

1)

Q 1.

**Trespass to private property**

Trespass to property means that defendant intent to be where he is without the consent and intruded into the private property of another.

Here Deborah found the a house that he thought is unoccupied and went into the house to warm herself and the fact that he wants to warm herself or think that the house was unoccupied does not matter because he intruded into the house of another person and trespassed to private property of another.

Deborak trespassed unlawfully trespassed to private property of another.

**Involuntary or misdemeanor manslaughter**

When the defendant act unreasonably and recklessly with unjustifiable and substantial risk to human life and from his negligence death results he will charged to involuntary manslaughter. It does not matter if the defendant intent that someone dies and mere his reckless that caused the death is enough.

Here Deborah trespassed to private property of another person to warm herself from the cold and she found some stack of wood and decided to build a fire and while she should think that making the fire may creates a danger to human life but he gathered the wood and started a fire to keep herself warm but she was not prudent because she fell sleep and when she woke up of fire and smoke without thinking that the fire will makes bigger and someone dies but she left the house and at that point she acted totally recklessly and with unjustifiably risk that may someone be inside the house.

Thus Deborah likely will be found liable under the theory or involuntary manslaughter.

**Defences**

**Necessity**

**Public necessary**

A defendant can raise the defense of public necessary to protects the public as a whole and will not be liable under this theory for protecting the property for the public.

Here Deborah was not protecting the property of herself and entered the house to protect

---

---

herself from the cold and ended up to kill Stuart who was inside the house.

Thus this defense will not apply here.

**private necessary**

Private necessary will apply when someone tries to protect herself or property and he needs pay the actual damages that ended up and caused by his act.

Here Deborah as explained above entered the Stuart house and made a fire to warm him self and ended up to fired the house and killed the Stuart inside the house. Private necessary will not apply when someone makes someone else dies from her act and only can be use in property. Deborah acted recklessly when he made the fire and left the house while he noticed that fire is engulfed quickly and therefore this defense will fails regarding the killing.

Deborah can use this defense only for property and should pay the actual damages to the property but can can not use this defense regarding the killing of the Stuart.

**Question 2.**

**Forth Amendment**

Forth amendment protects the individual against unreasonable search and seizure in the place and things that they have reasonable expectation of privacy. However pepole do not have reasonable expectation of privacy in public places.

Here Deborah was walking down the street when officer was patrolling the area and simply asked him question and this does not amount to any search because Deborah could simply not answer the police or does not say anything.

Thus forth amendments does not apply here.

Here Deborah

**Fifth Amendment**

---

Fifth amendment protects individual from deliberately incriminating statement and apply to states through the due process clause of fourteenth amendment. In order fifth amendment apply the person needs to be in custody and statement needs to be through interrogation. Custody means that a reasonable person does not feel free to leave and interrogation should be through an officer questioning regarding the cause of action of criminal activity.

### **Custody**

Here Deborah was walking on the sidewalk three blocks from the fire when encountered with the officer and officer asked it about the what was happening and in fact Deborah was not in custody when she said to the officer that "I started the fire" and this statement was completely voluntary and she was not in custody.

### **Interrogation**

Deborah's statement that said "I started the fire" was not the result of interrogation by police officer because she could simply not answer the police and say nothing and therefore her statement was not elicited by police officer.

### **Voluntary statement**

Deborah statement was voluntary and by saying that she started the fire she waived her right to later withdraw of her statement.

Thus court should not grant Deborah's motion to suppress because her statement was completely voluntary and is admissible.

Question #1 Final Word Count = 773

**END OF EXAM**