

Question MPT-1 – February 2024 – Selected Answer 1

To: Deanna Gray, District Attorney
From: Examinee
Date: February 27, 2024
Re: State v. Iris Logan

MEMORANDUM

INTRODUCTION

On January 17, 2024, Tara Owens was walking down the street when her purse was snatched by Iris Logan. After hearing a be on the lookout notification ("BOLO"), Officer Torres observed Logan getting into a green sedan. Officer Torres pursued the sedan, driving within the speed limit, for about 10 minutes before seeing the driver throw an object onto the shoulder of the road. As Officer Torres activated her sirens, the sedan was going through an intersection, and was immediately struck by an SUV. The traffic lights were not working properly at this intersection, and all lights were green at the same time. The driver of the sedan, Jeremy Stewart, was not wearing a seatbelt when the accident occurred and later succumbed to his injuries. This memorandum will discuss whether we should seek to indict Owens on robbery and felony murder, and any possible defenses.

DISCUSSION

I. Robbery

It is likely that Logan can be indicted for the crime of robbery. Under Franklin law, robbery is defined as (1) the intentional or knowing non-consensual taking of (2) money or other personal property (3) from the person or presence of another (4) by means of force, whether actual or constructive. *State v. Driscoll* (2019). Each element is analyzed below.

A. Intentional or knowing non-consensual taking of money or other personal property from the person or presence of another

The purse snatching event was an intentional non-consensual taking from Owens' person. Tara Owens was walking down the street when she felt Logan grab her purse from behind. Logan pulled the purse off Owens' arm, resulting in a voluntary, non-

consensual taking of Owens' personal property, from her person. Thus, elements one, two and three are satisfied.

B. By means of force, actual or constructive

Logan likely took the purse by actual means of force. For the purpose of defining robbery, "violence" is coextensive with "force." *State v. Driscoll* (2019). The force necessary is the posing of immediate danger to the owner of the property. *Id.*, citing *State v. Schmidt* (2009). The distinction between theft and robbery is the use of force or threat of physical harm. *Id.* Taking something stealthily without the owner's knowledge is simply theft, . Here, the element of force is met because Logan used physical force to take the purse off Owens' arm. Logan posed an immediate danger to Owens because Owens' arm was twisted when Logan took the purse off her arm, and her wrist was sprained. Logan would likely argue that this mere struggle is insufficient to rise to the level of force or threat necessary to establish the fourth element of robbery; however, the court in *State v. Driscoll* explained that struggling with the owner while trying to take the item from the owner is robbery. Thus, the element of a taking by force is established.

II. Felony Murder

Logan cannot be properly charged with felony murder, because proximate causation fails. A defendant may be charged with felony murder when the defendant's actions in the course of committing, attempting to commit, or fleeing from certain felonies were the cause of death. *State v. Finch* (2008).

A. Killing Occuring During Immediate Flight

Logan likely caused Stewart's death in the immediate flight from the robbery. The felony-murder rule still applies if the killing occurs during the defendant's flight. In determining whether a defendant is still engaged in fleeing from the felony, it is critical to determine whether the defendant has reached "a place of temporary safety." In *State v. Clark*, where the defendant had just completed the crime and was "on her way" to a place of temporary safety, the court found that there was no break in the chain of events because the defendant was still engaged in fleeing from the crime. *State v. Clark* (2007), But see *State v. Lowery* (2007) (defendant not criminally responsible for the death of his wife where the defendant had arrived home and the officer's gun went off, killing his wife). Here, like the defendant in *Clark*, Logan was still "on her way" to safety when she got into the accident that killed Stewart. Logan was still engaged in fleeing from the crime because the sedan had only driven for a couple of miles and for about 10 minutes when the accident occurred. Thus, Logan had not reached a

place of temporary safety, and the killing occurred during her immediate flight from the robbery.

A. Cause in fact

Logan's actions are likely the cause in fact of Stewart's death. Causation required by the felony-murder statute is cause in fact and legal cause. Commonly referred to as "but-for" causation. But for the acts of the defendant, the death would not have resulted. Here, if Logan had not committed the robbery, the two would not have been fleeing the scene and pursued by the officer. Logan's actions are the "but for" cause because the accident that resulted in Stewart's death would not have occurred if they were not fleeing the scene of the crime. Thus, cause in fact is established.

B. Legal cause

Logan's actions were not likely to be the legal cause of Stewart's death because there was a superseding cause. Under "legal cause," the relevant inquiry is whether the death is a type a reasonable person would see as a likely result of that person's felonious conduct ("foreseeability"). Purpose of adding the element of foreseeability is that it would be unfair to hold a defendant responsible for outcomes that were totally outside his contemplation when committing the offense. Thus, when a felon's attempt to commit a forcible felony sets in motion a chain of events that were or should have been within his contemplation when the motion was initiated, he should be held responsible for any death that by "direct and almost inevitable sequence" results from the initial criminal act.

1. Superseding cause

The fact that the traffic lights were malfunctioning was likely a superseding cause, but the fact that Stewart was not wearing a seatbelt was not. The factors necessary to demonstrate a superseding cause are (1) the harmful effects of the superseding cause must have occurred after the original criminal acts, (2) the superseding cause must not have been brought about by the original criminal acts, (3) the superseding cause must have actively worked to bring about a result that would not have followed from the original criminal acts, and (4) the superseding cause must not have been reasonably foreseen by the defendant. *State v. Finch* (2008) If all four elements are present, the intervening cause is said to be a superseding cause that breaks the chain of proximate causation, "supplanting" the defendant's conduct. *State v. Finch* (2008), citing *Craig v. Bottoms* (1996).

a. Lack of seatbelt as superseding cause

It is unlikely that Stewart not wearing a seatbelt was a superseding cause of his death. Gross negligence will generally be considered a superseding cause but ordinary negligence will not be regarded as a superseding cause because ordinary negligence is reasonably foreseeable. *State v. Finch* (2008), quoting *Craig v. Bottoms* (1996). Gross negligence means "wantonness and disregard of the consequences that may ensue." *Id.* The car ride took place after the robbery, and thus the effects of this inaction occurred after the original criminal act. The lack of seatbelt wearing was also not brought about by robbery. Furthermore, the accident that resulted in the death would have occurred even if Stewart had been wearing a seatbelt. Lastly, not wearing a seatbelt, especially when fleeing from a crime, is likely foreseeable. While the behavior is negligent, it is unlikely to rise to the level of wantonness that establishes gross negligence. Thus, the fact that Stewart did not have on a seatbelt is not a superseding cause.

b. Malfunctioning lights as superseding cause

The facts indicate that at the time of the accident, the traffic lights were malfunctioning because they were green in all directions. The effects of malfunctioning traffic lights occurred after the robbery, and were not brought about by the robbery. However, it is certainly possible that the accident would not have followed from the robbery if the lights had been working properly. Furthermore, the fact that the traffic lights were not working properly is a fact that was unforeseeable by Logan.

CONCLUSION

It is likely that Logan can be indicted for robbery, but not for felony murder, because the malfunctioning traffic lights were likely a superseding cause that cut off Logan's liability. Thank you for allowing me to conduct this analysis for you. If I can be of any further assistance, please let me know.

Question MPT-1 – February 2024 – Selected Answer 2

OFFICE OF THE DISTRICT ATTORNEY COUNTY OF HAMILTON

805 Second Avenue
Centralia, Franklin. 33705

TO: Deanna Gray, District Attorney

FROM: Examinee

DATE: February 27, 2024

RE: State v. Iris Logan, felony murder

Introduction

Iris Logan snatched a purse from a victim who was not in fear but was injured when complying with her demands, and then her getaway driver was killed while the two left the scene of the crime. The prosecution would like to assess whether Ms. Logan could be charged with felony murder. However, because the traffic lights were not functioning properly and this malfunction appeared to be the cause of the death of her accomplice, Ms. Logan cannot be found liable for felony murder. Additionally, there is some question about whether her conduct arises to a felony under Franklin law.

Argument

I. Ms. Logan's Conduct Meets the Elements of a Robbery But If Her Conduct Constitutes Theft Then Felony Murder May Not Attach to Her Conduct.

Under Franklin Criminal Code Section 901, a robbery is a felony, defined as "the intentional or knowing theft of property from the person of another by violence or putting the person in fear." Additionally, robbery is defined in *State v. Driscoll*, Fr. Ct. App. 2019, as having four elements: (1) intentional or knowing nonconsensual taking of (2) money or other personal property (3) from the person or presence of another (4) by means of force. *Driscoll*: "'violence' is coextensive with 'force.'"

A. Force under robbery can include threat of force and physical harm

In *Driscoll*, the defendant and the victim struggled over a laptop, even when victim not injured, sufficient use of force to constitute robbery under Fr. Crim. Code Section 901. Franklin courts defined force in *State v. Schmidt*, Fr. Ct. App. 2009: "The force necessary to constitute robbery is the posing of the immediate danger to the property." This holding would argue for finding Ms. Logan culpable for robbery, a felony, as she had an implied threat of force when she demanded the purse from the victim and the victim was injured.

B. Force under robbery can include putting the victim in fear

Additionally, the court in *Driscoll*: "The immediacy of the danger can be demonstrated either by putting the victim in fear or by bodily injury to the victim. In sum, the distinction between theft and robbery is use of force or threat of physical harm.

Taking something stealthily without the owner's knowledge is simply theft..." Again, this suggests that Ms. Logan would be guilty of robbery, However, Ms. Logan's victim, when asked if she was in fear of her during the incident, said, "Not really." Ms. Logan was behind her victim. Arguably, she was not acting by stealth as she approached the victim (albeit from behind), and the victim was injured when she hastily removed the bag. Arguably, a finder of fact would likely find that Ms. Logan's actions were threatening and used force, but the facts here are such that there is some risk to the prosecution that Ms. Logan would be found guilty of theft, as she did not put the victim in fear and did not touch the victim or struggle with the victim, which would not support a felony-murder charge, as theft is not a felony.

II. Assuming Ms. Logan's Conduct Meets the Elements of a Robbery the Intervening Cause of the Traffic Lights Suggests Felony Murder Will Not Attach to Her Conduct.

Franklin Criminal Code Section 970, First Degree Felony Murder, defined as "the killing of another committed during the perpetration of, attempt to perpetrate, or immediate flight from the perpetration of or attempt to perpetrate any...robbery." *State v. Clark*, Fr. App 2007, defines "in immediate flight from" a felony: "In assessing whether a defendant is still engaged in fleeing from the felony, it is critical to determine whether the fleeing felon has reached "a place of temporary safety."

A. No break in the chain of events: Ms. Logan was fleeing the scene of the crime when her vehicle had the fatal collision

In *Clark*, the court looked to the question of whether or not there was "No break in the chain of events." If the defendant was still engaged in fleeing from crime at the time of killing, then a court could find felony murder under Fr. Crim. Code Section 970 for a resulting death. This is contrasted with *State v. Lowery*, Fr. Sup. Ct. 1998, where the court found that when a defendant was no longer fleeing from the robbery at the time of killing, then no criminal responsibility should attach under Fr. Crim. Code Section Section 970.

B. The traffic light malfunction was an unforeseeable superseding cause of death and thus Ms. Logan's felony would not a proximate cause of the death

i. Actual Cause

In *State v. Finch*, Fr. Sp. Ct. 2008, attempted armed robbery and felony murder case, defines causation in the context of the felony murder statute: "The causation required

by the felony-murder statute encompasses two distinct requirements: 'cause in fact' and 'legal cause' (sometimes referred to as 'proximate cause')."

The court in *Finch* found that a reasonable person would have foreseen that entering the store with a weapon would lead to the intervention of a security guard and ensuing violence. In *Finch*, cause in fact or but for causation can be analyzed as "but for the acts of the defendant, the death would not have resulted.

ii. Legal Cause

Legal cause has a requirement of foreseeability. In *Finch*, the court held that "the relevant inquiry is whether the death is a type that a reasonable person would see as a likely result of that person's felonious conduct." It would be unfair to hold a defendant responsible for outcomes that were totally outside his control.

The court also stated in *State v. Lamb* (Fr. Sup. Ct. 1985): "(T)he intent behind the felony-murder doctrine would be thwarted if felons were not held responsible for the foreseeable consequences of their actions.

The court in *Finch* stated four superseding cause factors:

- (1) the harmful effects of the superseding cause must have occurred after the original criminal acts;
- (2) the superseding cause must have actively worked to bring about a result that would not have followed from the original criminal acts;
- (3) the superseding cause must have actively worked to bring about a result that would not have followed from the original criminal acts; and
- (4) the superseding cause must not have been reasonably foreseen by the defendant.

Finch says 4th factor can be broken by gross negligence. "In applying the fourth factor, grossly negligent or reckless conduct is sufficiently unforeseeable to supersede a felon's initial causal responsibility."

If all four elements are present, then the intervening cause is said to be a superseding cause that breaks the chain of proximate causation.

In *Craig v. Bottoms*, Fr. Sup. Ct. 1996, when superseding cause supplants the cause of death, then the defendant is not legally responsible for death. Arguably, this is the case here. The malfunctioning lights were a superseding cause. The defendant's car was traveling within the speed limit. The defendant had a green light, as did the oncoming car. Her driver would not have died but for driving her away from the theft but no conduct specifically tied to the theft could have caused the death -- the traffic lights caused the accident.

The court in Finch elaborates on superseding factors by using persuasive, older caselaw from a neighboring state which discusses medical malpractice. In *State v. Knowles*, Olympia Sup. Ct. 2000, "gross negligence will generally be considered a superseding cause but ordinary negligence will not be regarded as a superseding cause because ordinary negligence is foreseeable." Again, the court found that in criminal jurisprudence, gross negligence means "wantonness and disregard of the consequences to others that may ensue." Finally, in *State v. Johnson*, Olympia Ct. App. 1999: negligent medical care may be foreseen, but gross negligence cannot be foreseen. Under the current facts, the driver was not driving recklessly and the roads were not maintained negligently. Traffic light outages and malfunctions are mere negligence; and the other driver may or may not have been exercising reasonable care, but given the green lights on both sides, either driver's conduct was not a factor in the accident.

Here, under the factors for superseding cause:

(1) The harmful effects of the superseding cause must have occurred after the original criminal acts; the traffic accident caused by the malfunctioning lights happened after the suspect was far from the scene of the purse-snatching.

(2) The superseding cause must have actively worked to bring about a result that would not have followed from the original criminal acts; the traffic accident caused the driver's death in a way that could not have happened when the getaway driver was driving at the posted speed limit and following traffic laws.

(3) The superseding cause must have actively worked to bring about a result that would not have followed from the original criminal acts; again, the traffic accident caused by the right-of-way problems with the traffic light would not have followed from the driver's conduct after the snatching.

(4) The superseding cause must not have been reasonably foreseen by the defendant. The traffic light problem could not have been foreseen, per the report by the Department of Highway Safety.

Under these facts, felony murder could not attach.

Conclusion

Felony murder is appropriate when a person dies as a foreseeable consequence in the commission of the felony, including fleeing the scene. However, because the traffic lights were not functioning properly and this malfunction appeared to be the superseding cause of the death of her accomplice, Ms. Logan cannot be found liable for felony murder. Additionally, there is some question about whether her conduct arises to a felony under Franklin law. I do not think the prosecution should seek felony murder charges in this case.

Question MPT-1 – February 2024 – Selected Answer 3

MEMORANDUM

TO: Deanna Gray, District Attorney

FROM: Examinee

DATE: February 27, 2024

RE: State v. Iris Logan

I. Questions Presented:

1. Should Iris Logan be charged with robbery?
2. Should Iris Logan be charged with felony murder?

II. Short Answer(s):

1. Yes, because the all of the elements of robbery are clearly met.
2. No, because there was a superseding cause that broke the chain of causation. Thus, her robbery did not "cause" the death of Stewart.

III. Statement of Facts

Not Included.

IV. Legal Analysis

A. Iris Logan's only potential defense to robbery, that the taking of the purse was not by means of force, will not hold up because Ms. Owens suffered bodily harm as a result of the taking of her purse.

The taking of Ms. Owens purse by Ms. Logan occurred within the state of Franklin. As such, Franklin State law applies. Section 901 of the Franklin Criminal Code (FCC) defines robbery as "the intentional or knowing theft of property from the person of another by violence or putting the person in fear." FCC Section 901. Robbery is considered a felony under the FCC. Id. Broken down into four elements, robbery requires (1) intentional or knowing nonconsensual taking of (2) money or other personal property (3) from the person or presence of another (4) by means of force, whether actual or constructive. State v. Driscoll. Here, clearly Ms. Logan intentionally took Ms. Owens' purse. She told her to let her have the purse, and pulled the purse

off of her arm. It was nonconsensual, evidenced by Ms. Owens' scream for help. The purse constitutes personal property, and was taken in the presence of Ms. Owens. The only element of robbery in doubt is whether the purse was taken by means of actual or constructive force. Under Franklin law, "violence" is coextensive with "force." *Id.* The force needed to constitute robbery is the posing of an immediate danger to the owner of the property. *State v. Schmidt*. The immediacy of the danger can be demonstrated either by putting the victim in fear or by bodily injury to the victim. Ms. Owens admits that she did not feel afraid of the situation. Unlike in *State v. Driscoll*, Ms. Owens did not struggle. That would probably be Ms. Logan's defense. Ms. Owens did, however, clearly suffer bodily harm. When Ms. Logan pulled the purse off of Ms. Owens' shoulder, Ms. Owens sprained her wrist. Therefore, because Ms. Owens suffered bodily injury, this would constitute an immediate danger to the owner of the property, and thus meet the requirement of "by means of force." Iris Logan should be charged with robbery.

B. Iris Logan will not be convicted of felony murder because the malfunctioning lights at the intersection of State Route 50 and State Route 75 were a superseding cause of Mr. Stewart's death.

The taking of Ms. Owens' purse by Ms. Logan, and the car accident subsequent to the robbery, occurred within the state of Franklin. As such, Franklin state law applies. Franklin Criminal Code (FCC) Section 970 defines first-degree felony murder as "a killing of another committed during the perpetration of, attempt to perpetrate, or immediate flight from the perpetration of or attempt to perpetrate any first-degree murder, act of terrorism, arson, rape, robbery, burglary, kidnapping, aggravated child abuse, aggravated child neglect, or aircraft piracy." Ms. Logan's two potential defenses to felony-murder are that she was no longer engaged in the robbery at the time of the accident that led to Mr. Stewart's death, and that the malfunctioning lights at the intersection of State Route 50 and 75 was a superseding cause.

In this case, the accident that caused the death of Mr. Stewart occurred while Mr. Stewart and Ms. Logan were leaving the scene of the crime of their robbery. Although the crime of robbery was completed before the killing, the felony-murder rule still applies if the killing occurs during the defendant's flight. *State v. Clark*. When determining whether a defendant is still engaged in fleeing from a felony, it is critical to determine whether the fleeing felon(s) have reached "a place of temporary safety." In *State v. Clark*, when the fleeing defendant struck a pedestrian while driving away from a burglary, she was deemed to still be fleeing from the commission of the felony. In contrast, in *State v. Lowery*, after the defendant robbed a store, he was deemed to have reached a "place of temporary safety" when he arrived home. Here, Ms. Logan and Mr. Stewart were on the road when the accident occurred. Even though there is

no indication of recklessness or negligence on their part, like in *Clark*, they would be deemed to be fleeing from commission of the felony.

The other defense Ms. Logan is likely to bring up is superseding cause, or an intervening independent cause that broke the causal chain between her and Mr. Stewart's actions in robbing Ms. Owens and the death of her accomplice or accessory to the crime, Mr. Stewart. In other words, Logan will argue that she cannot be held liable for felony murder in connection with Stewart's death because the death was not caused by any action that Logan initiated. The causation required by the felony-murder statute encompasses the two distinct requirements of "actual cause" and "proximate cause." *State v. Finch*.

Actual cause, or "cause in fact" is necessary but not sufficient for meeting the felony-murder statute causation requirement. *Id.* But for the acts of the defendant, the death would not have occurred. *Id.* That requirement is met here. Had Ms. Logan not robbed Ms. Owens at that time, they would not have been driving away and gotten into a fatal car accident.

Proximate cause, or legal cause, must also be met for the causation requirement to be met. *Id.* The relevant inquiry for legal cause is "whether the death is of a type that a reasonable person would see as a likely result of that person's felonious conduct." Proximate cause is met here. A reasonable person could foresee getting into a car accident while driving away from the scene of a robbery while a police officer is following you.

A superseding cause "supplants" the defendant's conduct as the legal cause of death, breaking the causal chain between the defendant's actions and the death that subsequently occurred. *Id.* To demonstrate a superseding cause, the defendant must show (1) the harmful effects of the superseding cause occurred after the original criminal acts, (2) the superseding cause must not have been brought about by the original criminal acts, (3) the superseding cause must have actively worked to bring about a result that would not have followed from the original criminal acts, and (4) the superseding cause must not have been reasonably foreseen by the defendant.

The superseding cause in this case would be the malfunctioning lights at the intersection of State Route 50 and State Route 75. The harmful effect of the malfunctioning lights did occur after the original criminal act of robbery. The malfunctioning lights were not brought about by the robbery. The malfunctioning lights did bring about the death of Stewart. Stewart, according to officer Torres, was driving within the speed limit, and was going through the intersection when the light was green. The only thing he did out of the ordinary was throw the purse out of the car, but that action is not what led to the car collision. Thus, it appears that the malfunctioning lights brought about the car accident. The malfunctioning lights could not reasonably have been foreseen by Logan. According to Officer Torres, the lights at that intersection had always worked before. Officer Torres' account was confirmed by the team sent out to investigate the traffic lights. They also reported that the lights

were green in all directions, and that there had been no prior complaints or reports of malfunctioning of those lights.

V. Conclusion

The charge of robbery should be brought against Ms. Logan, because she intentionally took Ms. Owens' purse off of Ms. Owens' person violently (as demonstrated by Ms. Owens' sprained wrist caused by the incident). The charge of first-degree felony murder should not be brought, because the malfunctioning lights clearly serve as an intervening cause that severs the chain of causation between the robbery and Mr. Stewart's death.