

An old man lived on the second floor of a small convenience store/gas station that he owned. One night he refused to sell a college student a six-pack of beer after hours, saying he could not violate the state laws. The student became enraged and deliberately drove his car into one of the gasoline pumps, severing it from its base. There was an ensuing explosion causing a ball of fire to go from the underground gasoline tank into the building. As a result, the building burned to the ground and the old man was killed.

The college student is charged with murder and arson in a common law jurisdiction.

What is the most likely outcome of the student's trial?

- A. He will be convicted of both offenses.
- B. He will be convicted of arson and involuntary manslaughter.
- C. He will be convicted of involuntary manslaughter and acquitted of arson.
- D. He will be acquitted of both offenses.

Explanation:

In a **common law jurisdiction**, a defendant can be convicted of **murder** if the prosecution proves **beyond a reasonable doubt** that the defendant killed another person with **malice aforethought**—eg, with **reckless disregard** of an **obvious or high risk of serious bodily injury or death** (depraved-heart or extreme-recklessness murder).

There is an unreasonably high risk that driving into a gasoline pump will cause an explosion that could seriously injure or kill others. And here, the student recklessly disregarded that risk when he deliberately drove into the pump (malice aforethought), causing an explosion that killed the old man. Therefore, the student will likely be convicted of murder.

Common law arson is the **malicious** (ie, intentional or reckless) **burning of another's dwelling**. Here, the student deliberately drove into the gasoline pump, so he recklessly caused the explosion and subsequent fire (malicious burning). And since that fire caused the building where the old man lived (dwelling) to burn down, the student will likely be convicted of arson as well **(Choices C & D)**.

(Choices B & D) Involuntary manslaughter is a lesser degree of **homicide** that occurs when the defendant unintentionally kills another person through criminal negligence or an unlawful act (ie, *without* malice aforethought). But since the student acted *with* malice aforethought (recklessness), he will be convicted of the greater offense of murder.

Educational objective:

At common law, a defendant is guilty of murder when he/she kills another person with malice aforethought—eg, with reckless disregard for an obvious or high risk to life. And a defendant commits arson when he/she maliciously burns the dwelling of another.

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Common law murder

Did defendant cause another's death?

- Actual cause: but for or substantial factor
AND
- Proximate cause: death was foreseeable

No → **Not guilty**

Yes ↓

Did defendant act with malice aforethought?

- Reckless disregard of obvious/high risk of death or serious bodily harm
- Intent to commit Inherently dangerous felony
- Intent to cause Serious physical injury
- Intent to Kill

No → **Not guilty**

Yes ↓

Guilty