

Question 3 – Criminal Law

1. Can it be reasonably argued that Tom is guilty of Arson? Discuss.

State vs. Tom

Arson

Arson is the malicious burning of the dwelling house of another.

Tom lived next door to his girlfriend Heather, and often helped her tend her yard. To do so, Tom used the tools that were stored in Heather's wooden toolshed, which abutted Heather's house. One day when Tom thought Heather was away at work, he went to Heather's house to mow the lawn and saw Heather kissing another man.

Tom felt queasy and left. He went to the drug store and bought Anxiety-Fix, an over-the-counter anti-anxiety medication and ended up taking 7 pills and fell asleep. He awoke in the middle of the night due to a nightmare he had about Heather.

Tom then lit several firecrackers in his yard, and threw them at Heather's house. He wanted to wake Heather up in order to discuss what he had seen. Two of the firecrackers landed in the tool shed, setting it afire. Tom will argue he only intended to wake Heather in order to discuss seeing her kiss another man, and that his conduct was not malicious.

However, the prosecutor will argue that Tom knew that the tool shed had gas powered equipment inside. Throwing several lit firecrackers at a toolshed with gasoline tools located inside could start a fire causing the toolshed to burn, thus his conduct malicious.

However, Tom was upset and not thinking clearly based on the 7 anxiety pills he took previously, he had no malicious intent.

In addition, this was a toolshed and not a dwelling house of another.

Thus, Tom will not be charged with arson.

Modern Law Arson

Arson is the malicious burning of a structure.

As discussed under common law arson supra, Tom wanted to wake Heather up in order to discuss him seeing her kiss another man. He lit several firecrackers and threw them into her backyard. The firecrackers landed on the toolshed setting the inside on fire.

Tom did not intend to set the toolshed on fire, evident by the fact he grabbed a garden hose to extinguish the fire showing he did not act maliciously in the burning of a structure. In addition, the toolshed only suffered smoke damage, and not any charring of the structure.

Therefore, Tom will not be charged with modern law arson.

2. Does Tom have any valid defenses? Discuss.

Intoxication

Intoxication is a complete defense to a specific intent crime. The defendant must prove a lack of mens rea to negate the specific intent element because of the intoxication.

Based on the fact that Tom took 7 anxiety pills, when the box instructed not to take more than 2 in an eight hour period, we can make an inference that the anti anxiety medication affected Tom. Tom, being upset and awakening after a nightmare about his girlfriend, lit several firecrackers and threw them at Heather's house. Since he was able to light firecrackers and throw them at her house this demonstrates that he was fully aware of his actions. However, he only wanted to wake Heather up in order to discuss that he saw her kissing another man. Thus, he had no specific intent to harm Heather.

In addition, he has been charged with arson, which is not a specific intent crime. Even if Tom can prove that he was voluntarily intoxicated, it will not negate a general intent crime.

Hence, intoxication will not be a valid defense for Tom.

Diminished Capacity

Where the perpetrator's capacity is so diminished that he cannot form specific intent to commit the crime.

In light of the facts above, Tom did take 7 anti-anxiety pills in a short period, when he should have only taken 2 in an eight hour period. If we assume that the pills did affect his ability to think and be rational, since he did throw lit firecrackers at Heather's house, it will be shown that Tom's capacity was diminished. However, upon a showing of diminished capacity, it will negate a specific intent crime. Arson is a general intent crime, thus, diminished capacity will not be a defense.

Thus, there is no defense to any crime committed by Tom.

3. Can it be reasonably argued that Heather is guilty of any crimes? Discuss.

State v Heather

Attempted Arson

An attempted crime is the specific intent to commit a crime with the taking of a substantial step towards completion of the crime by one who has the apparent ability to commit the crime. A substantial step is more than mere preparation, but less than perpetration of the crime.

Tom decided to wake Heather up in order to discuss him seeing her kiss another man. In order to wake her up he threw over several firecrackers at her house. The firecrackers landed on the toolshed and set it afire. The sound of the firecrackers did wake Heather and, upon seeing the flames, she grabbed a can of lighter fluid, opened some windows on the side of the house near the toolshed, and squirted the flammable fluid on the windowsills. Thus, based on her actions and the facts that Heather was having a hard time selling her house, shows she had the specific intent to commit arson.

Tom did grab a garden hose in order to extinguish the fire before it spread, however, Heather, upon seeing the flames, grabbed a can of lighter fluid, opened some windows on the side of the house near the shed, and squirted the flammable fluid on the windowsills. Heather was trying to make the fire spread to her house. Her actions show she performed a substantial step towards completion of the intended arson.

The fact that Heather was able, upon seeing the flames, to grab a can of lighter fluid, and squirt the flammable fluid on the windowsills shows she had the apparent ability to commit the arson.

Upon seeing the flames, Heather did grab a can of lighter fluid, and squirted the flammable fluid on the windowsills. This act by Heather goes beyond mere preparation, but is less than perpetration of the crime of arson since the house did not ignite.

Thus, Heather can be charged with an attempted arson.

Arson

Defined supra.

Heather upon seeing the flames, grabbed a can of lighter fluid, opened some windows on the side of the house near the toolshed, and squirted the flammable fluid on the windowsills. Thus, her conduct in squirting the windowsills with flammable fluid in order to have the house catch fire was malicious.

The subsequent fire resulted in the inside of the toolshed having smoke damage. Since, there was no burning of the house; the burning element is not satisfied. In addition, since Heather was trying to burn her own home, under common law it is not a dwelling house of another. Thus, there is no dwelling house of another.

Heather will not be charged with arson.

Modern Law Arson

Defined supra.

As discussed under common law arson supra, Heather, upon seeing the flames, grabbed a can of lighter fluid, opened some windows on the side of the house near the ignited shed, and squirted it on the windowsills. Her actions show malicious intent. In addition, as stated the house did not catch fire, thus there was no burning of a structure.

Therefore, Heather will not be charged with modern law arson.

Attempted Insurance Fraud

Defined supra.

An attempted crime is the specific intent to commit a crime with the taking of a substantial step towards completion of the crime by one who has the apparent ability to commit the crime. A substantial step is more than mere preparation, but less than perpetration of the crime.

Heather up being awakened by the sound of the firecrackers and, upon seeing the flames in the tool shed, grabbed a can of lighter fluid, opened some windows on the side of the house near the shed, and squirted the flammable fluid on the windowsills. Thus, based on her actions and the facts that Heather was having a hard time selling her house, and knowing that the insurance would cover the loss shows she had the specific intent to commit insurance fraud.

Heather, upon seeing the flames, grabbed a can of lighter fluid, opened some windows on the side of the house near the shed, and squirted the flammable fluid on the windowsills. Heather was trying to make the fire spread to her house. However, Tom was using a garden hose in order to extinguish the fire. Heather's home never caught fire, and she has not made an insurance claim to her insurance company. Her actions do not show she performed a substantial step towards completion of the intended insurance fraud.

The fact that Heather, knowing that her insurance would cover any loss, and squirted the flammable fluid on the windowsills in order to catch the house on fire, shows she had the apparent ability to commit insurance fraud.

Upon seeing the flames, Heather did grab a can of lighter fluid, and squirting the flammable fluid on the windowsills. However, the house did not catch on fire, and she has not filled an insurance claim. Hence, her act does not go beyond mere preparation.

Thus, Heather will not be charged with an attempted insurance fraud.