

4)

1. Crimes of Al

CONSPIRACY TO COMMIT BURGLARY

Conspiracy is the agreement made by one party with another party to commit a crime. The substantial conduct or act must be made in furtherance of the conspiracy.



Here, Al and Don set out for Vic's house to steal money and in fact entered the front door of Vic's house to act on the conspiracy. Thus, Al is guilty of conspiracy.

Defense to Conspiracy



A party who agreed to the conspiracy can withdraw from the crime by unequivocally communicating his intent to withdraw. Withdrawal to commit conspiracy will not absolve a person for the initial conspiracy but may not be liable for the continued conspiracy.

Here, Al told Don that he did not want to get involved. If the court finds that this is sufficient withdrawal by Al, Al will not be liable for any crime other than the initial conspiracy.

Co-Conspirator

A co-conspirator is guilty of the crimes committed by the other co-conspirators.



Any crime committed by Don will also be imputed to Al.

Duress

Duress is a defense to an intentional crime. Duress is when a person is threatened with great bodily harm if he does not comply with the person making the threat.

Here, Al is described as short and Don is tall. The physical difference may add to Al's fear of Don. Don also stated that if Al did not come along, he would break his legs the next day. These threatening words and Don's physical dominance is enough to scare someone in Al's place under the same circumstances. Thus, if the court finds that Al acted in duress, Al would not be liable for conspiracy, Burglary, Conspiracy to commit Burglary, Larceny, and Conspiracy to commit Larceny which will be later discussed.

BURGLARY

Burglary is the intentional breaking and entering of a dwelling of another, at night time, with the intent to commit a felony therein.

Around midnight, which is night time, Al walked in Vic's house and entered the house through an unlocked door which was opened by Don. Although the door was unlocked, the opening of the door constitutes a breaking and entering. Don intended to commit larceny by taking Vic's wallet. Thus Al is guilty of burglary as Don's co-conspirator.

LARCENY

Larceny is the trespassory taking away of another person's personal property with the intent to permanently deprive of the person of the use and enjoyment of the property. When larceny is committed in a burglary, it is a felony.

Here, Don took the wallet and ran away with it and Al ran away with Don and the wallet. Thus, Al committed burglary as Don's co-conspirator.

ACCOMPLICE

An accomplice is a person who aids and abets a person before, during, and after the commission of a crime.

Al aided Don in the commission of burglary and larceny because he was with Don while these crimes were committed and did nothing to prevent the crime or alert the police of the crime. Thus, Al is guilty of being an accomplice.

DEFENSES

Duress as stated above.

If the courts find that Al acted as Don's accomplice and conspired with Don to commit burglary and larceny, Al will also be guilty of the crimes of Conspiracy to Commit Burglary, Burglary, Conspiracy to commit Larceny and Larceny. If the court finds substantial duress, Al may not be liable for burglary and larceny.

2. The Fifth Amendment of the constitution is available to the states via the Fourteenth Amendment. The Fifth Amendment guarantees the right of due process.



A pretrial lineup violates due process if the line up is prejudicial in that the defendant will be clearly identified by the witness because his description will make him stand out from all the other men in the lineup. Here, the lineup was made up of six bearded men with long hair like

Don, thus, the lineup was not prejudicial to Don. Therefore, the identification at the lineup should not be suppressed.

Question #4 Final Word Count = 660

END OF EXAM