TAFT

WEBINEX

ESSAY q&A

5/23/17

**INSTRUCTOR: Make sure you have the criminal law essay question that was sent out to you. That will be our primary focus of today's lecture. We will be starting in approximately 5 minutes.**

**Good evening. We will be starting in 2 minutes. For those of you that just joined, please have the criminal law essay question that was sent to you. That is our primary focus of today's lecture.**

**Good evening. Welcome to tonight's Baby Bar mini series. Our primary focus will be on its criminal law essay question that was sent out to you. If we have time, we will go over the multiple choice questions.**

**These sessions are recorded. You can find them on the Taft website, student section, Baby Bar mini series, and whatever lecture you are interested in.**

**Excuse me. I have a cold so please excuse me if I cough.**

**Before we jump into the essay question, I was sent a question on conspiracy.**

**Conspiracy is an agreement between two or more persons. Unilateral or bilateral agreement. You will know on the facts: I look at you, you look at me, then we follow through to do a particular act. That's placing the issue. The facts will dictate.**

**Wharton's Rule is not very testable. You have to have so many people to do the act. Like dueling, we need two people to duel. You can't charge me with conspiracy to do a duel because it takes two to do the act in the first place.**

**Pinkerton's: You are imputing somebody else's actions. Like Angela in the fact pattern is based on Pinkerton's. You are imputing on to somebody else's activity. We have the existence of that conspiracy.**

**Does that come up a lot? Yes.**

**Do we talk about it? If it's raised on the fact.**

**If you have any questions, place it in the question answer box because that's the one I can see.**

**On an essay question, what are you going to do first? Read the call of the question. In this particular exam, let's look at the call.**

**[Reading call] What crimes, if any, can Angela, Brian, and Carter be charged? And what defenses, if any, can each of them reasonably assert?**

**That's issue spotting and analysis. It says what crimes. How many am I looking for? Two or more. If I see one crime, I probably made a mistake. It says crimes. Two or more.**

**It said Angela, Brian, and Carter. Something has to be different among them. If everything is verbatim, I made a mistake. Why give me three and not just two? Something has to be different between Angela, Brian, and Carter.**

**What can be charged? Could it succeed? Are there enough facts to raise the issue? What are the defenses? What does that mean? It can be true defense or counter arguments.**

**For the exams submitted, I didn't see any defenses on any of them. The call asks for defenses.**

**You have to take it in chronological order of the call. You have to start with Angela. Even though you see the main wrong‑doer Carter is at the end, I can't address his actions until the end. I am imputing on to Angela through Pinkerton's.**

**I'm looking at the call. It's a general call. We have to do two or more crimes and two or more defenses. I know defenses must be made. I know the order: State versus Angela, State versus Brian, and State versus Carter.**

**Some people took Carter first, but you can't do that. The call dictates. I want to follow the call. I don't want to get marked down. I have to follow the call of the question.**

**Once you read the question and understand the subject matter, what do you do? Write out the check list. If you write out the check list it, helps with anxiety and gets your mindset for criminal law. You have a mindset for the issue.**

**Now after you write your check list on your scratch paper that you will use, you will read the essay question one time through. Get a general understanding of what the facts are telling you. Go back and read it again. Make sure you are reading it line by line. Break it apart.**

**If you lump things together or read it as a paragraph as a whole, that will hurt you because you will miss things. They set it up that way. I want you to pay attention to that.**

**Let's go through the facts. [Reading essay question]**

Angela, Brian and Carter were at Angela's house, drinking beer.

**Period stop. What did the call of the question tell me? What crimes? What defenses, right? I'm going to pull out intoxication right there. It doesn't mean they are intoxicated. But I will bring up intoxication based on the facts.**

They wanted to order a pizza and have it delivered, but they did not have enough money to pay for it.

**They have knowledge. They don't have money to pay for a pizza.**

Carter suggested they order the pizza and grab it from the pizza delivery person without paying.

**Now Carter is suggesting to commit a crime of larceny. That's suggesting would be what? A solicitation. Solicitation a lot of times, it does come up every once in a while, is a sleeper because people don't see it. But if I'm suggesting we do an unlawful activity, that's soliciting.**

Brian told Angela to call the pizza parlor.

**They are all there drinking.**

She did so and ordered a pizza, knowing she could not pay for it.

**She did knowing she can't pay for it.**

Brian and Carter waited outside the house

**Now there's a conspiracy between Angela, Brian, and Carter. They are all aware they did not have enough money to pay for the pizza. Based on Carter's suggestion of grabbing it without paying for it, that's conspiracy.**

**Evident by her conduct. You point out she didn't agree, but you point out the fact that she called. By her actions/conduct is the actual agreement.**

**Understand that the agreement is at issue here. Based on her conduct that we have the actual agreement. Of course, they knowingly did this. That shows specific intent.**

**The next paragraph states: [reading question]** When the delivery person arrived with the pizza, Carter pulled a gun out of his jacket pocket. Brian had no idea Carter was carrying a gun.

**Now you want to look at that. He pulled out the gun. What was contemplated for the at the time of conspiracy? Grab and run. Brian had no idea Carter was carrying a gun.**

Carter fired the weapon into the delivery person's vehicle but did not hit anyone.

**This is one where people say what do I do with that ‑‑ didn't hit anybody. What can you argue? How about attempt? I don't care if you say attempted murder, battery ‑‑ why would that matter? Because attempt is attempt. Yes, so even if you are thinking murder and I'm thinking battery, it's an attempt because it didn't hit anybody. When you bring up attempted crime, you only bring up the events.**

Carter told Brian to grab the pizza and run. Brian was shocked by Carter's actions and did not move.

**What's that make you think of? I'm shocked. What defense could that raise?**

**Let's read further. [Reading question]**

Carter turned the gun on Brian and told him, again, to grab the pizza and run.

**Now I have a gun on me. Could you argue a form of duress? I'm shocked because you had a gun. You fired it. I'm frozen in the head lights. Then you yell at me with the gun pointed at me to run that's an argument of duress.**

Brian then grabbed the pizza, and Carter and Brian fled the scene. Brian and Carter returned to Angela's house through the back door and all of them ate the pizza. Later, the police arrested Angela, Brian and Carter

**The Pizza was not paid for. That's a subtle way of receiving stolen property. Angela and Brian received stolen property because they had knowledge it was stolen. They knew they did not have any money to pay for it.**

**Now let's go through the lawsuit set up. With what crimes if any could Angela be charged with?**

**I take the exam based on chronological order. Brian told her to call. And she did. I'm going to talk about the conspiracy. The first conspiracy since I have two other people. I want to do a strong job because it's the first issue the reader is reading. I want to be strong tying in my elements showing facts that support and showing I understand what's being tested plus I'm going to use it for the other two people. They are charged with that conspiracy as well.**

**I want to break it apart letting the reader know I have a good understanding.**

**They are all at the house drinking beer order a pizza without money. Brian looked at Angela and said call for the pizza which she did. Based on her conduct there's an agreement between Angela, Brian and Carter. So it's two or more. And the unlawful act is grabbing the pizza without paying which is a form of larceny therefore, we have conspiracy.**

**Now remember the rule of thumb, if you find ‑‑ I think we all agree ‑‑ there is a conspiracy. It's not gray. It's not 1 sided. It's definitely conspiracy. When I show support for a crime, when the call calls for defense as it does, I will do any applicable defense at that point once I find they are going to convict of a crime.**

**Intoxication. Specific intent crimes. What you are using is volunteer intoxication it neglect mens rea. It negates specific intent.**

**She will argue she was intoxicated and not aware of what she was doing.**

**You can be creative. Brian told her to call she's able to dial the phone she's aware he she didn't have money to pay for the pizza. You use those fact to show she's aware of what she's doing. Therefore, she's not intoxicated enough to not be aware of her conduct.**

**When it says defenses, how many do we look for? Two or more. If I have intoxication what's the other one? What does that usually grab on? Diminished capacity. Whether the defendant capacity is so diminished it negates the specific intent.**

**It's the same argument as under intoxication. But it is a defense. They were drinking. Knowing they didn't have money. Conspiracy to grab it and not pay for. Their capacity is not diminished because they came up with a plan. Aware they don't money. Therefore, diminished capacity is no defense. Therefore, Angela will be convicted of conspiracy.**

**I brought up any applicable defenses and I'm done.**

**The only other crime Angela really did based on her actions was receiving stolen property. However when you outline you will see Carter pulled out a gun and shot the car. Attempt. They ran off with the pizza. I have robbery versus larceny. But I can't talk about it at this point because she didn't do the actual activity. It's being imputed on to her based on Pinkerton's. I have to separate these out.**

**First one I will talk about in chronological order is shot into the delivery van. As a co-conspirator. You will be held accountable by all crimes furthered by that conspiracy and foreseeable by that conspiracy.**

**Now you have to bring up an argument. If you called it attempted battery or attempt murder.**

**Based on the facts there was an agreement. We agree I call order the pizza and we would run off without paying for it.**

**Was it foreseeable that Carter was going to have a gun and shoot it into the vehicle? She's going to argue no.**

**Was it conceivable that another co-conspirator would use force or fear in the first place was that in furtherance of stealing a pizza using force? Yeah, it's conceivable. I would take steps or actions to get that pizza based on what we agree to. You have to point out both sides. It's gray. It's arguable. In my model I concluded no.**

**If you find it does work, define, discuss, supra. Intent is a specific intent crime. Let the reader know you understand it even though they fail. Define discuss supra.**

**Voluntary intoxication define discuss supra. I want the same discussion brought up above in conspiracy be placed here. Don't copy and paste just define discuss supra.**

**Will she be held liable? Again I cannot talk about the robbery here. I have to talk about Pinkerton's Rule. Again she's going to be liable which is foreseeable. Would they do any steps or actions in what you said above? Attempt ‑‑ yes. Based on larceny. Again you have to argue. One thing with Pinkerton's Rule students don't argue it. You have to. They bring up the rule but leave me hanging there. You have to show me it's conceivable and a natural consequence of the conspiracy. You have to show the facts. Otherwise you will not get the point value. You see the issue but not give anything for it. That's where the frustration comes in.**

**Receiving stolen property. She knew it wasn't paid for. Receiving stolen property is receiving stolen property knowingly. They have to know. She received the pizza knowing it was stolen because she knows they didn't have money to pay for it. So she will be charged with receiving stolen property.**

**That's your first issue based on the call of the question of the state versus Angela.**

**Any questions on Angela?**

**Next Brian.**

**Angela conspiracy ‑‑ that's the same for Brian. Put conspiracy define discuss supra.**

**Intoxication, diminished capacity ‑‑ yes, define discuss supra.**

**He didn't commit the robbery. define, discuss, supra that as well right.**

**Then what defense does he have different? Robbery works. Would be duress. When they give you three parties something must be different amongst them.**

**Brian has duress based on Carter turning the gun on him and all those facts. Duress is a defense where you are coerced, under threat and coerced to do the action. That's a defense for everything except murder. It would work for attempt, larceny.**

**Carter had a gun, he was shocked. He couldn't move. Carter turned and aimed the gun at him told him to grab the pizza and run. He thought Carter would shoot him. Based on actions, you could argue he was under duress. What did he do after he got the pizza? He grabbed it, ran back to the house, and ate it. If he was really under that type of duress would he really be able to go back to the house and eat the pizza? Argue it.**

**It was momentary shock. Either way I think it's gray if you find it defense or not.**

**Intoxication diminished capacity works as well. Bring as issue I will define discuss super raw but their failing.**

**Larceny imputing on to him. Or bring up larceny on Brian. Tressposry taking.**

**Ran to her house. Carrying away. It's the pizza parlors. It's the property of another. If you ate it, then is permanently deprived. You have a larceny.**

**On Brian, you can bring up ‑‑ based on taking the pizza ‑‑ receiving the stolen property. I felt he took it. The fact that he knowingly is receiving something he knows he didn't pay for is at issue for receiving stolen property.**

**Does everybody understand what we did with Brian? Do you see how it's important to lay out in the order of the call?**

**You can't take that out of order. You'd like to. They do it on purpose, but you can't.**

**State versus Carter. What's the first thing Carter did? He suggested. That's a good word. A lot of times we have a tendency to ignore it. We can't. If somebody suggests something, which was on the last Baby Bar, is solicitation. I wouldn't bring up accomplice? Why? In the first lawsuit with Angela and Brian or with Carter? You can get really hurt writing out of order. In regards to Angela and proved up all the crimes under Angela that's a problem because Angela didn't do it. You have to pay attention to why are we holding her accountable. You will get marked down for organization.**

**I don't want to give grounds for that. That's why we learn this.**

**In regard to Brian, with the accomplice, the problem here is remember if you have a conspiracy ‑‑ very strong for agreement -- I don't need accomplice liability. Accomplice is charged with underlying crime. Conspiracy is charged with underlying crime and conspiracy.**

**Unilateral and bilateral I don't need to talk about here. We can have a agreement tasked agreement agreement by conduct but based on these facts I have it by her conduct. And by the other two's conduct. They are not placing that at issue.**

**If you see a fact pattern over hear Brian and Carter discussion this and then she picked up the phone and ordered the pizza then you can argue unilateral.**

**No, wait a minute. [Indiscernible] why doesn't it apply? Never bring ‑‑ I've never seen an essay that has Wharton's Rule. The law says it takes two commit larceny, that would raise Wharton's Rule. You can't charge conspiracy because it's two or more but the act require two or more. That's the premise of Wharton's Rule. Dueling. If you charge me with conspiracy to duel, it takes two to duel. I agree to duel with you? It takes two to commit that unlawful act so we can't charge you with conspiracy in dueling.**

**If we have three, that's a different story. Well if you have three people then Wharton's Rule wouldn't apply. If you see two agreeing but it takes two to commit the act, then Wharton's Rule. Forget that rule. I wouldn't bring it up. If you look at it, it will not exist any way.**

**So the reason we get ‑‑ I saw intoxication I hope I didn't see involuntary. Brian will get voluntary not involuntary intoxication. The reason is because the facts told you drinking beer. Intoxication, diminished capacity.**

**Does it mean it will work? No. On the last Baby Bar the guy was drinking and wanted more money to get more beer but the girl didn't have money, I would argue intoxication.**

**That's why they gave you the alcohol. Only specific intent for voluntary intoxication.**

**Right. It's not involuntary, it's only voluntary. Involuntary would be when someone places it in your drink or something like that.**

**Okay everybody with me? We can go through state versus Carter. Talking solicitation. At the house drinking beer without money suggest grab the order without paying for it. He's trying to induce Angela and Brian to commit the act. You can argue intoxication and then your discussion of diminished capacity. Now involuntary, why are you getting that? It looks like someone put it in one of the answer. It has to be voluntary intoxication.**

**It's voluntary intoxication because they voluntarily drank the beer. Involuntary is when somebody else puts it there.**

**Then you go through attempt. In regard to attempted murder or whatever is foreseeable. Foreseeable will come into play against Angela and Brian, right.**

**In regard to your way, he's solicited, yes, if they conspired to agree with that. You don't always go to attempt. It depends on what they do.**

**When he shot at the delivery person's vehicle I can go to attempt. You have to look to under lining facts.**

**I want to make this clear, you're only focusing on the elements of intent. Specific intent substantial action to complete the crime preparation versus perpetration. If you enter the zone of perpetration, you went too far and attempt will fail.**

**It shows he has specific intent. He took the gun out and shot aiming at him shows the ability to hurt harm the other person. But he missed but it's a substantial step towards the delivery person. Again Carter has a counter argument here, what? I have no intent to hurt anybody. I just want to make it clear I'm taking the pizza.**

**The reason I'm firing into the car is not to show you I'm trying to harm you but that I'm going to take the pizza I have force to take what I want.**

**Will that hold water? I don't think so. I think he should be guilty of attempt, at attempted battery.**

**Attempted murder, attempted battery. They focus on the crime. Just focus on the attempt.**

**Does that make sense? Based on the facts we have attempt.**

**Would you say anybody shooting at anything or anybody is that an attempt? Why not?**

**In regard to Carter since he's the one using the gun. I'm imputing on to Angela and Brian. He fled with the pizza there's carrying away with the property of another. He used the gun. The delivery person is shocked by force fear intimidation. We have a robbery. We talk about larceny. Then go through intoxication. Define discuss super raw because it will not get him off.**

**The hard thing with this exam is for people to organize it. They didn't know how to organize the exam. California bar is very good at doing this to you. They want to mess with you. It's not very nice. You want to break it apart.**

**Read the exam sentence by sentence. Stop at periods. Look at the issues on the exam. Look at the check list to see what you can identify.**

**Then outline the examination. Then you're ready to obviously what? Write.**

**Everything should be made out on an outline so you can write a full strong body answer.**

**The key things or mistakes that I saw on the exams I got today and yesterday. You can't put Brian or Carter first. You have to do Angela. Organization is important. Pay attention to that. That will hurt you. Show the examiners that you know what they are asking.**

**Is there any questions on that particular essay before we jump into a couple multiple choice questions. I hope you are doing the multiple choice questions daily because they have been really hurting people with those.**

**Modern rules grand theft we don't use on the bar. That's state law forget it. You are responsible tore common law. And model Penal code for criminal.**

**Don't call it theft. On the exam they will say what theft crime will they be charged. Don't just put out theft. False pretenses, embezzlement, make sure you understand it. If you just call it grand theft, they won't give you credit.**

**One question a student had was number 5 on the multiple choice questions. Let's look at that.**

**What's the most serious crime he can be convicted? You want to see based on the facts what's supported.**

**[Reading question: 5] What crime is he going to be convicted of? Larceny, attempted larceny, embezzlement or no crime?**

**The key here, at the time you picked it up, he had the intent to steal it. That's why I make you go there instead of just larceny. Look at what they are testing. That's the key with multiple choice questions. What's tested here? Intent at time of taking.**

**If he picked up to save for his boss then decided to keep it would that be a different issue?**

**Once the crime already occurs -- I'm sorry didn't mean to do it doesn't matter -- he would be convicted of larceny.**

**Again, that's not common law. How do you restore? How are you going to restore in regards to your wrongdoing? It's not going to work. It doesn't work that way. You already committed the act. Even if I stole it, in regards to larceny, I gave it back, I can't claim or restore ‑‑ no you already committed it. You are thinking of small minorities that might contemplate that.**

**A for question number 5 would be your best answer choice.**

**Another question. If you have some you want me to look at. I have three here that students wanted me to look at.**

**Let's look at question 12. Let's look to the call is asking you.**

**[Reading Call] Dana called the attorney and asked whether it would be a crime to burn down her own home. Common law for arson is has to be a dwelling house of another. Modern law ‑‑ no. Any dwelling and that the arson was a serious crime. He didn't say ‑‑ he said any dwelling not dwelling of another. Mistake of law might be a defense. The attorney was incorrect. Defines arson as the intentional burning of a dwelling or house of another. Dana burned down her own home to collect the insurance for the fire insurance policy. [Reading question: 12]**

Dana called her attorney and asked whether it would be a crime to burn down her own home. The attorney said that arson was defined as the intentional burning of any dwelling and that arson was a serious crime. In fact, Dana’s attorney was incorrect because the applicable statute in the jurisdiction defines arson as “the intentional burning of the dwelling of another”. Believing what the attorney told her, however, Dana burned down her own home for the purpose of collecting the proceeds of her fire insurance policy. A statute in the Jurisdiction defined the crime of insurance fraud as “the intentional destruction of any property for the purpose of obtaining insurance proceeds.” If Dana is charged with attempted arson, she should be found

(A) guilty, because a mistake of fact does not prevent a person from being guilty of a criminal attempt.

(B) guilty, because her mistake of law resulted from reasonable reliance on the advise of an attorney.

* + 1. not guilty, because Dana did not intend to burn the dwelling of another.

(D) not guilty, because Dana’s attempt is subsumed in the substantive crime of insurance fraud.

**Now should she be found guilty or not guilty. Malicious is not here because they changed the statute on you. We know the common law principal was the common law burning. Based on this particular multiple state has to be intention. Should she be found guilty or not guilty?**

**If you look at the four answer choices we have guilty because and not guilty because. You should be able to eliminate two right off the bat. Elements for common arson is the malicious burning of the house of another. In this jurisdiction it's the intentional burning of a house of another. They changed it on us.**

**She's being charged with attempted arson. Attempt, right. She burned down her own home for the insurance proceeds. Would she really be guilty? What do we need to show? Specific intent.**

**Really she's not going to be guilty because she didn't intend to burn the dwelling house of another. Right.**

**If we told you it's back to common law and we put the malicious burning of anything, then it would be different. Right. The key here, charged with attempt. She's not guilty because she did not intend to burn the dwelling of another. Even though she thought it was arson you can't apply mistake of law. You can't get guilty of underlining crime. To get defense.**

**What I've noticed with students, you need to remember, if you can knock it out in the check list, that's the best answer. If I can knock it out in an element of a crime. If I can knock out specific intent is that a better choice than mistake of law. If you can't prove a prima fascie case. The statute is your correct but the call is attempted arson. It says the statute in this jurisdiction defines arson as. They gave me insurance fraud to throw you off.**

**The one statute given here is a red haring. They wanted to make you think of that. Is she guilty of violating that statute. She didn't put in a claim yet. She could be guilty of intent. But they are trying to throw you off. You have to pay attention to the call of the question. What's being charged. They are very good at making us forget about it.**

**Let's look at question number 16. Dar was guilty and you have to pick which crime he was guilty of.**

**[Reading question: 16]**

On Darr’s birthday, his friend Mead gave him a new television as a gift. The following day, when Darr opened the box and began using the television, he noticed that there was no warranty document with it. Darr phoned Mead and asked Mead for the missing warranty document. Mead said, “I can’t give it to you because the television was stolen.” Darr kept the television and continued using it. Darr was guilty of

(A) receiving stolen property only.

(B) larceny only.

(C) receiving stolen property and larceny.

(D) no crime.

**Would he be guilty of receiving stolen property? Why? The person put no. He has to have knowledge. At the time of receiving. He has knowledge now but you can't transfer back in time. It would be no crime. He has to have knowledge at the time. It wouldn't be larceny. He didn't do anything. It has to be answer choice D.**

**Anybody have any questions on any of the ones you did earlier today? None. Did you get them all right? How are you doing on the Multi‑States? Are you understanding the concepts.**

**Okay let's look at 20. [Reading question: 20] Let's read the facts ...**

**Court of state ‑‑ now you're in the state court.**

**[Reading question: 20]**

As part of her campaign for re-election, the President of the United States was driving through the main street of a city in the state of Fedora in a car with a bubble-shaped roof made of bulletproof glass. Intending to shoot the President, Dosset crouched on the roof of a building and aimed a high-powered rifle at the glass top of her car. He fired three times striking the glass with each bullet. None of the bullets penetrated the glass, and because of the noise of the cheering crowd the President was unaware that any shots had been fired. A police officer observed Dosset firing at the President, however, and placed him under arrest. Dosset was subsequently charged with violating a federal statute, which makes it a crime to attempt to assassinate the President, and was acquitted in a federal court. If Dosset is prosecuted in a court of the state of Fedora, and charged with criminal assault under the state law, a court should find him

(A) not guilty, because he has already been acquitted in the federal court.

(B) not guilty, because the President was unaware that shots had been fired.

**What's criminal assault? What's your definition that's the key thing. Criminal assault is an attempted battery. He's being charged with the criminal assault. That person would be guilty. Don't think of torts. Go back to your definition of criminal assault.**

**I would go with C or D. Because they say guilty.**

guilty, because Dosset intended to hit the President with the bullets.

**That looks good.**

1. guilty, because Dosset’s conduct would cause the reasonable person to be placed in fear of her life.

**That's not my definition in the crimes.**

**So C is the best answer. You don't have to, you can, but you don't have to. Assault is a general intent.**

**Somebody said question 17, am I correct?**

**Does everybody understand for number 20, C is the best answer. You have to look at what's being charged. They acquitted him for intent. Then brought him to state court for criminal assault. Those are the two definitions for assault.**

**[Reading question: 17]**

In which of the following fact situations is Dandy most likely to be convicted of the crime charged? Assume that the jurisdiction applies the common law definition of all crimes.

**What's the actual ‑‑ he's charged with what? What are the elements of solicitation? Enticing another to commit an unlawful act.**

(A) Dandy offered an acquaintance one thousand dollars to burn down Dandy’s factory, but the acquaintance refused. Dandy was charged with solicitation to commit arson.

**He didn't entice him. A is out.**

(B) Dandy deliberately burned down his home and collected the proceeds of his fire insurance policy. Dandy was charged with larceny by trick.

**What do you need for larceny by trick? You need a representation of a material fact. But he basically burnt down to collect the proceed.**

(C) Dandy deliberately burned down Vonn’s store because he wanted to put Vonn out of business. Dandy was charged with arson.

**Remember it's a store. Common law you have to use a dwelling house. C is out.**

(D) Dandy attempted to burn down his neighbor’s house because he disliked his neighbor. He poured gasoline on the door of the house and threw a match onto it. The flames had just charred the door when it started to rain and the fire went out. Dandy was charged with arson.

**If you char something that's burnt. That's enough for arson. If they use the term blackening. Char means burnt. That means its structure. It has to be D.**

**For 17 the best answer is D.**

**The one thing you want to understand they like to test arson. You have to remember your common law definitions. With arson you have to remember the definitions and maybe you mistake the question by a couple points. It's very important.**

**Are there any other Multi‑State questions that you have a question on. It's your time. Anything please. Someone said question 15.**

**The victim does not have to be aware of the assault of the crime. That's correct. These go so fast.**

**Let's look at 15. [Reading question: 15.]**

Dustin was charged with the attempted murder of Volmer.

**What's your focus? On murder? We focus on the attempt.**

If only one of the following facts or inferences were true, which would be most likely to result in an acquittal?

**What are we trying to do? We are trying to get him off. If only one of the following facts or inferences were true which would result in an acquittal**

(A) Volmer was already dead when Dustin shot him, although Dustin believed him to be alive. **Already dead although Dustin thought him to be alive. Going through intent. Yeah you wanted him dead. Substantial step. You shot him. Preparation versus perpetration. Mistake of fact. But as the facts you believe them to be, you believe him to be alive. So A is out. A will convict him.**

(B) Volmer was alive when Dustin shot him, although Dustin believed that Volmer was already dead.

**He was alive when Dustin shot him ‑‑ does that look like a good answer. If you're alive when I shoot you should the charge be attempt or should the charge be murder. It should be murder. So B looks good. I put a plus there.**

(C) Dustin’s gun was unloaded when he aimed it at Volmer and pulled the trigger, although Dustin believed it to be loaded.

**Pulled the trigger although Dustin believed it to be loaded. That would still work with attempt. As you believed it be.**

(D) Intending to poison Volmer, Dustin put a harmless substance into Volmer’s drink, although Dustin believed that the substance was lethal.

**B is the only correct answer. That's the only way to get him off. For 15, B is the best answer.**

**We have time for one more.**

**When you do the Multi‑State -- question number 1 for Multi‑State? Yeah. Whenever you do these and you have questions, let me know, I will have it all wrapped out for you.**

**This is not a type of question that will be on your exam. Again we want to get him off.**

**[Reading Facts Question 1]**

Donnel met Vera in a bar where both were drinking. Because Donnel was too drunk to drive, Vera offered him a ride home. In Vera’s car, Donnel put his arms around Vera and attempted to kiss her. Vera told him that she wasn’t interested, and tried to push him away, but Donnel overpowered her and succeeded in having sexual intercourse with her. Vera was 17 years old.

[Reading Question 1]

Donnel was charged with forcible rape. If only one of the following facts or interferences were true, which would be most likely to lead to Donnel’s acquittal on that charge?

**Now we're looking for forcible rape. What do you need for rape? If the only facts or inferences were true which would most likely lead to his acquittal on that charge. Let's go through them all.**

(A) Donnel was so drunk that he believed Vera was willing to have sexual intercourse with him.

**Does that look good? No. Why? Because again what's it going to negate .**

(B) Donnel was so drunk that he did not realize that he was engaging in sexual intercourse.

**He doesn't know he's doing the act? We have a problem with mens rea.**

* + - * 1. Vera was so drunk that she did not realize that Donnel was engaging in sexual intercourse with her.

**We don't care what she thinks.**

(D) Vera was so drunk that immediately after intercourse began, sue forgot who Donnel was and believed him to he her husband.

**No, who cares.**

**It's either A or B. They all suck. But what would be the best? Donnel was so drunk he did not realize he was engaging in sexual intercourse versus he was so drunk he believed she wanted to ‑‑**

**With statutory rape it's strict liability. They will play with you on this particular crime because she wouldn't fall for it. Statutory rape. It's strict liability.**

**It's the best answer you've got but it doesn't mean it's going to work.**

**You have to pay attention to the call. Sometimes it puts you on the other side, you don't agree with it, but that's where it put you.**

**I hope you guys are doing Multi‑State every day. It's so important. Again, you can't just go through and say attempt what with attempt are they testing. I want you to break that apart.**

**Murder what with the murder are they testing.**

**The more you break it apart. Murder with specific intent, what with specific intent is being tested. Then you get the best answer choice. The only way to get there is by doing. The more you practice. The more you understand the concepts and how you test the actual issues. Little nuances that by doing oh, I get it now.**

**At this point, we hit all the subjects. What happens now. You have to go back and rotate. You have to go through torts, contract, criminal law. You have to go back and keep looking at it. Why? You will forgot it. It's something you need to continue and keep doing.**

**What's going to happen now is I will send you the last Baby Bar exam that was last tested. I want you to take those under exam conditions and understand where you're at. It's not a grade take advantage of it and see what you do under time constraints. Then send them in. There are subtleties that people didn't pay attention. I want to see if you pick it up.**

**Sometimes they hit the same issue two or three times in a row. It's good to go over those exams because you can get an understanding of what might be coming your way.**

**I do want you to do that. They will be sent out tomorrow or Friday. Take time. This is a good chance to treat this as a simulated. You need to know that. If it's something you need to work on, you need to know that.**

**Do you have any questions before we say good night.**

**Keep up the writing. Keep up breaking things apart. The more you do, the more you learn, the better understanding, the more you succeed on the examination.**

**Good night and thank you.**