

Empire College of Law
Criminal Law Examination
Fall 2024
Prof. K. Pozzi

Instructions

1. This examination consists of three (3) questions.
2. There is a three (3) hour time limit to complete the exam.
3. Answer each question according to the times allocated by Prof. Pozzi.
4. There are three essay questions. Make sure that you read each essay question carefully before answering. Attempt to organize your answer before you start writing.
5. The essay questions test your ability to apply the law to the facts. Use IRAC. After stating the issue, provide a succinct statement of the relevant legal principles, followed by a detailed analysis of how these legal principles apply to the facts and a conclusion.

Empire College of Law

Criminal Law Final

Professor Pozzi

Fall 2024

Question 1 (1 hour)

Al owed more money on his home than his home was worth because he had run it into the ground. He devised a scheme to burn down the home and collect the insurance money. Al was confident that this plan would more than pay off what he owed and give him extra money to purchase another home. Al asked his friend Bob to help him with this plan. Bob agreed as long as he would be paid \$1,000.

As planned, the next night, while Al was at a poker game, Bob went to Al's place, opened a window, crawled in, poured gasoline onto the kitchen floor and lit it on fire. The house and the contents were burned to the ground. Al's neighbor's house was also partially burned.

Meanwhile, Al was losing at his poker game and decided to cheat the three other players. As a result he made \$1,000 that he would not otherwise have won.

The next morning, Al went to his CBD Insurance Company claiming that a faulty heater caused his home and the contents to burn. CBD paid Al \$500,000 for his loss, which was \$100,000 more than he could have sold the home and contents on the open market. He paid the mortgage company the \$400,000 that he owed.

Al paid Bob the agreed upon \$1,000.

1. What crime or crimes has Al committed, if any? What defenses, if any, can he raise?
2. What crime or crimes has Bob committed, if any? What defenses, if any, can he raise?

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Question 2 (1 hour)

Xavier borrowed \$100 from Yang but refused to pay him back. Yang decided to go to Xavier's house one evening when he knew Xavier was at his league bowling tournament and retrieve his money.

Yang asked his friend Zen to accompany him and told Zen that he wanted to get what was owed to him. Zen agreed, but believed that Yang really wanted to steal money from Xavier. Zen had an idea that he would take some of Xavier's jewelry. He did not tell Yang of his plan.

The next night, Yang and Zen went to Xavier's house, opened a window and both went in. Yang saw some cash laying on the nightstand and put what he thought was \$100.00 in his pocket. It was actually \$200.00. Zen grabbed a handful of jewelry from a jewelry box on the dresser. Yang pleaded with Zen to put it back. Zen refused and pushed Yang. Yang fell backwards and hit his head on a large metal cow statue. Yang died instantly.

Scared, Zen ran down the hallway, right into the hands of Xavier returning from his bowling tournament. Xavier hit him over the head with his bowling ball, rendering him unconscious.

Zen survived.

1. What crime or crimes if any, can be brought against, Xavier? What defenses, if any, can he raise?
2. What crime or crimes if any, can be brought against, Yang? What defenses, if any, can he raise?
3. What crime or crimes if any, can be brought against, Zen? What defenses, if any, can he raise?

Question 3 (1 hour)

Amy was extremely intoxicated and wandered into Bill's apartment one night thinking that it was her own. Upon opening Bills' front door, she passed out just inside. Bill was initially scared, but quickly recognized his drunken disorderly neighbor, Amy. This was not the first time this had happened. He had it with her, so he decided to shoot and kill her and claim self defense.

He called 911 feigning that he was scared, lived alone, and that he had just killed an intruder. Before the police arrived, Amy came to. The bullet actually went through her jacket and not into her body. Her jacket had two large holes caused by the bullet. Bill, shocked that she was alive, pointed his gun at her to shoot again. Before he could pull the trigger, Amy pulled out her small derringer and shot Bill. Bill died before the police arrived.

Hungry, Amy went to Bill's refrigerator and ate his leftover moldy pizza. She then staggered back to her apartment, but not before opening Bill's closet and taking his new coat in retribution.

1. What crime or crimes, if any, can be brought against Amy? What defenses, if any, can Amy raise?
2. What crime or crimes, if any, can be brought against Bill? What defenses, if any, can Bill raise?

Criminal law final Question 1 Outline
Professor Pozzi
Fall 2024

People vs. Al (A) – Question 1

1. Arson- Neighbors home
 - Is Al an accomplice?
 - Is partial burn enough?
 - Was there malice (dwelling house endangering state of mind)?
2. False Pretenses-\$1,000 from poker game
3. Burglary- CBD Insurance Company
 - M.L. vs. C.L?
4. False Pretenses-\$500,000 from CBD

People vs. Bob (B)

5. Conspiracy to commit arson, burglary of CBD/false pretenses with Al
6. BurglaryArson/malicious mischief
 - Is Al's consent a defense?
7. Arson- Neighbors house
 - Is partial burn enough?
 - Was there malice (dwelling house endangering state of mind)?

Criminal law final Question 2 Outline
Professor Pozzi
Fall 2024

People vs. Yang (Y)

1. Conspiracy/ (Solicitation) to commit burglary/larceny of Xavier's with Zen
 - Claim of right defense/ legal impossibility?
 - "Felony therein?"
 - Significance of Zen believing solicitation was for an unlawful purpose
 - Meeting of the minds for an unlawful purpose?
2. Burglary of Xavier's-
 - "Claim of right defense to "felony therein"?
3. Larceny of \$100.00 owed/larceny of additional \$100.00
 - Claim of right defense?
 - Did he take possession of additional \$100.00 unlawfully?

People vs. Zen (Z)

4. Conspiracy to commit burglary/ Larceny of Xavier's with Yang
 - Meeting of the minds? Unilateral plan to take jewelry
5. Burglary- Xavier's house
6. Larceny-Xavier's jewelry
7. Unlawful Homicide of Yang
 - Mitigate from murder (felony murder) to involuntary manslaughter
 - C.L. vs. M.L. regarding inherently dangerous felony
 - Can burglary be the felony to impose felony murder rule? Ireland Doctrine?

People vs. Xavier (X)

8. Assault on Zen
 - Defense of self/habitation
 - M.L. vs. C.L. assault
9. Battery on Zen
 - Defense of self/habitation

criminal law final Question 3 Outline

Professor Pozzi

Fall 2024

People vs. Amy (A)

-
1. Burglary-Bill's apartment
 - Felony therein?
 - Intoxication as a defense?
 2. Burglary of refrigerator (non fixture) and/or closet (fixture)?
 - "felony therein"? Food?
 - Since Bill is dead, is apartment "of another"?
 - Intoxication as a defense? Did she sober up?
 3. Larceny of moldy pizza
 - "thing of value"? Since she ate it, it had some value to her
 - Intoxication as a defense? Did she sober up?
 4. Larceny of coat
 - Valid claim of right defense for retribution?
 - Intoxication as a defense? Sober up?
 5. Homicide of Bill
 - Self defense?

People vs. Bill (B)

6. Attempted Murder- of Amy

-Defense of self/habitation

-Is "had it with her" sufficient provocation to reduce to attempted Voluntary manslaughter?

7. Malicious Mischief- 2 holes in Amy's jacket

-Was there malice (property endangering state of mind?)

8. Attempted Murder- pointing gun at Amy

1)

People (P) v. AI (A)

Is A guilty of solicitation?

Solicitation is enticing, encouraging, aiding, or counseling another to engage in conduct constituting a crime, with the specific intent that the other commit, or aid in the commission, of the target offense.

Here, the facts tell us that A devised a scheme to collect money from his insurance carrier by committing arson. Further, he directly asked Bob (B) to help, constituting aid, in the commission of this scheme. Accordingly, A will be culpable for solicitation. A may try to make a defense for necessity, which can be allowed but that will unlikely prevail given that this was a devised plan that A prepared all alone. However, he is guilty of the crime of solicitation as soon as he asks the question to B.

Is A guilty of conspiracy with B?

Conspiracy at common law is an agreement between two or more people to engage in conduct constituting a crime. Modernly, in addition to the agreement, there must be an overt/affirmative act towards the commission of the target offense.

Co-conspirator liability: Under the natural and probable consequences doctrine, co-conspirators can be held liable for the separate offenses committed by their co-felon if they are foreseeable and likely (reasonable person standard) to occur while in the commission of the target offense.

Here, the facts tell us that B agreed on the condition that he was paid \$1,000. At common law, the agreement would be sufficient, regardless of the condition. Modernly, the facts tell us that the next night, B went to A's home and did in fact commit arson. Modernly, by B simply arriving to A's home, A would be guilty of conspiracy because this was an overt act towards the commission of the target offense. A's solicitation would merge into conspiracy. Additionally, A will be guilty of the crimes committed by B via co-conspirator liability under the natural and probable consequences doctrine.

Is A guilty of Burglary via co-conspirator liability when B broke and entered into his home?

Burglary at common law is the trespassory (without consent) breaking and entering into the dwelling (or any building within the curtilage) of another at the nighttime with the intent to commit a felony therein. Modernly, burglary is entering into a building with the intent to commit a felony or any theft related offense therein.

Here, the facts tell us that B broke into A's home at the nighttime, with the intent to commit an arson. Because this was A's home, it could not be the dwelling of another, and therefore this missing element alone would be sufficient to cut off culpability of A for burglary. Modernly, A may be found guilty of burglary because B, his co-conspirator, entered into a building with the intent to commit the felony of Arson.

Is A guilty of Arson via co-conspirator liability when B burned his home?

Very good analysis and about mlt of CBP insurance 80 + 5 (bonus for burglary + uttering)
(85%)

Good!

of A's home or neighbors?

What crime(s) did they conspire to commit?

But wasn't there consent by A?

Arson is the willful and malicious burning of the dwelling house (or building within the curtilage) of another with malice. Arson requires more than a charring and malice can either be expressed (house burning endangering state of mind) or implied (doing act with high likelihood).

Here, A would not be guilty of arson via co-conspirator liability because it was his own dwelling house. Though he possessed the requisite intent, he could not be found guilty of arson.

Is A guilty of Arson via co-conspirator liability of his Neighbors home?

Arson defined supra.

The facts tell us that A's neighbor's house was also partially burned. With Arson we must look at the result, and because arson can be implied, which is doing an act with the high-likelihood of the result being an arson, A would likely be guilty arson via co-conspirator liability for his neighbors house.

Is A guilty of Malicious Mischief via co-conspirator liability when B burned the contents in his home?

Malicious Mischief is the malicious destruction or damage to the property of another, real or personal.

This was A's own property and thus he would not be guilty of malicious mischief via co-conspirator liability.

Is A guilty of false pretenses when cheating during the poker game?

False pretenses is a false representation of a material fact (past or present) with the intent to defraud, that causes the victim to pass possession of his or her property based upon the fraud or deceit.

Here, the facts are limited as to what A actually did to cheat. However, he gained a total of \$1,000 from three other players. Because the facts tell us that he cheated, which generally requires false representations of facts, and he was losing indicating intent to defraud his other players, A is guilty of false pretenses when the players passed possession and title of their money to A. Accordingly A is culpable of false pretenses.

Is A guilty of Forgery?

Forgery is creating a false document appearing to have legal significance.

Here, A went to his insurance claiming a faulty heater caused the contents. This caused the insurance company to pay A \$500. Though the facts are silent as to the creation of any documents, it is highly likely that an insurance carrier would create document for this claim and the creation of those documents would make A guilty for forgery. A is also guilty of obtaining money by way of false pretenses.

Is A guilty of Uttering?

Uttering a forged instrument is knowingly offering, as genuine, an instrument known to be false with the intent to defraud.

(m.l.)
What about burglary in entering into CBD w/
intent to falsify claim insurance money?

Here, A would be guilty of uttering because he then took this money obtained by forgery and offered money that was not his, to the mortgage company to pay off his debt. A is likely guilty of Uttering.

Wasn't CBD insurance the victim of F.P.?
Is A guilty of False Pretenses of the \$400,000 to the Mortgage Company?

False Pretenses defined supra

Here, A gave the Mortgage Company money he unlawfully received which caused the mortgage company to pass possession and title of the home to A. A is guilty of false pretenses.

People (P) v. Bob (B)

Is B guilty of Conspiracy?

Conspiracy and co-conspirator liability defined supra.

Here, B would be guilty of conspiracy for the same reasons as A. B agreed to A's plan to commit Arson. As such, B is guilty of conspiracy at common law. Modernly, B would also be guilty of conspiracy the second he arrived and stepped into A's house. B would also be guilty of all the crimes committed by A that are the natural and probable consequences of the target offense, such as false pretenses, forgery, and uttering.

Is B guilty of burglarizing A's home?

Burglary defined supra.

Here, B opened a window and crawled into A's house at the night time, satisfying both the breaking and entering element and nighttime element of burglary. This was the dwelling of another because the facts tell us that it was A's home. B intended to commit a felony because his plan was to set fire (arson) to the premises. However, because A had planned with B, A had given B his consent to engage in this exact conduct, and as such, the element of trespassory (without consent) would not be satisfied and B could not be found guilty of burglary at common law. Modernly however, because modern law burglary just requires entering into a building with the intent to commit a felony, B would be guilty of burglary at modern law. why? what felony?

Is B guilty of Arson of A's home?

Arson defined supra.

Here, B meets all the elements of arson. B possessed the expressed intent of a house endangering state of mind when he poured the gasoline. Further, this was the dwelling house of A and it burned to the ground so we know there was more than a charring. B is guilty of Arson.

What about consent?
Is B guilty of Arson of A's Neighbors home?

Arson defined supra.

Here, B meets all the elements of arson as well. Under the theory of implied malice, B engaged in an act with a high likelihood that the neighbors house would burn. Further, this was the dwelling house of the neighbor and it partially burned, indicating more than a charring. B is guilty of Arson of the neighbors house.

Is B guilty of Malicious Mischief of A's home contents?

Malicious mischief defined supra.

Here, the contents were burned to the ground along with the house. This constitutes the destruction of the property of another, both for the house and the contents. B is guilty of malicious mischief of A's home and the contents therein. *What about consent? What about neighbors house contents?*
Is B guilty via co-conspirator liability for the crimes of A (forgery, false pretenses, uttering, false pretenses of the \$400,000 owed to the mortgage company?)

Co-conspirator liability, forgery, false pretenses, uttering defined supra.

Here B is likely to be found guilty of all of A's crimes after the poker game because they were the natural and probable consequences of the conspired crime, to burn down A's home and collect insurance money. B will likely not be guilty of A's false pretense crime during the poker game because that was not a natural and probable consequence of the intended conspired crime. However, the events that followed were all directly linked to the conspired plan and B will likely face culpability for those as well. *True*

2)

People (P) v. Xavier (X)

Is Xavier guilty of embezzlement of the \$100 of Yang (Y)?

Embezzlement is the fraudulent misappropriation of the goods of another to whom the possession of the goods has been entrusted or used for his or her benefit with the intent to permanently deprive.

Here, the facts tell us that X borrowed \$100 dollars from Y, so he obtained possession of them lawfully. However, his refusal to give them back constitutes a fraudulent misappropriation of the \$100, whose possession was entrusted with X and used to for X's benefit. Because the facts tell us X refused to pay Y back, this is sufficient to demonstrate an intent to permanently deprive and thus X would be guilty of embezzlement.

Is X guilty of assault/battery on Z?

Assault at common law is an attempted battery (infra). An **attempt** is an act beyond the zone of preparation into the zone of perpetration, in this case, a specific intent to commit a battery. Modernly, an assault is putting someone in fear or apprehension of receiving a battery. **Battery** is an unlawful application of force upon another person.

Here, as X was returning from his bowling tournament, he ran into Z and hit him over the head with his bowling ball. X possessed a specific intent to commit a battery when he lifted the bowling ball to hit Z. Because the bowling ball hit Z and rendered him unconscious, this constitutes an unlawful application of force upon Z. As such, the elements for assault and battery are met.

However, X will likely find success in utilizing defense of self because Z was running down the

hallway in attempt to escape and ran right into the hands of X, which would reasonably suspect a threat. Alternatively, X can use the defense of habitation under the castle doctrine and use force to defend his habitation. Because these defenses are available to X, it is likely he will not face culpability for assault/battery.

People (P) v. Yang (Y)

Is Y guilty of soliciting Zen (Z)?

Solicitation is enticing, encouraging, aiding, or counseling another to engage in conduct constituting a crime, with the specific intent that the other commit, or aid in the commission, of the target offense.

Here, the facts tell us that y asked Z to accompany him to recover \$100. As such, because Y was encouraging Z to accompany him, Y is guilty of solicitation. However, Y may make an effort to utilize the claim of right defense arguing that he was only doing this to recover his property. Claim of right may be used when you have a good faith belief that you are reclaiming possession and title of your own goods/property. Here, Y is may be able to use this defense for other crimes but not solicitation because solicitation was complete as soon as he encouraged Z to accompany him. *But what was crime solicited?*

Is Y guilty of conspiracy with Z?

But what crime?
Conspiracy at common law is an agreement between two or more people to engage in conduct constituting a crime. Modernly, in addition to the agreement, there must be an overt/affirmative act towards the commission of the target offense.

Co-conspirator liability: Under the natural and probable consequences doctrine, co-conspirators can be held liable for the separate offenses committed by their co-felon if they are foreseeable and likely (reasonable person standard) to occur while in the commission of the target offense.

Here, Z agreed to accompany Y and the facts tell us that they did in fact show up to X's house the next night. As such, both at common law and modern law, Y would be guilty of conspiracy. Likewise, Y would be guilty of all of the separate crimes committed by Z that are the natural and probable consequences. *was there a meeting of the minds to commit a crime or unilateral?*

Is Y guilty of burglary B?

Burglary at common law is the trespassory (without consent) breaking and entering into the dwelling (or any building within the curtilage) of another at the nighttime with the intent to commit a felony therein. Modernly, burglary is entering into a building with the intent to commit a felony or any theft related offense therein.

true → Here, Y and Z opened a window (constructive breaking) and entered into X's home. This was trespassory because the facts do not tell us that X consented to this, and we know he was later startled by Z when he got home. This is X's dwelling, satisfying the dwelling of another element. An argument can be made that Y did not possess the intent to commit a felony therein because he was operating under the claim of right theory. If this was the case, then there would be no burglary both at modern law or common law. However, because took an extra \$100 additionally, this could be sufficient to constitute a felony/theft related offense therein and would make Y *But was this an intent upon the entry?*

culpable for burglary. — *no*

Is Y guilty of Larceny of the extra \$100 she took from X's home?

Larceny is the trespassory taking and carrying away of the personal property of another with the intent to permanently deprive. Larceny is a crime against possession and one should look to a clue to ownership first, if no clue to ownership, a reasonable inquiry only.

Here, the facts tell us that Y mistakenly believed she took \$100 only. He was operating under mistake of fact for the additional \$100. Further, because there was no taking and carrying away as he very quickly thereafter died, larceny was most likely not complete. If Y had realized, he had a clue to ownership because he took the money from Y's house and therefore if he decided to keep the \$100, he would be guilty of larceny.

but w/ about putting this in his pocket!

People v. Zen (Z)

Is Z guilty of conspiracy with Y?

Conspiracy and co-conspirator liability defined supra.

Here, Z agreed to aid Y, and possessed an anterior motive to steal jewelry from X's home. Further, Z took an overt act in furtherance of the conspiracy. Z would likely be culpable for conspiracy with Y. Z will likely also face co-conspirator liability for the larceny of Y.

Is Z guilty of Burglary?

Burglary defined supra.

Z is guilty of burglary for the same reasons as Y but it is even more clear for Z because he intended to commit a felony therein, to steal the jewelry. Because the facts tell us this was at the nighttime, the dwelling of X, and because Z intended to commit a felony therein, Z is culpable of burglary.

Is Z guilty of Larceny of the jewelry?

Larceny defined supra.

Attempt is a step beyond preparation into the zone of perpetration. All attempts are specific intent crimes even if the crime attempted is a general intent crime.

Here, Z possessed the specific attempt to commit a larceny but was thwarted by X. Because of this Z will likely be culpable of an attempted larceny.

Is Z guilty of Robbery Y when Y pleaded with Z to put back the jewelry?

Robbery is larceny by force, fear, threat or violence. The force, fear, threat or violence must be contemporaneous with the taking.

Here, Z did commit larceny and did use force to further his commission of this unlawful act. However, because the jewelry was X's and not Y's, it could not constitute robbery because it was not the property of Y. Z will not be culpable for robbery.

Is Z guilty of an assault and battery upon Y?

Assault and battery defined supra.

Z had the specific intent to push Y which would constitute an unlawful application of force upon Y. He could have simply walked away from Y's pleas as there was no indication of a threat. Z will likely be culpable for assault and battery.

Is Z culpable for the murder of Y?

Homicide is the killing of one human being by another human being. Homicide can be lawful or unlawful. Lawful homicides are those that are justifiable (commanded or authorized by law such as war or death penalty) or excusable (where there is a defense to criminal culpability). Unlawful homicides are murder and manslaughter.

Murder is homicide (supra) with malice aforethought absent excuse, justification, or mitigation. Malice is a person endangering state of mind and can be expressed or implied. **Express Malice Murder** is where there is an expressed intent to kill. **Implied Malice murder** is present under one of the following three theories: (1) Wanton, willful and total disregard for the value of human life; (2) intent to inflict great bodily injury or serious bodily harm and someone does die as a result of that harm; (3) **Felony Murder Rule (FMR)**, while in the commission of a felony, death is the proximate result. Modernly, FMR excludes larceny because it is not inherently dangerous in the abstract.

Manslaughter is homicide (supra) without malice aforethought. Manslaughter can be voluntary or involuntary.

Voluntary Manslaughter is the intentional unlawful homicide (supra) where malice is negated under one of the three theories: (1) **Heat of passion**: Where the defendant acts out of passion and not reason. There must be no cooling off period and the defendant must have been adequately provoked, mere words alone are insufficient. There must be a causal link between the provocation and the fatal act. (2) **Imperfect self-defense**: where an individual subjectively believes they are acting in perfect self defense but it isn't objectively reasonable to have such a belief. (3) **Excessive force**: where an individual uses force that is disproportionate to the threat and beyond what the law would otherwise allow under the circumstances.

Involuntary manslaughter is the un-intentional unlawful homicide (supra) where malice is negated under one of the two theories: (1) **Criminal negligence**: while in the commission of a lawful act, someone dies unlawfully without due caution and circumspection or (2)

Misdemeanor Manslaughter: while in the commission of misdemeanor, death is the proximate result.

Here, the facts tell us that when Z originally conspired with Y, he had the intent to take some of X's jewelry, demonstrating that he had the intent to commit a larceny. As such, an argument can be made that under FMR, which we would not use burglary as the underlying felony but rather the commission of the larceny of X's jewelry, Z could be liable for a common law implied malice murder. However, modernly, this would not work because larceny is excluded under FMR at modern law for lack of inherent dangerous activity. Modernly, an argument could be made for in-voluntary manslaughter, specifically misdemeanor manslaughter. Modernly larceny is a misdemeanor, and because Z was in the commission of a larceny, and did not possess the expressed intent to kill Y, an argument could be made that his murder charge could be mitigated down to involuntary manslaughter.

3)

80%

People (P) v. Amy (A)

Is A culpable of Burglary of Bill's (B) home?

Burglary at common law is the trespassory (without consent) breaking and entering into the dwelling (or any building within the curtilage) of another at the nighttime with the intent to commit a felony therein. Modernly, burglary is entering into a building with the intent to commit a felony or any theft related offense therein.

Here, the facts tell us that it was at night, and that there was no consent given. The facts are silent as to whether there was a breaking and entering but nonetheless, A entered B's apartment thinking it was her own. The element missing in all of this is the requisite intent to commit a felony therein. Because A was extremely intoxicated, A may have a defense for burglary because burglary requires and relies on the specific intent to commit a felony therein. As such, A would likely not be culpable for burglary at either common law or modern law.

Is A's of homicide of B lawful or unlawful?

Homicide is the killing of one human being by another human being. Homicide can be lawful or unlawful. Lawful homicides are those that are justifiable (commanded or authorized by law such as war or death penalty) or excusable (where there is a defense to criminal culpability). Unlawful homicides are murder and manslaughter.

Murder is homicide (supra) with malice aforethought absent excuse, justification, or mitigation. Malice is a person endangering state of mind and can be expressed or implied. **Express Malice Murder** is where there is an expressed intent to kill. **Implied Malice murder** is present under one of the following three theories: (1) Wanton, willful and total disregard for the value of human life; (2) intent to inflict great bodily injury or serious bodily harm and someone does die as a result of that harm; (3) Felony Murder Rule (FMR), while in the commission of a felony, death is the proximate result. Modernly, FMR excludes larceny because it is not inherently dangerous in the abstract.

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Involuntary manslaughter is the un-intentional unlawful homicide (supra) where malice is negated under one of the two theories: (1) **Criminal negligence**: while in the commission of a lawful act, someone dies unlawfully without due caution and circumspection or (2)

Misdemeanor Manslaughter: while in the commission of misdemeanor, death is the proximate result.

The facts tell us that A had a gun pointed at her and that B was intending to shoot her again. However, before B could pull the trigger, A pulled out a gun and shot B. An argument could be made that A was acting in perfect self-defense as a reasonable person would fear for their life when having a gun pointed at them. As such, it was a necessity for her to use lethal force to thwart B's attempt to kill her a second time. As such, A would likely not face culpability for an unlawful homicide charge as she had a valid excuse (perfect self-defense) to constitute a lawful homicide. An counter argument could also be made that under Voluntary manslaughter A acted out of heat passion. Here, A acted out of passion and not reason. There was no cooling off period and the A was adequately provoked when a gun was pointed at her. There causal link between the provocation and the fatal act was B's death. If A's claim for self-defense was to be negated, A would be likely to prevail in mitigating a murder charge down to voluntary manslaughter.

Is A culpable of Larceny of the food?

Larceny is the trespassory taking and carrying away of the personal property of another with the intent to permanently deprive. Larceny is a crime against possession and one should look to a clue to ownership first, if no clue to ownership, a reasonable inquiry only.

The property must be a thing of value. An argument can be made that the leftover moldy pizza is not a thing of value and that it is a perishable good. Under this argument, A will not likely be found guilty of Larceny.

Is A culpable of burglary of B's closet?

Burglary defined supra.

At common law, A would not be culpable of burglary because the closet itself is not the dwelling of another. However, modernly, because modern says it can be any enclosure of four walls that a person can stand up in, with the intent to commit a felony or any theft related offense, A may face culpability of burglary at modern law because she intended to commit larceny on B's coat.

Is A culpable of Larceny of B's coat?

Larceny defined supra.

A took B's coat from his closet without consent. No consent could be given because B was already dead, as such the taking was trespassory. We know there was a carrying and taking away when A staggered back to her apartment. As such, A is guilty of larceny of B's coat.

People v. Bill (B)

Is B guilty of an attempted Homicide of A?

Attempt is a step beyond preparation into the zone of perpetration. All attempts are specific intent crimes even if the crime attempted is a general intent crime.

Factual impossibility occurs when the defendant carries the specific intent to carry out the crime but there is an unplanned occurrence that thwarts the defendant's desired outcome.

Homicide defined supra.

Here, the facts tell us B had it with A and he decided to shoot and kill her and fraudulently claim self-defense. As such, B meets the elements of an expressed malice murder because he possessed the requisite desire to kill A. He possessed a person (specifically A) endangering state of mind. However, a factual impossibility occurred in that the bullet went through A's jacket and not A's body. Though B had the requisite intent to expressly kill A, his desired outcome was thwarted by this A's use of this jacket. As such, A is at most guilty of an attempted expressed malice murder. No such thing as an attempted implied malice murder exists. B would have no defenses and be culpable for attempted expressed malice murder.

What about defense of habitatio/bel?

END OF EXAM

*→ What about later intent to kill her after he saw that she was still alive (2nd count of attempted murder)?
What about malicious mischief pulling holes in her coat?*