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1.The crime committed by Debora

Burglary

Breaking and entering the dwelling at the night time and with intent to commit a felony. In modern view, the dwelling and night time is not required any more.

Here, Deborah(D) broke the window to get into the garage at night time, but her intent is to find a shelter so she will not frozen to death and she enter the garage to stay in it, so she does not fit the element to commit a felony.

Thus, D cannot be charged by Burglary.

Trespass to land

The plaintiff intent to physical invasion of someone's land without authorization.

Here, D found a run-down house with an attached garage that had a door connecting it to the house, she thought the house was unoccupied. This does not affect the fact D has trespassed to someone's land, she clearly known the property is belong to others, and she enter into it without the authorization of the owner. And she stay in the garage at that night.

Thus, D's behavior is trespass to land.

Larceny

Trespass and taking away something from others with the intent to deprive it permanently .

Here, a stack of wood was taken by D to build a fire. Although she want to build a fire to make herself warm, she took the wood permanently. There is no suggestion that she want to return the wood or the wood can be returned after D set a fire with it. The wood is belong to someone else, since D was on the property of others. It is not important about the value of the goods for larceny.

Thus, D can be committed with larceny

Arson

Someone with intent to set fire on someone's property and burn it down.

Here, D only build the fire with the intent to make her warm, she even set the fire outside the garage. Obviously she understand the danger of the fire and take measures to eliminate the risk of fire. And she only use wood scraps and paper to start a small fire because of the extreme cold .However, the fire was started when a spark from the fire ignited some oil on the floor. Thus, D does not have the intention to burn the garage or set

the fire on it.

Therefore, D cannot be charged by arson

Murder

Unlawful killing and malice aforethought. Murder can be separated into first degree murder(premeditation and deliberation), second degree murder(with intent to cause death or bodily harm, and depraved heart) and felony murder (the death caused by the committed felony).

Here, D was awoken by the flames and smoke, she escaped through the window she had broken, she had no idea there is other person in the house and she has no intention of killing other person. Besides, the fire was quickly engulfed, D may not have the time to warn others or to put the fire down.

Therefore, without the intention, it is obviously unlikely for D to committed murder.

Involuntary manslaughter

Involuntary manslaughter do not require for any intent of killing, it can be committed by unlawful killing without any intent. Here, although D was unaware of the house she breaking in was occupied, someone was killed because of her action.

Thus, D can be committed by involuntary manslaughter.

Defense of Deborah

Impossibility of fact & Mistake

Impossibility of fact may not available for criminal case. Here, the result of D's behavior is very clear, she broken into someone's house and took the wood belong to other person, the fire cause the death of Stuart. Neither of the fact would be possible for D to defend herself in any charged crime.

D may argue that she made a mistake that the house was unoccupied. However, this can be not an excuse for involuntary manslaughter.

Legal impossibility

D may argue she was lack of the intention to commit any crime, this can be a good defense for some crime that is legally require for any intentions, but there is no defense for those other crimes.

Duress

D may argue that she was entering that property because of the freezing temperature and she does not want to die. She only doing that because she was homeless and without

money. However, this can not be a defense for D, but it may reduce her sentence in the judgement.

Conclusion

D can be committed by trespass to land, larceny and involuntary manslaughter.

2. Deborah's statement

Exclusionary rule

The statement acquired by any violation of the defendant's constitutional rights should be excluded. But those meet with the requirements of public policy can be admitted, such as inevitable discovery and independant source, marida violation is not a poisonous tree under some circumstances.

Here, the statement of D should be excluded if it violated D's constitutional right.

4th Amendment

The defendant has the right to against any unlawful search and seizure conducted by the government or its agent as long as there is expectation of privacy. And the government agent is not allowed to stop someone without the probable cause.

Here, the officer may argue that he was not stop D, she just worried because it is freezing temperature and she just stop to ask if D need any help from her. This could be accepted by the court, because officer just stop D to ask what she was doing outside on such a cold night.

Thus, the stop by officer Oliver has not violate D's 4th amendment.

5th Amendment

Marrinda warning is required during the custodial interrogation, custodial refers to when the defendant is not free to go or enter the encounter, the interrogation is refers to the police wants to elicit self-incrimninal statement of the defendant.

Here, Officer Oliver did not ask any questions to elicit self-incriminate statement, she is trying to offer help. Thus, Officer Oliver's behavior was not a violation of D's constitutional rights.

Hearsay

Out of court statement to prove the truth of the matter asserted. D's statement is an out of court statement. And also can be used to prove that the crime she committed, because she said" I started the fire". But there are some exceptions for hearsay statement to be admitted, such as statements against interests in this case.

Statements against interests

D's statement is clearly against her interest, because she said she started the fire. Thus her statement should be admissible under the exception of hearsay.

In conclusion, the court should denied D's motion to suppress her statement.

Question #1 Final Word Count = 1083

END OF EXAM