

A man entered a store with a gun, planning to rob the store. He was unfamiliar with guns and thought that the safety lock was on. When the store manager refused to give him any money, the man shook the gun at her to scare her into cooperating. The gun fired, killing the manager. A clerk ran in from the back stockroom. The man fired a shot into the air to scare the clerk. Unbeknownst to the man, the clerk had a heart condition, and the fright caused her to suffer a fatal heart attack.

Can the man properly be convicted of felony murder?

- A. No.
- B. Yes, but only for the death of the store manager.
- C. Yes, but only for the death of the clerk.
- D. Yes, for the deaths of both the manager and the clerk.

Explanation:

A defendant can be convicted of **felony murder** if he/she (1) **caused the death** of another (2) during the commission, or attempted commission, of an **inherently dangerous felony**. To show that a defendant caused the death of another, there must be evidence of both:

actual causation – the victim would not have died at that time **but for the defendant's conduct** *and*

proximate causation – the death was **foreseeable** (the natural and probable consequence of the defendant's actions).

Here, during the man's attempted robbery of the store (inherently dangerous felony), he accidentally fired his gun and killed the store manager (actual and proximate causation). The man then fired a shot into the air to scare the clerk, which caused her to suffer a heart attack and die (actual cause). Although the man did not know that the clerk had a heart condition, it was still foreseeable that firing a gun would cause death (proximate cause). Therefore, the man can be convicted of felony murder for the deaths of both individuals (**Choices A, B, & C**).

Educational objective:

Felony murder requires proof that the defendant caused another's death during the commission, or attempted commission, of an inherently dangerous felony. Causation exists if the victim would not have died but for the defendant's conduct (actual causation) and the death was foreseeable (proximate causation).

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Felony murder
(defendant liable for deaths actually and proximately caused)

