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Common Law Burglary

Common law burglary is the breaking and entering into a dwelling of another in the nighttime with the intent to commit a felony there in.

Here, Deborah commit breaking and entering because she broke a window to get into the garage. It was during the nighttime because the facts state "one night", the temperature was below freezing. It was a dwelling that she entered because it was Stuart's garage, and is a dwelling. It was "another" because it was Stuart's dwelling, not Deborah's.

Although Deborah did not intend to commit a felony therein because she was cold and just trying to find a warm place for the night. Deborah will likely have a good defense.

Thus, Deborah is guilty of common law burglary, however, she may have a "necessity" defense discussed below.

Modern Burglary

Modern Law Burglary is unlawfully entering any structure with the intent to commit a crime there in.

Here, Deborah unlawfully entered Stuart's home because she broke a window and went inside. Deborah was trying to stay warm as it was freezing and continuing to drop. Deborah was afraid that if she did find shelter she might die. Even if she is found guilty of burglary, she would likely have a strong defense.

Thus, she will not be found guilty of modern law burglary.

Common Law Arson

Common law arson is the intentional burning of dwelling house of another.

Here, Deborah did not intentionally burn the Stuart's dwelling because the facts stated that just wanted to build a small fire to keep her self warm.

Thus, Deborah would not be found guilty of common law arson.

Modern Arson

The intentional burning of any structure.

Here, Deborah clearly burned Stuart's structure, however, it was not intentional because she

only wanted to build a small fire to keep herself warm in the freezing temperature. Deborah will argue building a fire was necessary to keep warm, otherwise, she was concerned that she might die.

Thus, Deborah would not be found guilty of modern arson.

Homicide

Homicide is the killing of another.

Here, Deborah building of a fire killed Stuart.

Thus, there was a homicide.

Causation

Here, but for the fire Stuart would not have been dead. It is foreseeable that a fire may kill someone in the building.

Therefore, there was cause of action.

Murder

Murder is the unlawful killing of another with malice aforethought. Malice aforethought is 1) intent to kill, 2) reckless or criminal negligence, 3) intent to cause serious bodily harm, and 4) Felony Murder Rule.

Here, Deborah intention was to stay warm. She did not intent do kill Stuart because she didn't even know he was home. Furthermore, Deborah did not intent to cause serious bodily harm because she was not aware that Stuart was inside sleeping. She thought the home was abandoned. While arson would be a cause for the Felony Murder Rule, Felony Murder Rule would not be applicable here because there was not intent by Deborah. She didn't know anyone was home, believed the home was abandoned and was only trying to stay alive.

However, building a fire in someone's garage is reckless and criminally negligent because it was foreseeable that building the fire inside a structure (in this case garage) may mushroom into a bigger fire. And if anyone is inside, it is foreseeable that the fire may kill them.

Felony Murder Rule

Felony Murder is the killing of another during an inherently dangerous crime such as burglary, arson, robbery, assault and battery.

While it is true that the fire led to Stuart's ultimate death, felony murder would not be applicable

here. There was not intent for wrong doing by Deborah. She wasn't aware that anyone was home, and she was basically trying to stay alive from the freezing whether..

Therefore, she would not be found guilty under the felony murder rule.

First Degree Murder

First Degree is the deliberate and premeditated killing of another.

Here, Deborah was not aware that Stuart was home so there was not deliberate and premeditated killing of another.

Thus, Deborah would not be found guilty of first degree murder.

Second Degree Murder

Second degree murder is all murder that is not statutorily a "first degree murder".

Here, Deborah would not be found guilty of first degree murder, therefore, she will likely be guilty under second degree.

Thus, she will be guilty of second degree murder.

Voluntary Manslaughter

Intentional killing of another with mitigating circumstances. Mitigating circumstances include provocation with no cooling off period.

Here, Deborah did not intentionally kill Stuart as she only wanted to built a small fire. She did not even know that anyone was home.

Thus, she would not be guilty of voluntary manslaughter.

Involuntary Manslaughter

Unintentional homicide by extreme recklessness or criminal negligence.

Here, Deborah acted extremely reckless because she gather scraps of wood and paper and started a fire inside a garage (dwelling). It is foreseeable that starting a fire in side a structure can balloon into a fire. Further, it is foreseeable that someone may be sleeping inside the dwelling because this occurred in the night time when people usually go to sleep.

Thus, Deborah would be found guilty of involuntary manslaughter.

DEFENSES

Necessity

A person is not guilty if they were acting in necessity.

Here, Deborah who is homeless did not have any money to stay out of the freezing temperature. Deborah realized that she might die if she does not find shelter. Therefore, finding a warm structure in order to save her life would be a strong defense for Deborah.

Thus, a defense on necessity would be her strongest defense.

Miranda Warning

The police must give the suspect their Miranda warnings when the victim is in their custody and under interrogation.

Here, a police officer Oliver saw Deborah walking in the freezing cold in the night. It is reasonable to ask Deborah outside on such a cold night. The officer was likely concerned about Deborah's safety and the facts did not indicate that officer Oliver even knew about Stuart's death.

A Miranda warning was not warranted at the time of the stop because Deborah was not in custody or under interrogation.

Thus, there was no Miranda violation.

Custody

A person is in custody when they reasonably believe that they cannot leave.

Here, Deborah was not in custody because she was free to leave at anytime and not talk to the officer.

Thus, Deborah was not in custody.

Interrogation

A person is under interrogation when they are in custody and the police know that their questions may elicit a confession or response from the.

Here, the police officer was more concerned about Deborah's safety than about Stuart's death. He likely did not even know about the fire.

Thus, there was no interrogation perform and Deborah's rights were not violated.

Confession

A confession must be voluntary, and knowing by the defendant.

Here, Deborah's confession was voluntary and knowingly because she said "I started the fire" both knowingly and voluntary.

Thus, Deborah's motion should NOT be suppressed.

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