

4)

1. Al can be reasonably charged with Burglary, Trespass Robbery, Attempt, and Conspiracy to Commit Burglary. Al can assert the defenses of lack of intent, coercion, and the fact he did not steal anything as defenses.

Criminal Convictions

Al (A) can be convicted of a crime if the prosecutors prove his culpability to the factors listed below beyond a reasonable doubt.

Burglary

Burglary is the 1) breaking and entering, 2) of another's building, 3) with the intent to commit a crime.

Breaking and Entering

Here, Al can assert that he did not actually "break" into V's house because the "door was unlocked." However, the facts indicate that the door was still close, and opening a door can still constitute breaking and entering. In the event the Court does not find this action a "breaking and entering," A will not be charged with burglary.

Of Another's Building

A clearly meets the second prong as he "set out" for V's house. There are no facts that indicate that V lives with A.

With Intent to Commit a Crime and Defenses

A can argue that when he entered V's house, he did not have the intent to commit a crime - namely "steal from him," because he was "forced" by D to do so. A can assert the defense of coercion, which states that he only went into V's house because of threat of imminent harm. A, however, will likely lose this claim because D told him, "I'll break your legs tomorrow." Because "tomorrow" is not "today," A cannot claim he suffered "imminent threat of harm" as required by a coercion defense. A could also assert self-defense and bring up how D slapped him, but there are no other facts that indicate A was imminent harm, or that he did anything else out of fear for his personal safety that night.

Trespass

Trespass is the 1) unlawful entering, 2) of another's property.

Here, A trespassed onto V's property. As discussed above, it is unlikely he can assert a coercion defense. He also cannot assert that he entered V's property by mistake because the facts indicate he knew he entered V's house.

Conspiracy and Attempt

To be guilty of conspiracy, prosecutors need to prove a "meeting of the minds" to commit a crime. To be guilty of an attempt, prosecutors must prove that the conspirators attempted to see their conspiracy come to fruition by committing a crime.

Here, the facts indicate that D and A agreed that they were willing to do anything for money and agreed to go to V's house to steal from him. On these facts, A is guilty of conspiracy. Because A actually went inside V's house, A is most likely guilty of attempt as well.

In his defense, A can assert that he backed out of the conspiracy to commit burglary and larceny before the burglary actually occurred. While the facts indicate he did so, A took no affirmative action to prevent the conspiracy from following through. A should have left the car and called the police to end his conspiracy. By conspiring and then subsequently allowing it to happen, A will most likely lose his defense.

Theft/Larceny

Theft is the taking away of another's property, robbery is the taking of property with use of force.

The facts indicate that V wasn't present when A and D entered his house and took his wallet, so A is most likely innocent of robbery. Regarding theft, A is personally innocent, because the facts indicate that he did not take anything from D's house. However, A can be seen as aiding and abetting D by accompanying him to V's house and running away with him and be convicted of attempted robbery as indicated above.

2. Don will likely be able to suppress the W's identification of D at a line-up under the 5th Amendment, because the police officer biased W. However, the state has likely cause to charge D because he was caught with V's

wallet.

5th and 14th Amendment

Under the 5th Amendment, a defendant has a right to a fair criminal proceedings, the right to confront their accusers, and the right to receive exculpatory evidence. A state actor cannot unfairly prejudice criminal proceedings. The 14th Amendment extends the 5th Amendment and the rest of the Bill of Rights to the states and state governments via the Incorporation Clause. This means that CA police officers cannot violate people's constitutional rights.

Here, D's issue is that Officer Oliver (OO), a state actor, acted against D's Constitutional Rights by biasing W's identification in the photo line-up.

California Evidence Code

Under Prop 8 of the California Evidence Code, a prosecution may use all relevant evidence to prove a crime unless otherwise exempted.

As it applies to the instant case, a photo line-up is generally permissible unless it is excluded by law.

Fruit of the Poisonous Tree/Exclusionary Rule

If any evidence in a criminal proceeding is found to have been obtained via illegal, unconstitutional ways, all derivative evidence stemming from the illegally obtained evidence must be suppressed.

Corroborating Informants

A police officer can rely on the tip of a reliable informant. If the informant cannot be proven to be reliable, a police officer must use other corroborating evidence to prove the validity of the informant's tip.

Here, while W gave a description of D to police, there is no indication that tip was used to actually arrest D and A. Presumably, W's tip was not used because she told police D was clean-shaven. The arrest and W's identification have nothing to do with each other, which is important to analyze the final outcome of D's criminal proceeding.

Biasing Photo Line-Ups

A state officer cannot bias identification of photo line-ups. Doing so is a violation of the Defendant's 5th Amendment rights.

Here, OO told W that D was arrested with V's wallet **before** she was asked to identify which of six bearded men with long hair was Don. This violates D's rights because W had knowledge and belief that the perpetrator was one of the six people in the photo line-up. OO biased W by telling her that her own recollection of D was false, D was in fact a bearded man. OO then used a biased W as someone to identify D out of a photo line-up, having known that W could not have likely made this determination without OO's information.

If OO did not tell W that D did in fact have a beard, and was in fact guilty, W may not have made a determination at the photo line-up. She did after all, think that a tall man running away in the middle of the night was clean-shaven, when he in fact had a beard, and subsequently expressed that she could have been wrong in identifying D. The fact that W took 20 minutes to finally decide on who D is further proves the impact of OO's constitutional violations, because W was looking for the perpetrator instead of matching the faces to what she had remembered the night before.

While D can suppress W's identification, the exclusionary rule will only apply to W's identification of the photo line-up, and not D and A's actual arrest where D was caught red-handed with V's wallet. Nor will the exclusionary rule apply to A stating that he ran out with D. As a result, he will most likely be arraigned and charged with Burglary, Larceny, Attempt, and Conspiracy.

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