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Jim at the Store:

Jim and Fred arming themselves with handguns and driving to a store creates the question whether they are co-conspirators. Conspiracy is an agreement between two or more people to act on the commission of a crime together with the intent to complete the crime planned. Conspiracy is usually complete once the parties agree, and take a step for the furtherance of this plan. In the case of conspiracy, mere preparation is sufficient to consider conspiracy completed. Once conspiracy is completed, co-conspirators are liable for the crime intended, and any other foreseeable crimes committed by each other/any of them during the commission of the conspired act, unless they effectively withdraw. Withdrawal from conspiracy itself is not possible once it is completed (agreement and under some jurisdictions an act in the furtherance - i.e. mere preparation), however withdrawal from subsequent crimes is possible by timely notice to all co-conspirators of the withdrawal letting them reconsider their choices to continue or withdraw as well, and immediately stop taking any part of the act (leave the premises, go home, call the police). Conspiracy is an inchoate crime, that different than the other two inchoate crimes (attempt and solicitation) can be charged separately and does not merge into the crime conspired for. It is a specific intent crime, just like the other inchoate crimes and therefore requires each conspirator to intentionally enter into the conspiracy agreement. It appears from the facts that, Jim and Fred, once they armed themselves, and together went to the store to commit a crime therein, completed the conspiracy. Therefore, Jim, as well as Fred, should be found guilty and charged for conspiracy to commit a crime.

Furthermore, they entered into the store with the intent to rob the store (steal money from the store) with use of handguns, therefore reasonably creating an apprehension of immediate battery, or creating duress, using force and scaring Salma to her death, completing a robbery when receiving the money that they received with the force/threat they used and the intent to deprive the store of the money and take it to their possession. Robbery is also a specific intent crime, and by using the force with intent, drawing their guns intentionally, and intending to scare the possessor of the money to transfer the possession to them with the intent to deprive the store from it, is a completed robbery. Therefore, Jim, as well as Fred, should be found guilty and charged for robbery.

Chris's death: Jim should be found guilty and charged for the murder of Chris, which was the unfortunate result of Chris being in the store at the time of the robbery (felony). A felony murder, is a murder resulted from and during a commission of a felony crime (burglary, arson, robbery, rape, and kidnapping) - it is anytime between the initiation of the crime and until the felon is in

safety, completed and walked away from the scene of the crime and not running away from it. A felon is held responsible from a death resulting during his felony crime, in this instance the robbery, satisfying the prima facie case of murder: killing of another with the intent, or reckless disregard to human life (malice). Jim by being in the commission of an inherently dangerous crime that resulted with the killing of an innocent bystander satisfies all the requirements of the common law murder and should be found guilty of at the very least second degree murder.

Fred's death: Under conspiracy there are couple of theories and depending on the jurisdiction, applications of how the responsibility will attach. One is that a co-felon is not responsible for the death of his co-felon caused by Police Officers, or a third parties who were defending others or themselves. The other is an agent theory, where the co-felons are only responsible for the deaths they caused, but not the ones by Police Officers, or third parties who were defending others or themselves. While the first theory is accepted by the majority of jurisdictions, the second one is a minority jurisdiction theory. Here regardless we applied the agent theory or co-felon theory, Jim would not be held responsible for Salma killing Fred, as he is a co-conspirator/co-felon killed in the commission of an inherently dangerous crime. In the minority view, because Salma was trying to defend herself and others, her use of deadly force was justified as self-defense and defense of others, it was reasonable to use deadly force as she was trying to protect human lives against a deadly weapon and dangerous felons, and it was the proximate cause of Jim and Fred's robbery, therefore Jim can be found responsible for the very foreseeable death of Fred.

Jim on Park Street:

Jim saw Salma on the street, and with the intent to "eliminate her as a witness" shot at Salma with his gun. The necessary intent was there, the furthering action to complete a murder was taken, however, his action did not result the way he intended and the bullet missed Salma. Therefore there is no murder, however, there definitely is an attempt. Attempt is a specific intent crime, and it merges into the main crime if it gets completed. Even though the attempted crime might not be a specific intent crime, and just a general intent or malice crime, attempt requires specific intent and unless that is found the person cannot be charged for attempt. Attempt also requires substantial step towards the targeted offense. Here, Jim intended to take a shot at Salma, and triggered a gun aiming at her. Therefore, Jim's action fully satisfies the requirements of attempted murder, and he should be charged with it.

Jim and the Police Officer:

Under Fourth Amendment of the United States Constitution ("**4th Amend**") individuals are protected from unwarranted and unconstitutional searches and seizures. Under the 4th Amendment, the general rule is that a Police Officer must have probable cause to have a

search or arrest warrant issued, and once there is a valid warrant then, they can proceed with a search or arrest. However, there are some exceptions to the warrant requirement: 1- Stop & Frisk, 2- Plain View 3- Automobile-exception 4- Consent 5- Exigent circumstances, Hot Pursuit, evenness evidence, where the risking of waiting for a warrant would jeopardize the greater benefit, and finally 6- Search incident to a lawful arrest. Here Police Officer Bakari ("PO") pulled over Jim because he looked nervous, this is up to debate whether there is a reasonable suspicion to why PO pulled Jim over. Cars can be pulled over legally due to clear violation of speed limits, or running a redline, or driving in a way that causes reasonable suspicion that you are drunk driving, or if there is a description of the car that was given to the police, or if there is an equally applied police check such as for DUI or just registration and drivers license). Here, the way PO stopped Jim is debatable both ways. However, the rest of the events seem more clear as to PO's mental state and suspicions. When Jim stepped out of the vehicle, PO realized the bulge under his shirt, which gives the PO reasonable suspicion to do a plain view check for contraband or any dangerous/deadly weapon. PO patted down Jim, which is not a 4th Amend violation, and found the gun. Although, Jim could claim that PO pulling him over was not based on constitutional grounds, and violated his 4th Amend rights, and therefore any evidence resulted from an unlawful search (fruit of the poisonous tree doctrine) is unlawful and suppressed, I think the PO has a better chance in proving that the way Jim looked: "nervous" really was a clear indication at the time, sufficient to have reasonable suspicion that there was something wrong going on even if he did not have probable cause, and the following events once pulled over were all in accordance with the 4th Amend exceptions, and therefore the evidence should not be suppressed.

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END OF EXAM