

A man decided to kill his neighbor, with whom he had been feuding for years. The man took a handgun and followed his neighbor to the county fairgrounds. When he had a clear shot, he aimed the gun and fired, but at the last second the neighbor moved. The shot missed the neighbor but struck and killed a police officer at the fairgrounds.

The jurisdiction defines murder as at common law but creates three degrees of murder:

- (a) Capital murder, punishable by death, is the intentional murder of a police officer.
- (b) First-degree murder, punishable by life in prison, is premeditated and deliberate murder.
- (c) Second-degree murder, punishable by up to 40 years in prison, is all other murders.

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

- A. Capital murder of the police officer.
- B. First-degree murder of the police officer.
- C. Second-degree murder of the police officer.
- D. Attempted murder of the neighbor.

Correct

Collecting Statistics

52 secsTime Spent

2023Version

Explanation:

In this jurisdiction, **first-degree murder** is the unlawful killing of another 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.

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 neighbor (premeditation and deliberation) and fired his gun at the neighbor to do so. However, the shot missed the neighbor and struck a police officer, who died as a result. Although the man did not intend to kill the police officer, his intent to kill his neighbor can be shifted to the police officer under the doctrine of transferred intent. Therefore, the most serious crime of which the man can be properly convicted is first-degree murder of the police officer.

(Choice A) In this jurisdiction, capital murder requires that the defendant intentionally kill a police officer. Since the man intended to kill his neighbor, he did not act with the intent necessary to be convicted of that crime. Additionally, transferred intent does not apply because capital murder requires that the defendant specifically intend to kill a police officer—not anyone in the general public.

(Choice C) Second-degree murder in this jurisdiction includes all **common-law murders** that are not capital murder or first-degree murder. However, the man is guilty of the more serious crime of first-degree murder.

(Choice D) The man committed **attempted murder** of the neighbor because he intended to kill the neighbor and committed an **act** in furtherance of the murder by firing his gun at the neighbor. However, the most *serious* crime of which he can be convicted is first-degree murder of the police officer.

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

