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1. CRIMES OF JIM - EVENTS AT THE STORE

Jim can be found guilty on the following crimes.

A. CONSPIRACY TO ARMED ROBBERY

A conspiracy is an agreement between two persons to commit a crime. An overt act is required, but it is easily satisfied by action in furtherance of the conspiracy.

Here, Jim and Fred must have agreed with each other since they armed themselves with handguns. With prepared themselves with handguns, the overt act has been met. In furtherance of their objective, they drove to a store and went into the store, drew their guns and demanded that Salma, an employee, to give them the store's money. At this point, their criminal objective has carried out.

It does not matter whether the armed robbery for money was not successful, the crime of conspiracy once completed, it will be sufficient for the prosecutor to charge against Jim and Fred. Since Fred was killed, only Jim will be liable.

Therefore, Jim will be found guilty of conspiracy.

B. CO-CONSPIRACY LIABILITY - KILLING OF CHRIS

A co-felon will be criminal liable for the crime committed by his

co-felon provided the act was in furtherance of their criminal objective and it was foreseeable.

Here, although Fred did not actually use his gun or aim at anyone at the store, Fred nevertheless will be liable as the co-felon under the Pinkerton Rule. Had Fred is not killed, he would also be criminal liable for the death of Chris because it was committed during the commission of armed robbery.

C. FELONY MURDER OF CHRIS

When a crime involving dangerous and violence nature such as armed robbery, the state can apply the felony murder rule to hold the felons liable for any death that is the natural outgrowth from the criminal objective.

Here, both Jim and Fred had purposely armed themselves to prepare for the robbery inside the store to get money. The killing was independently from the underlying conspiracy, but nonetheless related to the objective to use force to get their money. Such action is the natural outgrowth from the criminal objective. Under the majority agency principle, a co-felon will be equally liable for the other co-felon's killing provided that it was committed during their criminal enterprise.

Even though the killing of Chris was accidentally discharged when the bullet hit and killed Chris. Chris was a store customer inside the store when the robbery occurred. Jim nervously dropped the gun and accidentally killed Chris does not exonerate him because it was foreseeable that innocent

bystanders will be inside the store. Since the bullet could have hit any bystanders, the felony murder rule is applicable.

Thus, Jim will be found guilty of felony murder of Chris.

C. AGGRAVATED ASSAULT AGAINST SALMA

Whenever a criminal used a dangerous weapon in commission of a crime, the state can charge a higher aggravated factor to the crime. Handgun is a dangerous weapon per se. When Jim pointed the gun at Salma, it created an imminent danger to Salma inducing her to hand over all the money Jim demanded.

Thus, Jim will be guilty of aggravated assault against Salma.

E. REDLINE EXCEPTION FOR THE MURDER OF FRED

There is an exception under the *Redline* Rule - When a co-felon is killed by an innocent victim or by a police officer, the other co-felon is not responsible for the killing.

Here, Salma got her gun under the counter and shot Fred and killed him. Because the killing was caused by Salma, an innocent victim, Fred will **not** be liable for the killing of Fred.

F. ATTEMPTED ROBBERY

An attempt is a specific intent crime involving the felon has taken a substantial steps to complete his criminal object, but fell

short from completing it.

Here, after Fred was killed, Jim picked up his gun and ran out of store without getting any money and drove back to his apartment. As such, the target crime of armed robbery has ended because Jim had reached a place of safety in his apartment.

Therefore, Jim will be found guilty of attempted robbery.

2. CRIME OF JIM - INCIDENT ON PARK STREET

Once the targeted conspiracy have end, any crime committed thereafter will be a separate and distinct crime.

A. Attempted Murder of Salma

Murder is killing of a human being with malice aforethoughts. The malice can be proven by: 1) Intent to kill; 2) Intent to create grave bodily harm; 3) Depraved heart killing; and 4) Felony murder rule.

Attempted is a specific intent crime involving the felon has taken a substantial steps to complete his criminal object, but fell short from completing it.

Here, Jim saw Salma waling down Park Street and intended to eliminate her as a potential witness on the prior committed attempted armed robbery. Such thinking in Jim's mental state implicate the intent to kill because he specifically intended to

eliminate Salma in order to prevent her testifying against him. Jim shot with the intent to eliminate Salma. Salma, however was lucky because the bullet missed her.

Since Jim's act was a specific intent act which fell short of completing because he missed the target. Jim will be found guilty of attempted murder of Salma.

3. SUPPRESS OF JIM'S GUN

Under the Fourth Amendment, which is incorporated by the state under the 14th Amendment, guaranteed individuals from unreasonable government invasion in their person or property without probable cause. If the government invasion is without probable cause, the evidence seized will be suppressed.

Reasonable Suspicion to Stop Jim

When Officer Bakari saw Jim driving down the street, he observed the nervousness on Jim's face and stopped Jim's car. A police officer is justified in stopping an individual when he observed some nature of suspicion. The nervousness shows a reasonable suspicion to briefly stop the individual and to conduct an investigation by asking questions.

The stop was reasonable. When Jim got out of his car, Officer noticed a bulge under his shirt. This suspicion could have blossom into further investigation due to the dangerous created on the officer.

Thus, the Officer was justified to conduct a frisk based on his observation of the bulge.

Stop and Frisk

Because the Officer wanted to make sure that Jim was not armed. He could frisk the outer clothing on the bulge by a pat down. When Officer found a gun concealed underneath, he had the right to seized it and used it against Jim.

Probable Cause Exists

When an arrest was done after a probable cause occurred, the evidence seized does not violated the individual's 4th amendment right to be free from government intruder on his body or property. Although Jim had a reasonable expectation of privacy on his person, however, he gave the Office a reasonable suspicion to conduct the initial brief stop and frisk following when the Officer observed the bulge in his shirt. Under these circumstances, the officer was justified in conducting the stop and risk which had blossom into a probable cause to arrest him because Jim in fact had a gun concealed underneath his shirt.

Therefore, Jim will not be successfully on motion to suppress the gun and the prosecution can use it as evidence in court.

END OF EXAM