

1)

1). Deborah's crimes and Defences

Burglary

A breaking and entering into a dwelling of another (in the night time-common law), with an intent to commit larceny inside the dwelling are the elements of Burglary. Burglary is a specific intent crime and thus need specific intent to fulfil the element of crime.

Breaking and entering

When a person knowingly opens the door or forces themselves inside a dwelling. Here, the facts suggest that Debora broke the window to get into the garage.

Dwelling of another

When a person enters through breaking into another dwelling. Entering own dwelling dsnt fulfil this element. The person has to know the dwelling is of another person. Here, it is known that Debora is homeless, thus she knew she wasnt entering her own home. Thus, she was entering into another's dwelling.

Intent to commit larceny (taking/stealing another's possession)

The person should intent to commit a trespassery taking of another's belonging. Here, Debora entered the garage and decided to stay in the garage and start a fire. She may argue that she did not intent to commit larceny, she only intended to keep herself warm b y lighting the fire, however, the facts clearly suggest she broke into the garage to take some wood and start a fire outside the garage. Eventhough, she did not carry the wood outside, the last element of committing trespassery taking is fulfilled when she picked up the wood and burnt them, thus converting another's belongings.

Thus, Debora can be charged of committing burglary.

Arson

In order to be guilty of Arson, the elements of malicious burning of another's dwelling needs to be proved. The element of this type of crime is malice.

Here, Debora gathered wood scrapes and paper, started a small fire to keep herself warm, and feel asleep. Her intention to start the fire was to keep herself warm and not die rather than burn the dwelling. Moreover, a spark from the fire ignited some oil on the floor. She probably wasnt aware there was oil on the floor since the garage wasnt hers in the first place. The malice element of the crime is not fulfilled here and thus, Debora will not be charged for arson.

Felony

A murder occurring in furtherance of crimes such as burglary, arson, robbery, rape and kidnapping are categorised under felony murder. Here, Stuart who was sleeping in his bed in the run down house attached to the garage was killed due to the fire which was started by wood

burning. by Debora to keep herself warm. Debora can argue that the reason Stuart was killed was due to burning of his dwelling which did not intent to commit in the first place. All she wanted to do was to keep herself warm and not die in the cold winter night. However, Debora can be charged with burglary as her actions meet all the elements and thus she can be charged with Felony murder.

Involuntary Manslaughter/ Misdemeanour

When a person acts recklessly or with gross negligence and during which a person is killed, the crime can be decreased to involuntary manslaughter. Here, Debora negligently started fire to keep herself warm by gathering woodscrapes and paper. It may be inferred that due to her negligently starting fire in a place where fire shouldn't have started, the house Stuart was sleeping in wouldnt not have burned and thereby killing him.

First Degree

First Degree murder is when a person is murdered with premeditated and depraved heart. Here, there is no indication in facts that Debora premeditated Stuart's death. Thus, she wont be charged with first degree murder.

Second Degree

All other crimes which do not fall under first degree are considered under second degree murder. Here, Debora cannot be charged with first degree, however, she may be charged with Felony murder or involuntary manslaughter unless he has defences to drop her charges, as discussed below.

Defences

Mistake of facts

Mistakes of facts is defence that can be raised for specific intent crimes. Burglary is a theft crime which falls under specific intent crime and thus can be used to negate her mens rea to commit the crime by proving the defence of mistake of facts. When a person does not know the activity that they are performing is actually a crime and that fulfilling those elements could lead to a crime, this negates the person's mens rea to commit that following activity. Here, Debora can raise a defence of Mistake of facts stating she did not know opening a garage door and burning wood just to keep herself safe would be a potential burglary. Moreover, she did not take the wood out. She burned the wood right where it was. Thus, she can raise mistake of facts as defence, which will reduce her felony charges to involuntary manslaughter/misdemeanour.

2). Debora's motion to suppress her statement

5th amendment- Custodial interrogation

When a government agent questions a person in form of an interrogation when a person is in custody, the government agent is required to read the person Miranda warnings before eliciting information from the person. Else, the information retrieved from the person without their consent and without Miranda warnings, are obtained without due process and cannot be used against the person in the court of law.

Custodial

A person is in custody when they are aware they are confined in one space without any means to freely leave the space.

Governmental Interrogation

When a police or an agent of the government tries to elicit answers that may be incriminating in nature are interrogations.

Here, Debora was walking on the sidewalk when the Officer Oliver asked her what she was doing outside on such a cold night. Debora was on a sidewalk and there was no indication she was stopped by the Officer and put in a room or a confined space where she did not have the ability to leave the space at her will. Moreover, the Officer simply inquired what she was doing outside what may seem more out of concern since the night was cold. Debora, at her free will responded she started the fire. Thus, she at her own consent spoke about her starting the fire and thus, there is no custodial interrogation and further, no violations of her 5th amendment.

Thus, the court should dismiss her motion to suppress her statement.

Question #1 Final Word Count = 1059

END OF EXAM