

1) The Story of The 13 Aces

Comprehensive, good command of the law, well argued - really fine; congratulations. 40/42

Crimes of Ed

Solicitation

Solicitation occurs when one entices, encourages, counsels, or advises another to commit a crime, with the specific intent that the crime be committed. Solicitation is an inchoate crime and merges with the target offense. Because Ed enticed Jill and Sam by offering them membership in the club in return for killing a goth, the first element is satisfied. As well, because Ed intended that members of the rival biker gang be killed, the second element is satisfied. Solicitation would require nothing more than for the offer to be made, it does not require an agreement, only the offer with the requisite mental state, so therefore, Ed would be guilty of solicitation. However, if an agreement is formed, it becomes a conspiracy, and solicitation merges with conspiracy.

how shown? 7/10 the (4/11)

Plan very nice

Conspiracy

Conspiracy is the combination of 2 or more parties for an unlawful purpose, where each party has the specific intent that the unlawful purpose be achieved. Because Ed formed an agreement with Jill and Sam to kill members of the goth gang (an unlawful purpose), and at least one other party had the same unlawful intent (Jill, but maybe not Sam), a conspiracy was formed and Ed would be guilty of Conspiracy itself. Conspiracy does not merge with any other crimes, it is a separate offense.

after an overt act in furtherance like...

Crimes of other Parties

Because Ed was a member of a conspiracy, he will be liable as an accomplice for all of the crimes committed in the furtherance of the conspiracy, as well as any criminal acts that are a natural and probable, foreseeable result of the actions taken while furthering the conspiracy.

At common law, there were four types of parties to a conspiracy. 1) Principals in the first degree, who are present at the time of the criminal act and directly participate in it's commission. 2) Principals in the second degree, who are present at the scene, but only aid and abet in it's commission (such as a look-out or getaway driver). 3) Accessories before the fact, who aid and abet in the crimes commission, but are not present at the scene of the crime, and 4) accessories after the fact, who are not present and do not aid and abet but rather somehow assist the actors after the fact in avoiding capture, prosecution, or punishment. At common law these four categories were considered separately but principals and accessories before the fact were guilty of the same crimes to the same extent as the principle in the first degree, or actual perpetrator.

At modern law all types of accessories, except accessories after the fact, are considered principals and are guilty to the same extent as the perpetrator. Accessories after the fact are guilty of a separate crime, usually misprision of felony or obstruction of justice.

Ed would be an accessory before the fact at common law, and a principle at modern law. Either way, he is imputed with accomplice liability for all the foreseeable, natural and probable crimes that occur either as a result of or in the furtherance of the conspiracy.

Crimes of Jill

Conspiracy

really Conspiracy is defined supra. Jill is the other key player in the conspiracy, as well as Tiny because she actually had the intent to do whatever Ed required to join the gang, in this case, kill goths. She agreed, and she had the requisite mental intent, so she is guilty of conspiracy. *w/ the 2nd*

Murder of Goth Biker

Murder is the killing of another with malice aforethought. Malice is defined either as express intent to kill, intent to do great bodily injury, or reckless disregard for human life. Malice can also be implied when one is killed during the commission of an inherently dangerous felony, such as robbery, burglary, arson, rape, etc. Because Jill intended to kill the dark figure she shot at, this would be considered murder at common law, where malice is established through a direct intent to kill. Of course, murder in this case could also be established through the Felony Murder Rule, which states that malice is implied when one is killed during the commission of a felony. Even if Jill tried to argue that she didn't intend to kill the goth she shot at, she was in the commission of a burglary, defined infra, when the man died. *= FUR, YES*

Robbery

2 felony Robbery is the trespassory taking and carrying away of personal property from or in the presence of a person by force or fear. When Jill pulled the cab driver from his vehicle and absconded with Tiny in it, she used force (pulling from the cab) to take and carry (in this case, drive) away the personal property of another. It doesn't matter that the cab driver probably doesn't own the cab, as robbery is a crime against possession, not title, and the cab driver was in possession of the vehicle when he was robbed by Jill. Jill is guilty of robbery. ✓

Battery

Battery is the unlawful application of force upon the person of another. When Jill grabbed the cab driver and pulled him from his vehicle, an unlawful application of force occurred, upon the person of the cab driver (another). Thus Jill is guilty of battery as well as robbery.

subsumed in the force of the robbery

Crimes of Sam**Conspiracy**

Defined supra. Sam, although he agreed to take part in the conspiracy, may have lacked the requisite mental intent to commit the target crime, and therefore, may not be guilty of conspiracy. First, it's clear he was hoping the crime required would be a petty theft, not a killing. Second, he attempted to thwart the conspiracy by removing the bullets from the gun. However, he did not clearly communicate his intent to withdrawal, so it's possible that if is a member of the conspiracy that he did not effectively withdraw from the agreement. If he is not found to be part of the conspiracy, then he will not be imputed with accomplice liability for the crimes committed by the other parties in furtherance of the conspiracy. *R*

Murder

Murder is defined supra. Sam clearly intended to kill the person he shot at, and his actions would imply the requisite malice for a murder charge. However Sam will have a self-defense claim, as he had both a subjective and objectively belief that his life or physical safety were in immediate danger, because a baseball bat was being lifted in his direction. However, where one is initially the aggressor, as Sam was here, the right to self-defense may not be used, unless one "escalates the danger" by responding with disproportionate force. This is not the case here, and Sam will probably not be successful in his self-defense claim. *but he evidenced apparent agreement w/ the other conspirators*

confusing

Burglary - no direct intent to commit a felony, but accomplice liability

Burglary is defined infra. Although there may be a question as to Sam's intent (it appears as though he only intended to commit assault when he entered, which was a misdemeanor at common law) Sam would still be guilty of Burglary via accomplice liability imputed upon him if he is found to have entered the conspiracy and not effectively withdrawn. *New*

Accomplice liability

If Sam was a member of the conspiracy, he would be imputed with accomplice liability for all the foreseeable and probable crimes that are committed either in furtherance of or as a result of the conspiracy.

Crimes of Tiny**Burglary**

At common law, burglary was the breaking and entering of the dwelling house of another in the nighttime with the intent to commit a felony. Modernly, the requirements of breaking, dwelling, and nighttime have been abrogated. All that is required is entry into a structure with intent to commit a felony. Tiny did satisfy the breaking and entering elements, there was a structure, and he did have the intent that a felony be committed when he (they) entered, so he is guilty of Burglary.

Felony Murder

Murder is defined supra. Although this killing was arguably unforeseeable (beaches below cliffs aren't necessarily always populated with surfers), the killing did occur during the commission of a felony, and as such, would probably fall under the felony murder rule, defined supra. Even though the crime had already been committed, he was not to a place of safety yet, and was still in the process of furthering the felony, he was disposing of the getaway car which would be considered an ongoing portion of the felony activity. If for some reason the location of the surfer was an intervening cause, he might not be guilty of murder, but would still be guilty of involuntary manslaughter. Involuntary manslaughter occurs when a death results either from criminal negligence or the commission of a malum in se misdemeanor. The probability that a surfer will be killed probably doesn't rise that required to establish an "unjustifiably high risk to human life" required for reckless disregard murder, but is definitely sufficient to show criminal negligence. Therefore Tiny will be guilty of involuntary manslaughter if not of felony murder.

Conspiracy

Conspiracy is defined supra. Although Tiny never verbally agreed explicitly, his agreement to participate in the conspiracy is easily inferred from his conduct. He does not protest and freely goes along with the plan after being informed of it by Ed. Because Tiny was an active member of the conspiracy with the requisite mental intent, he will be imputed with accomplice liability for all the crimes of Jill and Sam that occurred in furtherance of the conspiracy, or as a natural and probable result of it.

Crimes of Lead Goth**Assault**

Assault occurs when one intentionally places another in apprehension of an immediate battery. Some jurisdictions also define assault as attempted battery. Either way, the Lead Goth, when lifting up the bat, certainly acted in a way that constitutes assault, but he had a

good defense, which is self-defense and defense of others. One must have a subjective and objectively reasonable belief that they or others are in immediate danger of death or serious bodily injury. Lead Goth had this belief and was acting with an appropriate level of force - one can only use deadly force when confronted with deadly force, which he was. Lead Goth is not guilty of assault, but he is dead, so it's not much consolation. ✓

Not much.

Crimes of other Goths

Murder of Sam - self defense

Murder is defined supra. Although all the other goths would be vicariously liable for each other's participation in Sam's death, they would all have a valid claim of self-defense. Sam had a gun, which is the great equalizer, he probably could have taken out several of them by himself, so all of them joining in and beating him into submission (well, to death) isn't necessarily an unreasonable use of force given the circumstances, so they probably are not guilty of the murder of Sam because of self-defense/defense of others.

Conspiracy/Accomplice Liability for Sam's Death - Jill, Ed, Tiny

Sam's death, while justified by the goths in the form of self-defense, might be imputed upon Ed, Jill, and Tiny as members of the conspiracy. Because his death resulted in a foreseeable manner from the furtherance of the conspiracy, they will likely be guilty of Sam's killing as well. There is a minority rule, the Washington Rule, which states that when one conspirator is killed by victims of the crime or law enforcement (in self-defense or defense of others, basically), the other members of the conspiracy cannot be liable for his death, as the acts of others are seen as superceding causes. However in a majority of jurisdictions, Ed, Jill, and Tiny would be imputed with accomplice liability for the death of Sam, and would be guilty of murder, either under the felony murder rule, or even under a reckless disregard theory, as sending Sam into a room full of ^w roudy bikers with a gun was almost certain to get somebody killed. Recklessness is acting in the face of a known and unjustifiably high risk to human life, which this certainly was.

2)
Crimes of Liz

Solicitation

Solicitation occurs when one entices, advises, councils, or encourages another to commit a crime, with the specific intent that the crime be committed. Because Liz asked Dan to presumably break a law (defrauding the FDA), she was guilty of solicitation the moment she asked. Dan need not agree to the proposal to complete the crime. Liz is guilty of solicitation.

Absent 1 minor issue (last para), Great job, your answer is impeccable!

Carla

10/42
Good

Crimes of Dan

via forgery?

Conspiracy w/ Liz

Conspiracy is a combination of two or more people for an unlawful purpose. It requires an express agreement, and the agreement must be communicated. Conspiracy also requires that two or more of the conspirators share the same mental state - the intent for the unlawful purpose to be achieved. In this case, although Dan did share the mental intent that Liz had, because he wanted to keep his job, but he did not actually communicate his assent to her, nor was she ever made aware of it in these facts. Therefore, no conspiracy exists between Dan and Liz.

Conspiracy w/ Molly

See conspiracy supra. Although Dan did solicit Molly and she agreed, Molly will be seen as insane under the M'Naghten rule (infra) and probably lacked the mental state required (even without insanity, she had no knowledge of Dan's true intentions, although only an insane person would be misled by Dan's misrepresentations). Because there was not two or more people with the requisite specific intent, no conspiracy occurred here either. It is a better theory to suggest that Molly is Dan's unwitting agent, and that he is directly liable for all of her crimes because he simply used her as his innocent instrumentality in committing the crimes.

Solicitation of Molly

Solicitation is defined supra. When Dan solicited Molly's help, he actually didn't make her aware that he intended for her to commit a crime, but the solicitation would stand, as her knowing of the crime is not required and his mental intent that a crime be committed was present.

Accomplice liability

Either through accomplice liability as an aider and abetter (although probably not a conspirator) or through direct liability due to his use of Molly as an innocent agent, Dan will be culpable for most of Molly's actions that occurred in the furtherance of his criminal objective, as she was acting under his influence and control.

Murder of Security Guard

Murder is the killing of another with malice aforethought. Malice can be shown either through express intent to kill, intent to do serious bodily injury, reckless disregard for human life, or the commission of an inherently dangerous felony. Although Dan did not directly kill the security guard, he knowingly exploited Molly's insanity brought about by her continued drug use in order to make her the instrumentality of his actions. It's as if Molly had been a gun and Dan had shot a bullet from her. Because Dan acted with express intent to either kill or seriously injure the security guard, and the security guard was indeed killed, Dan would be guilty of his murder.

Steve McQueen would be proud.

It's also possible, if Dan's entry into the building amounted to a burglary, that Dan would be found guilty of murder under the felony murder rule, which requires only that murder foreseeably result from the commission of an inherently dangerous felony. Burglary is considered one such felony. *in most jurisdictions*

Even if Dan didn't intend for the security guard to die, he acted in the face of an unjustifiably high risk to human life. Handing a crazy person a hammer and telling to hit someone in the head, either directly or by misrepresentation, is almost certain to result in either someone's death or serious injury, so it's possible that Dan would be guilty of murder under any of the four theories of malice.

Modern Burglary

Burglary is the breaking and entering of the dwelling house of another in the nighttime with intent to commit a felony. Although Dan did not break in order to enter, his entry with intent to commit a felony would be seen as constructive breaking. As well, there was no dwelling house involved. However, modernly the dwelling house, nighttime, and breaking elements have been abrogated. Even though Dan did enter the building with the intent to presumably commit some crime, the facts don't state that the crime of "fixing test results" is a felony, and without that, all we have *at the time of the breaking* is malicious mischief, which would be a misdemeanor. It is not possible to say with certainty that Dan committed burglary.

possible argument that Dan brought hammer w/ gun in hand

Duress

Dan could argue (for all of the crimes resulting from his conduct) that he was placed under duress by Liz. This defense would fail however as duress requires a reasonable fear of immediate harm to one's self or the person of others. Financial harm, such as having your job threatened, is not sufficient. Therefore Dan is guilty of all his crimes, and was not acting under the Duress of Liz.

Crimes of Molly**Murder**

Murder is the killing of another with malice aforethought. Malice can be shown either through express intent to kill, intent to serious bodily injury, reckless disregard for human life, or the commission of an inherently dangerous felony. Because Molly acted directly intending to kill the guard, at common law she would be guilty of murder, but she will obviously enjoy an insanity defense.

Insanity is evaluated in CA and most jurisdictions under the M'Naghten rule, which considers 1) whether the person was unable to know the quality or nature of their acts, and 2) whether or not they were able to know what they were doing was wrong. When the criminal conduct comes about as a result of delusion, the facts as they were in the actor's delusion must constitute a reasonable defense or otherwise negate a crucial element of the crime. All three elements of M'Naghten are met in this case. She was unable to know the quality of her actions (she thought she was hitting a robot), unable to know her acts were wrong (terminating a robot isn't a crime) and her delusions negated a mental element of the crime - it shows she had no intent to kill, and no knowledge that she was committing a homicide. It is likely that because she is legally insane, Molly will be not guilty by reason of insanity of the murder of the security guard.

The other three insanity tests are the Durham rule, which requires that the crime be a result of mental defect, or the irresi (time)

Larceny

Larceny is the trespassory taking and carrying away of the personal property of another with intent to permanently deprive. Molly did take and carry away (to the window) some documents and begin to throw them out (presumably intending to deprive their owners of possession permanently), and therefore is guilty at common law of Larceny. The delusion that induced her participation in this scheme, as manipulated by Dan, would not relieve her of liability under the M'Naghten test for insanity however, as if there were really little men hiding in her closet, she would not be privileged to destroy the documents of another. It doesn't matter that Molly had no intention of keeping them for herself, as all that is required is that she intended to permanently deprive the possessor of possession. She would be guilty of larceny.

Malicious Mischief of the cat

Malicious mischief is the malicious destruction or damaging of the personal property of another. Because Molly presumably killed the cat in order to "read it's entrails," she presumably destroyed the property of her neighbor, his cat. This act does not seem to be brought about by a delusion, but rather a belief that something can be learned from the entrails of a cat. As such, as long as she can show that she was either unable to know what she was doing was wrong or unable to know the nature and quality of what she was doing, she will be deemed to have been too insane to form the requisite malice required for this crime.

Conspiracy

Conspiracy is supra. Although Molly did agree to help Dan, she didn't know what for, therefore negating the requisite mental intent of the crime, she had no idea what target crime or that there even was a target crime in the works. All crimes require both an actus reus (the criminal act) and a mens rea (the criminal intent). These two, the action and the criminal intent, must be concurrent, that is, they must occur at the same time. Molly neither agreed to a crime (actus reus) nor intended for one to be committed (mens rea). Because of this, she is not guilty of conspiracy.

Crimes of Vic & Sue

Murder of Dan - crime prevention

Murder is defined supra. When Vic and Sue ordered Jane to turn on the lasers, knowing that they would kill whoever was in the room, they acted with reckless disregard for human life at least, and probably with express intent to kill, so the malice element required for murder is established. However, they have a defense of prevention of crime. In order to use this defense, the force used must be reasonable, and deadly force can only be used where the officer is in apprehension of immediate bodily harm or death, or where the fleeing suspect poses a substantial risk of death or serious bodily harm to others. Neither were the case here. Molly was obviously no threat to anybody unless she was given instructions, and Dan was perusing documents, and the facts don't show any presence of a deadly weapon or harm to the police officers or others. Of course, if they had discovered the security guard's body, they may have entertained a reasonable belief that the lives of others were in imminent danger, but the facts here make it seem like the police officers over-reacted, and probably would be guilty of either murder or voluntary manslaughter. Voluntary manslaughter occurs when one acts with intent to kill and a death results, but one acts either under adequate provocation (catching one's spouse in the act of infidelity, mutual combat or aggravated assault) or in imperfect self-defense of defense of others. If the officers were to use the defense of others defense, they may be seen as having used an unreasonable amount of force, but their subjective and objective belief of danger probably would be considered reasonable, so they may mitigate the killing to voluntary manslaughter, but the killing would not be seen as justified and they would answer for it in one way or another.

where's the deadly hammer?

Crimes of Jane

Murder - legal authority

Murder is defined supra. Although Jane acted knowing that death was substantially certain to occur, which would establish either express malice murder or reckless disregard for human life, she has a defense of legal authority. She was told by police officers that her actions were the right ones to take. This defense comes down to the reasonableness of the officer's suggestion and to the subjective belief that Jane had that the officers were indeed telling her the truth. This could go either way. Jane may not be guilty of murder due to a defense of legal authority.

Crimes of Norm

Larceny

Larceny is defined supra. Norm intended to take, carry away, and permanently deprive the owners of the materials he discovered on the sidewalk, unless they intended to pay him. This is an example of conditional intent. If they didn't pay, he would permanently deprive them of their records by selling them to Mega, their competitor. Most courts consider conditional

intent to be equal to present intent. Therefore, because Norm took all the necessary actions and requisite mental state, he would be guilty of larceny.

Extortion

Extortion is the obtaining of the personal property of another by threat of force or economic injury. In this case, the property of another that Norm was trying to extract from Dose was money. His threat of force or economic injury was that he would sell the documents to their competitor, presumably causing Dose some sort of financial injury. Norm is guilty of Extortion.

END OF EXAM

*P.v. (competing company) Rec'd -
receipt of stolen property -*