts suggest that Y will be able to mitigate to heat of passion, so this prong will fail, however an argument could be made for imperfect self-defense or defense of others. Y is allowed to use the amount of force necessary in his defense that he believes is reasonably necessary, he may even use deadly force when he is not the aggressor and it is subjectively and objectively reasonable to do so. In defense of others, Y is allowed to use the amount of force she would for herself for others, which is deadly force in deadly situations and non deadly force in non deadly situations. In a majority jurisdiction, how you subjectively see is how you respond, and in a minority jurisdiction you stand in the shoes of the person being defended. She may also use a defense of reasonable mistake of fact. Y believed that X had gone bonkers, and subjectively believed that her amount of force necessary to defend Z, and possibly herself, was objectively reasonable. If it is found that Y was acting unreasonable, then Y will be found guilty of attempted voluntary manslaughter by way of imperfect self-defense. If Y was found to be acting reasonable, then Y will not be guilty, and the homicide will be excused due to his perfect defense.

There cannot be an attempted involuntary manslaughter as attempts are specific intent crimes.

Y will either be guilty of express malice murder, attempted voluntary manslaughter by way of imperfect self defense, or the homicide will be excused if it is found she acted reasonable in her defense.

People v Z and Y

Are Z and Y guilty of conspiracy?

Conspiracy is an agreement between two or more for an unlawful purpose.

Modernly, an overt act is required.

Z and Y made an agreement to cover up their own acts and make it seem as if X's death was an accident. They made an agreement for an unlawful purpose, as if this was a crime scene, it would have been lawful to call police, however they were attempting to cover their tracks.

Modernly, an overt act is required. When Z and Y began to cover up their crime to make it look like a robbery, this is enough.

Under accomplice liability theory, all co-conspirators are liable for the acts of others so long the acts are the natural and probable consequences in furtherance of the original conspirator plan.

Are Z and Y guilty of larceny of the \$1,000?

Larceny supra.

Z and Y satisfied the taking element when they gained control of the money, and the carrying away element when they made the slightest movement. This was trespassory as they did not have X's consent, and the money was X's personal property. Their intent to permanently deprive is evidenced by them attempting to stage a fake robbery scene, thus it is unlikely they would return the money.

Z and Y will be guilty of larceny.

Are Z and Y guilty of Malicious Mischief when they broke lamps and other items?

Malicious mischief is the malicious damaging or destruction of real property of another. Malice is a property-endangering state of mind, and it may be expressed or implied. Z and Y expressed a property endangering mind when they maliciously destroyed lamps and other items in order to cover their crimes. The facts state that Z and Y broke lamps and other items to make the scene look like a robbery occurred. They have no defenses.

Z and Y will be guilty of malicious mischief.

Are Z and Y guilty of burglary when she went into the office to get the liquor bottle?

Burglary is the trespassory breaking and entering of a 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 is expanded to any theft related offense therein.

(Entry of a structure with the intent to commit a felony or any theft related offense therein.)

The facts suggest it was night, and this was trespassory as Z did not have X's consent to be in his office. The facts do not suggest a breaking, but the slightest movement of the structure will suffice. It is implied that Z entered because in order to get to the liquor in the office, part of their persons had to have crossed the threshold. The felonious intent therein was to commit a larceny (infra). The facts state that X operated his law business in an office behind his home. The office will constitute as a dwelling house because it is on the curtilage and is not interrupted by public thoroughway.

Modernly, Z and Y entered X's office (structure) to commit a theft related offense (and felony at CL) of larceny (discussed infra).

Z and Y will be guilty of burglary at modern law and not at common law unless it is shown there was a further breaking.

Are Z and Y guilty of Larceny of the liquor?

Larceny supra.

Z did not have consent to X's liquor, making this trespassory. Z completed the taking element when he gained control of the bottle, and the carrying away element when he made the slightest movement. This was X's personal property, and their intent to permanently deprive is evidenced by Z and Y drinking, therefore rendering its return impossible.

Z and Y will be guilty of larceny.

Are Z and Y guilty of Arson?

Arson is the malicious burning of a dwelling house of another. Malice is a dwelling house endangering state of mind, and it may be expressed or implied.

Z did not have the express malice to burn X's dwelling house, but he may have implied it when he consciously put out a cigarette on the outside of the office and it began to burn. Z may have implied this dwelling house endangering state of mind when he was aware of the substantial risk that could occur from putting a cigarette out in a not so careful manner, and proceeded with it.

Z may have a defense of intoxication. Voluntary intoxication is not a defense to most crimes, but can be a defense to specific intent crimes. Arson is a malice crime, therefore voluntary intoxication will not apply. Involuntary intoxication is a defense for all crimes. However, Z was not involuntarily intoxicated, and his conscious deliberate action of getting the liquor from X's office shows that he was voluntarily intoxicated.

Z and Y will be guilty of Arson.

Are Z and Y guilty of X's homicide?

Homicide supra.

Z and Y could not have an express intent to kill X because they believed X was dead, therefore they will not be found guilty of express malice murder.

An argument could be made that Z and Y displayed a wanton wilful disregard for human life, but it would not hold as they believed X was dead, therefore there was no life to disregard. An argument could not be made for GBI/SBI because Z and Y did not intend to inflict any damage, as they believed X was dead. The best argument would be FMR. X and Y were in the rest gesta of a felony, arson, and as a result, X's death was a proximate result as he died from smoke inhalation due to the fire started by Z and Y.

Z and Y would be guilty of implied malice murder.

No facts suggest allow anything that would allow Z and Y to mitigate to voluntary manslaughter as nothing supports an imperfect self-defense or a heat of passion, so Z and Y will not be guilty of voluntary manslaughter.

An argument could be made for MMR. **IF** mishandling of a dead body is a misdemeanor in this jurisdiction, then MMR would apply. Z and Y believed that X was dead, and they mishandled what they believed to be his corpse by staging a robbery. If this line of reasoning

does not work, Z and Y committed a malicious mischief (supra), and not being in a zone of safety, would trigger the MMR. Z and Y were not in the commission of any lawful acts, so CNH will not apply.

Z and Y will be guilty of FMR by way of Implied Malice Murder of Involuntary Manslaughter by way of MMR.

People v W

Is W guilty of Arson when he added to the fire?

Arson supra.

W hates X. W maliciously expressed his dwelling house endangering state of mind when he poured gasoline on the fire to make sure it would not extinguish.

W will be guilty of arson.

Is W guilty of X's Homicide?

Homicide supra.

No facts suggest W wanted X dead, therefore he will not be guilty of express malice murder.

An argument could be made that W displayed a wanton wilful disregard for human life, but it would not hold as he did not know X was inside, therefore there was no life to disregard. An argument could not be made for GBI/SBI because W did not intend to inflict any damage, as he did not know X was inside. The best argument would be FMR. W was in the rest gesta of a felony, arson, and as a result, X's death was a proximate result as he died from smoke inhalation due to the fire started by Z and Y, and W joined by adding more fire.

No facts suggest allow anything that would allow W to mitigate to voluntary manslaughter as nothing supports an imperfect self-defense or a heat of passion, so W will not be guilty of voluntary manslaughter.

An argument could be made for MMR. **IF** mishandling of a dead body is a misdemeanor in this jurisdiction, then MMR would apply. W did not know X was inside,

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