

ASP – Criminal Law (Prof. Steinman)
Fall 2005 - Session #4
Santa Clara University School of Law
Wednesday, 26 October 2005 4:30 – 6:00 PM

1. Introduction

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2. General Q&A re Law School, Crim, The Midterm and Steinman

- a. General Midterm Points
 - i. Don't focus on your midterm grade
 - ii. Focus on how to improve for the final
 - 1. Look at what you did well and don't forget those things
 - 2. Look at what you didn't do so well and figure out how to improve
- b. Specific questions re Midterm problem itself?

3. Charting Attempt, Accomplice and Conspiracy

- a. Three Groups – One each for Attempt, Accomplice, Conspiracy
- b. Common Areas
 - i. What is the mens rea?
 - ii. What is the actus reus?
 - iii. Do you need agreement?
 - iv. What is the scope of liability? (What acts committed by another person can we hold Δ liable for?)
 - v. Is it possible to abandon?
 - vi. Where can Δ be prosecuted?
 - vii. What is the punishment?

4. Hypo

Cray Zee is an eccentric billionaire and the founder of an environmental organization named Earth Liberation Front (ELF). ELF is committed to stopping global warming. During the last year, ELF has held several protest marches and rallies outside the corporate headquarters of several large oil and automobile companies. The rallies and marches have resulted in traffic jams and have caused the stock prices of these corporations to dip.

At last week's ELF meeting Cray announced that the time had come for ELF to "step up its efforts to take back the planet by disrupting the operations of the greedy polluters!" One of the ELF members at the meeting, Knut Tee, felt that the best way to "disrupt" industrial polluters was to damage to their factories.

Later that day Knut met with the Erz brothers, Crak and Bonk, to discuss his idea. Knut suggested that the first target should be a local oil refinery. The next day the three men went on a public tour of the refinery. During the tour they observed that all the buildings were at least 50 yards from the barbwire fence that surrounded the refinery. After the tour, a dejected Crak said: "This place is Fort Knox. We'll never pull it off. Let's pack it in."

In response, Knut pointed out that although the buildings were inaccessible, the main electrical transformer for the refinery was located outside the fence. Knut said that if they took out the transformer it would disable the whole refinery for months. Bonk replied that they could damage the transformer using an electronic device known as a "spike." Crak shook his head and said: "Only the Feds have spikes, you guys will never get one."

That afternoon Bonk visited Key Komponenten, an electronics store, run by Koo Key. Bonk liked doing business with Key despite her high prices because she could get almost any sort of electronic gadget and never asked any questions. Key agreed to sell Bonk the spike and told him that she would bring it to his house in the evening. Several hours later Key brought the spike to Bonk's home and showed Bonk and Knut how to use it, including how to set the power level and the timer. Before she left, Key warned them to use a low power setting and to avoid using it in or near their cars because at high power settings, spikes had been known to cause flammable liquids to catch fire.

That night Bonk and Knut met at the refinery. Knut acted as the lookout while Bonk planted the spike. Bonk set the timer to go off in one hour. After setting the timer, Bonk and

Knut left separately. Ten minutes later Knut returned and reset the power level on the spike to the maximum setting. When the spike went off, it disrupted the transformer and caused the oil in one of the refinery's storage tanks to explode. The explosion and subsequent fire burned down a large portion of the refinery. A dozen people died in fire including Knut's ex-wife.

As it turns out, the reason that Knut had picked that particular refinery as his target was that his ex-wife worked the night shift there. Knut hated his ex-wife and had wanted to get revenge on her for divorcing him.

The police have arrested Knut, Bonk, Crak, Cray and Key. What charges can be filed against them? If necessary, you may assume that intentionally destroying a building and intentionally damaging a transformer, are considered felonies in this jurisdiction.