

A man decided to kill his boss after she told him that he would be fired if his work did not improve. The man knew his boss was scheduled to go on a business trip on Monday morning. On Sunday morning, the man went to the company parking garage and put a bomb in the company car that his boss usually drove. The bomb was wired to go off when the car engine started. The man then left town. At 5:00 a.m. Monday, the man, after driving all night, was overcome with remorse and had a change of heart. He called the security officer on duty at the company and told him about the bomb. The security officer said he would take care of the matter. An hour later, the officer put a note on the boss's desk telling her of the man's call. The officer then looked at the car but could not see any signs of a bomb. He printed a sign saying, "DO NOT USE THIS CAR," put it on the windshield, and went to call the police. Before the police arrived, the company's vice president got into the car and started the engine. The bomb went off, killing her instantly.

The jurisdiction defines murder in the first degree as any homicide committed with premeditation and deliberation or any murder in the commission of a common law felony. Second-degree murder is defined as all other murder at common law. Manslaughter is defined by the common law.

What is the most serious crime of which the man can be properly convicted?

- A. Murder in the first degree, because, with premeditation and deliberation, he killed whoever would start the car.
- B. Murder in the second degree, because he had no intention of killing the company vice president.
- C. Manslaughter, because he had no intent to kill at the time of the explosion.
- D. Only attempted murder of his boss, because the vice president's death was the result of the security officer's negligence.

Explanation:

In this jurisdiction, **first-degree murder** includes **felony murder** and any homicide that is committed with:

premeditation – the defendant formed the **specific intent to kill** at some **appreciable time before** committing the criminal act *and*

deliberation – the defendant reached the decision to kill after **cool and dispassionate reflection** upon the criminal act and its likely consequences.

And under the doctrine of **transferred intent**, the defendant's **specific intent to kill** one person will be **transferred** to the **person actually harmed** by the defendant.

Here, the man planned to kill his boss (premeditation and deliberation) and planted a bomb in her car to do so. The bomb then killed the vice president. And though the man did not intend to kill the vice president, his intent to kill his boss with the bomb can be shifted onto the vice president under the doctrine of transferred intent (**Choice B**). Therefore, the man can be convicted of first-degree murder.

(Choice C) All crimes require proof of concurrence—ie, that the defendant had the requisite intent when the criminal act was committed. Here, the man had no intent to kill at the time of the explosion. But he *did* act with such intent when he committed the criminal act of planting the car bomb. And since that bomb caused the vice president's death, the man can be convicted of first-degree murder.

(Choice D) Although the man is guilty of **attempted murder** of his boss, he is also guilty of first-degree murder of the vice president. The security officer's negligence did not absolve the man of murder because the officer's actions were *foreseeable*—ie, not a **superseding cause** that would eliminate the man's liability.

Educational objective:

Under the doctrine of transferred intent, the defendant's specific intent to kill one person will be transferred to the person actually harmed by the defendant.

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Transferred intent

