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State v Joel

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Battery to Bill

Battery is the use of force that is harmful or offensive

Joel grabbed Bill, which establishes a use of force. Joel tried to pull away with suggests that Bill found being grabbed harmful or offensive.

Joel committed battery to Bill.

Defense: Defense of Others

At common law this defense allows one to act in another's defense where there is a special relationship, but because Dave is a stranger to Joel, Joel will not prevail in his defense of Dave under this reasoning. Joel may also argue that he was standing in the shoes of Dave when he grabbed Bill, but because we know from the facts that Dave was actually the primary aggressor and not Bill, this argument will not prevail because Dave does not have the privilege of self defense. Modernly, Joel may be able to argue that he made a reasonable mistake in coming to the defense of a stranger when he saw Dave pushed to the ground by Bill.

Homicide - Bill

Homicide is the killing a human being by another.

Joel stabbed Bill with a knife, which caused his death. There is a homicide.

Murder

Murder is the unlawful killing of another with malice aforethought.

Joel used a knife, which is an inherently dangerous instrument, against Bill. Though he may not have intended to kill Bill, the use of the knife suggests an intent either to

cause grievous bodily harm or to act with reckless disregard for human life, establishing implied malice. Thus, Joel murdered Bill.

Modernly, because Joel acted spontaneously in response to Bill's pull away, he did not act with premeditation and deliberation, so Joel would not be guilty of first degree murder, but instead second degree murder.

Defense:

Imperfect Self-defense allows for the use of deadly force against another where there is a mistaken belief of an imminent threat of bodily harm, but the force is actually unreasonable.

Joel will argue that when Bill, someone who's seen is willing to push another to the ground, tried to pull away from his grasp that he reasonably believed that Bill could cause more harm - potentially to himself. But because an attempt to pull away from another's grasp is not a use of deadly force, Joel's use of deadly force with the knife is not a justification for the murder of Bill. He will not be fully justified in his murder of Bill, but if he can establish that he honestly believed that his life was in danger when Bill pulled away, he may use the imperfect self-defense to mitigate the murder.

Crime Prevention

Crime prevention allows for the use of force against another in order to prevent the commission of a misdemeanor or felony.

Joel may also argue that he was acting to prevent the further battery of Dave by Bill when he stabbed Bill. But because Joel's grabbing of Bill prevented any further commission of the battery, the crime being prevented was complete at the time of the stabbing. Therefore, Joel will not prevail under this theory.

Voluntary manslaughter

Voluntary manslaughter occurs where there is an intentional killing without malice.

Here, Joel did intentionally kill Bill, but should he prevail under an imperfect self-defense argument, malice will be mitigated and he will have committed voluntary manslaughter.

Very good discussion!

State v Dave

Attempted robbery

Robbery is larceny by force, threat, or fear.

The footage on Pat's phone established that Dave was attempted to steal Bill's wallet, establishing an attempt at larceny. And because Bill felt the need to respond with pushing Dave to the ground, it is evident that Bill felt threatened by Dave and required the use of force to defend himself. Therefore, Dave was in the commission of a robbery.

Attempt requires the specific intent to commit a crime where there is a perpetration towards the commission of the crime that is thwarted by no fault of one's own.

Because Joel and Sally thwarted the full perpetration of the robbery, causing Dave not to gain possession of Bill's wallet, there is sufficient evidence to establish an attempt.

Therefore, Dave committed attempted robbery.

Larceny - Joel's Bike

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

Dave jumped on Joel's bike while Joel was busy with Bill, so there was no consent given by Joel. He rode away on the bike which is sufficient for a carrying away to establish asportation. The bike was Joel's. Dave selling the bike to Carl deprives Joel of possession, establishing his intent to permanently deprive Joel of the bike.

State v Carl

Larceny by trick

Larceny by trick involves the consensual taking of the property of another through fraud or deceit, which vitiates consent.

Carl was given possession by Dave in the form of a financial transaction, so there was a consensual taking. Though Dave was lying about the state of the bike's frame and thus why he was offering it for so little, which Carl recognized as a lie, Carl offered and bought the bike for only \$50, rather than the \$100 that Dave was asking for. This low offer supports Carl also misrepresenting the actual value of the bike, which he knew was in outstanding condition and made of a valuable fiber, so his consensual taking of the bike was based on deceit. The deceit vitiates consent by Dave, so Carl has committed larceny by trick.

False pretenses does not apply to this scenario as the bike was stolen from Joel, so Dave had no title to give to Carl.

FP by Dave?

State v Dillon, Gus, and other friend

Conspiracy to commit burglary

A conspiracy involves the agreement between two or more persons to commit a specific crime.

Here, Dillon, Gus, and their friend talked about getting marijuana from a neighbor's house. There is no express agreement to commit the larceny, but because Dillon actually went into the neighbor's garage to see the size of the grow there may be an implied agreement to pursue the crime together.

At common law the agreement and specific intent to commit the crime is sufficient for conspiracy.

The three may have committed conspiracy at common law.

Modernly, conspiracy requires an overt act. Burglary is the breaking and entering of the dwelling house of another at night with the specific intent to commit a felony therein. Dillon entered the attached garage of his neighbor, which falls under the curtilage of that dwelling, establishing entry into the dwelling of another. This satisfies

the overt act element of modern conspiracy. Thus, they may have also committed conspiracy at modern law.

State v Gus

Arson

Common law arson is the malicious burning of the dwelling of another.

Gus continued to toss lit matches into the brush by Dillon's house, despite continued protestations by Dillon. Ignoring the fire risk caused by this action establishes that Gus was in reckless disregard for the fire risk he posed to the dwelling, establishing malice. The house was ignited by a fire started in the brush, so there was a burning. The home was that of Dillon and not Gus, so it was the dwelling of another. Gus committed arson.

Homicide -Dillon and his grandmother

homicide, supra.

Dillon and his grandmother died in the fire caused by Gus, so there was actual causation. Because it was foreseeable that setting a house on fire would kill an occupant and that someone would run into the fire to save an occupant, Gus was the proximate cause of Dillon and his grandmother's deaths.

Murder

Under the felony murder rule, should a person be killed during the commission of a felony, or, modernly, an inherently dangerous felony, implied malice is established to support a finding of murder.

Dillon and his grandmother died in their home as the result of Gus' arson, an inherently dangerous felony. Thus, malice is established to support a finding of murder under the felony murder rule,

*What about Dillon choosing to
run inside?*

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People v. Suzy.

Burglary of clock and painting?

Burglary is the breaking and entering into the dwelling house of another with an intent to commit a felony therein.

Here when suzy did not see the clock in the home she proceeded to go into the moving van and get it which constitutes a larceny. There was no evidence of a breaking, the van was not a dwelling house, there was no evidence it occurred at night so Suzy will not be found guilty of CL burglary.

At Modern Law (ML) burglary does not require the nighttime, breaking, and dwelling house elements. Modernly S may be found guilty of burglary.

Claim of Right?

Here S may assert the defense of claim of right where a person is allowed to use reasonable force to retain possession of their property.

Here S had the honest belief that the clock belonged to her and when she went into the van she did so in order to retain her property. Her right to reposes her property negates the intent element and S may not be found guilty of burglary under modern law. If however, she had decided to take the painting before entering the van then she could be found guilty of ML burglary but there are not enough facts to establish her intent prior to entering regarding the painting.

Larceny of Painting?

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

Here when S took the sellers painting she was trespassing on their right to possession. Her removing the painting from the van is enough asportation and it displays an intent to permanently deprive the sellers of it for she probably was to keep it for her own home.

S is guilty of larceny.

People v. Gary

Homicide of Bret?

Homicide is death at the hands of another. It can be either lawful or unlawful. Unlawful homicide is Murder or Manslaughter.

Murder is the killing of a human being by another human being with malice aforethought. Malice is a man endangering state of mind. Murder is divided into Express Malice Murder where there is an express intent to kill shown by lying in wait or torture. Implied Malice Murder is where there is no intent to kill but malice is implied by either 1. Depraved Heart where there is a wanton and reckless disregard for the value of human life, 2. with an intent to commit serious bodily injury (GBI) or through Felony Murder where someone dies during the commission of an inherently dangerous felony.

Manslaughter is the killing of a human being by another without malice(supra). Manslaughter can either be Voluntary Manslaughter (VM) where there is an intent to kill absent malice done by 1. Heat of Passion where there is adequate provocation, no cooling off period and the killing is contemporaneous with the provocation. It can also be done by 2. Imperfect Self defense where there excessive force was used or an unreasonable mistake as to needing to defend oneself. Involuntary Manslaughter (IM) Is the killing of a human being by another without an intent to kill and absent malice it is shown by either 1. Criminal Negligence by doing a lawful act without due

caution or circumspection or through 2. Misdemeanor Manslaughter during an unlawful act not amounting to a felony.

Here when G grabbed his gun and fired at Bret he displayed an express intent to kill. Although B died as a result of the doctors negligence due to the nicked artery, it was G who set in motion the act. But for G shooting B, B would have never had to go to the hospital and undergo surgery. It is foreseeable that a person that suffers a bullet wound will need surgery and G is a proximate cause of B's death. The doctor is not a superseding act that broke the causal chain and as such G is guilty of the murder of B.

Here G may claim Self defense

Self defense allows force to be used against another in order to prevent bodily injury or harm to oneself as long as the belief is reasonable and the amount of force is reasonable. It requires that a person first attempt to get to a place of safety if possible before the use of such force.

Here because of the castle doctrine G was not required to flee to a place of safety. A persons home is their "castle" and they are allowed to defend it. There is no doubt that G was allowed to defend his home but the amount of force that G used may have been excessive. Self defense allows reasonable force to be used and immediately shooting at someone before seeing who they are or if they are armed constitutes excessive force. The reasonable belief in the need to use force is measured by a subjective standard as to what the person believed but it is also measured in an objective standard as to what a reasonable person under the same circumstances would do. Although G did think he was in risk and needed to defend himself a reasonable person that knows they are in the process of moving may recognize people will be going to the home. G used excessive force and although the defense will not acquit him it may mitigate the murder down to manslaughter.

Manslaughter discussed supra. Here G may be found guilty of VM under the imperfect self defense theory. G used excessive force where reasonable force would suffice (supra) and he may be found guilty of VM.

People v. Surgeon?

Murder of Bret? no express or implied malice so cannot be found guilty of murder.

Implied malice murder? no intent to cause GBI, Depraved heart or felony, so no IMM

Manslaughter? discussed supra. If it can be established that S did not use due caution or circumspection when performing surgery on B he may be found guilty of involuntary manslaughter under the criminal negligence theory.

People v. Bret?

Burglary?

Burglary discussed supra. Here the elements of breaking, entering, nighttime are shown by the need of lights to see, Bret was a locksmith so that constitutes a breaking of the lock and Bret was inside S and G's home proving an entering. here the issue is whether the home constituted the dwelling house of another. B had made a reasonable mistake as to when he was to move in and he honestly believed the home to be his own evidenced by the email to the realtor. There was no intent by him to commit a felony therein. Because B did not intend to commit a felony he cannot be guilty of burglary.

END OF EXAM
