

## Criminal Law Model Answer

1. With what crimes, if any, can Angela, Brian and Carter reasonably be charged and what defense(s), if any, can each of them reasonably assert? Discuss.

### State v Angela

#### Conspiracy

Conspiracy is the agreement between two or more to commit an unlawful act.

Angela, Brian and Carter were at Angela's house and wanted to order a pizza. They knew they did not have enough money to pay for the pizza and Carter suggested that they order the pizza and grab it from the pizza delivery person without paying for it. Pursuant to Brian's request, Angela called the pizza parlor and ordered a pizza. Thus, there was an agreement. The agreement was between Angela, Brian, and Carter, i.e., two or more. They all agreed to order the pizza and grab it without paying for it. Therefore, there agreement was to do an unlawful act, i.e., larceny or robbery (discussed infra).

Therefore, Angela will be charged with conspiracy, unless she has a valid defense.

#### 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.

Based on the facts, Angela, Brian, and Carter were drinking. However, they decided to order a pizza and knew that they did not have enough money for the purchase. Since they were aware that they had no money to purchase the pizza, and hatched the plan to order the pizza and grab it, they were fully aware of their actions. Thus, they had the specific intent to steal the pizza.

Hence, intoxication in no defense.

#### Diminished Capacity

Diminished capacity exist when the Defendant's capacity is diminished negating his specific intent.

Based on the facts, Angela, Brian, and Carter were drinking. However, they decided to order a pizza and knew that they did not have enough money for the purchase. Since they were aware that they had no money to purchase the pizza, and conspired together to order and grab the pizza, they were fully aware of their actions. Thus, their capacity is not diminished to the point that they do not understand their actions. Thus, they had the specific intent to steal the pizza.

## **Attempted Murder**

### **Co-Conspirator Liability: Pinkerton's Rule**

Since Angela was a co-conspirator, she will be held liable for all crimes committed in furtherance of the conspiracy including the attempted murder of the pizza delivery person since this crime was a foreseeable consequence of the conspiracy.

Angela will argue the agreement was limited to grabbing the pizza and that use of a gun was never discussed or contemplated. Thus, the shooting at the pizza delivery person's vehicle was not foreseeable nor in furtherance of the conspiracy.

However, the agreement was to grab the pizza and not pay for it. As such, it is foreseeable that a co-conspirator, Carter, might use additional force, such as a gun, to obtain their objective of grabbing the pizza. Thus, Carter's act of shooting at the delivery person's vehicle is in furtherance of obtaining the pizza in which they all agreed to grab. Hence, Carter's act was foreseeable and in furtherance of the conspiracy.

Therefore, Angela will not be charged with attempted murder if Carter is charged with attempted murder (discussed infra).

## **Robbery**

### **Co-Conspirator Liability: Pinkerton's Rule**

Defined and discussed infra.

Since Angela was a co-conspirator, she will be held liable for all crimes committed in furtherance of the conspiracy including the robbery of the pizza (discussed infra), since this crime was a foreseeable consequence of the conspiracy.

## **Larceny**

### **Co-conspirator liability: Pinkerton's Rule**

Defined and infra supra.

Since Angela was a co-conspirator, she will be held liable for all crimes committed in furtherance of the conspiracy including the larceny of the pizza since this crime was foreseeable consequences of the conspiracy.

## **Receiving Stolen Property**

The receiving of stolen property is where a defendant receives property knowing that it is stolen.

When Brian grabbed the pizza and he and Carter fled the scene and returned back to Angela's house, they all ate the pizza. As such, the property she received was stolen. Since Angela was aware on how the pizza was obtained she had knowledge that the pizza was stolen.

Therefore, Angela will be charged with receiving stolen property.

### **State v Brian**

#### **Conspiracy**

Defined and discussed supra.

#### **Intoxication**

Defined and discussed supra.

#### **Attempted Murder**

#### **Co-Conspirator Liability: Pinkerton's Rule**

Defined and discussed supra.

#### **Robbery**

#### **Co-Conspirator Liability: Pinkerton's Rule**

Defined and discussed supra.

#### **Duress**

Duress is a defense if the defendant can show the criminal act was done while under coercion based on a threat of another person.

Brian will argue that when he realized that Carter had a gun, he was shocked by his actions of shooting into the pizza delivery person's vehicle and did not move to grab the pizza. However, when Carter aimed the gun at Brian and then told him to grab the pizza. Hence, Brian acted under the belief that Carter would have shot him in the event Brian did not grab the pizza.

However, Brian's further actions are inconsistent with any claim he was acting under duress. Not only did he grab the pizza, but he fled with Carter. Further, upon running back to Angela's home, all three defendants ate the pizza together. Thus, it appears that Brian merely was momentarily shocked when Carter shot at the pizza delivery person's vehicle. Carter's pointing the gun at him and telling him to grab the pizza brought him

back from a momentary distraction and, in turn, refocused him on his purpose in being there – to grab the pizza, which he did.

Hence no defense.

**Involuntary intoxication**

Defined and discussed supra.

**Diminished capacity**

Defined and discussed supra.

**Larceny**

**Co-conspirator liability: Pinkerton's Rule**

Defined and discussed supra.

**Duress**

Defined and discussed supra.

**State v Carter**

**Solicitation**

Solicitation is the inducement of another to commit an unlawful act.

Angela, Brian and Carter were at Angela's house and wanted to order a pizza. Knowing that they did not have enough money to pay for the pizza, Carter suggested that they order the pizza and grab it without paying. Carter's "suggestion" establishes his intent to induce Angela and Brian to commit a larceny, which is an unlawful act.

Thus, Carter will be charged with solicitation.

**Involuntary intoxication**

Defined and discussed supra.

**Diminished capacity**

Defined and discussed supra.

### **Attempted Murder**

An attempt 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 and, in combination with the acts that go beyond mere preparation, entering the zone of perpetration.

Carter's act of pulling out a gun out of his jacket pocket and firing the gun into the delivery person's vehicle shows his specific intent to commit a crime. In taking his gun out of his jacket pocket and firing it into the vehicle, he had the apparent ability to kill the delivery person. The prosecutor will probably argue that Carter's act of firing the gun into the vehicle, but missing, was a substantial step towards the murder of the pizza delivery person, albeit unsuccessful.

However, Carter will argue that he only fired the gun into the vehicle and had no intent to hurt anyone. When Carter fired the gun into the vehicle, his act was to instill fear in the pizza delivery person, but not because of an intent to kill him. Thus, he had no specific intent to kill the pizza delivery person.

Carter will not be charged with attempted murder.

### **Robbery**

Trespassory taking and carrying away of the personal property of another by force, fear or intimidation with the intent to permanently deprive.

Carter and Brian fled with the pizza after Carter fired his gun into the pizza delivery person's vehicle. As such, there was a taking and carrying away of personal property of another, pizza that had not been paid for, by force and fear in that the pizza was "grabbed" from the delivery person after Carter instilled "fear" through the firing of his gun. Since Carter and his co-defendants intended to eat the pizza, there was an intent to permanently deprive.

Thus, Carter will be charged with robbery.

### **Involuntary intoxication**

Defined and discussed supra.

### **Diminished capacity**

Defined and discussed supra.

### **Larceny**

Larceny is the trespassory taking and carrying away of personal property of another, with the specific intent to permanently deprive.

As argued above, Carter will be charged with robbery. As such, all the elements of larceny are also present.

Carter will be charged with larceny.

**Involuntary intoxication**

Defined and discussed supra.

**Diminished capacity**

Defined and discussed supra.