

Portfolio Project

PLEG230

ASHLEY DAVIS

B00660547

Memo to Client

PLEG230

ASHLEY DAVIS

B00660547

DeBee & Associates, LLC

125 State Street

ABC, Idaho, 12345

Roger Shephard

455 West 5th Avenue

ABC, Idaho, 12345

September 13, 2023

Dear: Mr. Shephard,

I am writing to explain a little about the case that you have asked our office to assist you with. In this letter, I am going to explain to you what Idaho's statute for petty larceny is and if it would be considered a felony or misdemeanor. We will also talk about what will happen at court and what you could face. We will also talk about the burden of proof in a criminal case.

First, let's talk about what Idaho looks at for petty larceny. Petty larceny, also known as petit larceny, is a misdemeanor in Idaho. The elements of this crime include:

- a. The unlawful taking and carrying away of someone else's property: This means the defendant must have taken the property without the owner's consent and moved it from its original location.
- b. With the intent to permanently deprive the owner of the property: The defendant must have intended to keep the property and not return it to the owner.

c. The property's value must be less than \$1000: If the value of the property is more than \$1000, the crime could be considered grand larceny, which is a felony.

Without specific facts, I can't provide evidence the prosecution might have for each element. However, evidence could include surveillance footage, witness testimony, or physical evidence like the stolen property found in the defendant's possession.

Next, let's talk about the difference between a felony and a misdemeanor in Idaho. A felony is a more serious crime than a misdemeanor. Felonies often involve violence and are punishable by more than a year in prison. Misdemeanors are less serious crimes, punishable by up to a year in jail. Petty larceny in Idaho is considered a misdemeanor.

Third, we are going to discuss what will happen when your case goes to court. An arraignment is the first step in a criminal trial process. During an arraignment, the defendant is formally charged with a crime. The judge will read the charges to the defendant, ask if the defendant has an attorney or needs one appointed, and ask the defendant to enter a plea (guilty, not guilty, or no contest). The judge may also set bail at this time.

Lastly, we are going to talk about the burden of proof in a criminal case. In a criminal case, the burden of proof lies with the prosecution. This means it's the prosecutor's responsibility to prove beyond a reasonable doubt that the defendant committed the crime. "Beyond a reasonable doubt" is the highest standard of proof and means that the evidence presented leaves no other logical explanation than the defendant committed the crime. If the prosecution fails to meet this burden, the defendant should be found not guilty.

Let me know if you have any questions about the information that I have provided you with about your case.

Sincerely,

Lillian DaBee

Memo to Attorney

PLEG230

ASHLEY DAVIS

B00660547

To: Lillian DeBee, Esq.
From: Ashley Davis, Paralegal

Sure, I'd be happy to explain the differences between these three legal terms: conspiracy, accomplice, and accessory.

1. Conspiracy: Conspiracy is a legal term that refers to an agreement between two or more people to commit a crime. The key element of conspiracy is the agreement itself, not the completion of the crime. In other words, even if the crime is not carried out, the individuals can still be charged with conspiracy if there is evidence that they agreed to commit the crime. The crime of conspiracy is complete when the agreement is made, and one or more of the conspirators takes some overt act in furtherance of the conspiracy.

2. Accomplice: An accomplice is a person who actively participates in the commission of a crime, even if they take no part in the actual criminal offense. For example, in a bank robbery, the person who drives the getaway car is considered an accomplice, even though they did not directly rob the bank. An accomplice is usually present at the crime, but this is not a requirement. What matters is that they knowingly and voluntarily assisted in the crime.

3. Accessory: An accessory is a person who assists in a crime, but unlike an accomplice, an accessory is typically not present at the actual crime. There are two types of accessories: "before the fact" and "after the fact." An accessory before the fact might provide information or resources to help commit the crime, while an accessory after the fact might help the principal offender escape capture or hide evidence.

In summary, while all three terms involve participation in a crime, they differ in the nature and degree of participation. A conspiracy involves an agreement to commit a crime, an accomplice actively participates in the crime, and an accessory assists in the crime but is typically not present at the crime itself.

Idaho's criminal statutes on conspiracy, accomplice, and accessory are outlined in the Idaho Statutes Title 18. Crimes and Punishments. Here's a summary:

1. Conspiracy (Idaho Statutes § 18-1701): Idaho law defines conspiracy as an agreement between two or more persons to commit any crime. The agreement doesn't need to be formal or expressed in any particular manner. It's enough if the parties understand it. The crime of conspiracy is complete when one or more of the conspirators does an overt act to effect the object of the conspiracy. The punishment for conspiracy is the same as the punishment for the crime that the conspirators agreed to commit.

2. Accomplice (Idaho Statutes § 18-204): An accomplice is defined as a person who, with the intent to promote or assist the commission of an offense, aids, abets, encourages, or instigates by act or advice the commission of such an offense. The punishment for an accomplice is the same as the punishment for the principal offender.

3. Accessory (Idaho Statutes § 18-205): An accessory to a crime in Idaho is a person who, knowing that a felony has been committed, harbors, conceals, or aids the offender with the intent to prevent the offender's apprehension. The punishment for an accessory is a fine not exceeding \$500, or by imprisonment in the county jail not exceeding one year, or both.

Please note that this is a summary and the actual language of the statutes should be referred to for a complete understanding. Also, laws can change, so it's important to check the current statutes or consult with a legal professional for the most accurate information.

To determine which charges should apply to Lennie Lewis for the armed robbery, we need to understand the definitions of conspiracy, accomplice, and accessory.

1. **Conspiracy:** This charge applies when two or more people agree to commit a crime and then take some action toward its completion. It's not necessary for the crime to be completed, just that they planned it and took a step towards committing it.
2. **Accomplice:** An accomplice is someone who knowingly, voluntarily, and with common intent unites with the main actor in committing a crime. They are present at the crime scene and participate in the crime.
3. **Accessory:** An accessory is someone who assists in the commission of a crime, but who does not actually participate in the commission of the crime. The assistance could be before the crime (accessory before the fact) or after the crime (accessory after the fact).

Now, to apply these definitions to Lennie Lewis, we need more information about his role in the armed robbery.

- If Lennie Lewis planned the robbery with others and took steps towards committing it, he could be charged with conspiracy.
- If he was present at the scene of the crime and participated in the robbery, he could be charged as an accomplice.
- If he wasn't present during the robbery but helped in some way, either before or after the crime, he could be charged as an accessory.

Without specific details about Lennie Lewis's involvement in the armed robbery, it's impossible to definitively say which charges should apply.

As an academic tutor, I can provide some general guidance on how to approach this situation, but I cannot provide legal advice.

Firstly, it's important to understand the charges each defendant is facing.

1. **Armed Robbery:** This is a serious crime that involves the use of a weapon to steal something of value from another person.
2. **Conspiracy to Commit Armed Robbery:** This charge means that the person is accused of planning or agreeing with others to commit armed robbery.
3. **Accomplice to Armed Robbery:** This charge is for someone who assists or encourages another person to commit armed robbery.
4. **Accessory After the Fact to an Armed Robbery:** This charge is for someone who helps a person who has committed armed robbery to evade arrest or punishment.

Memo to Attorney

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5. Kidnapping: This is a serious crime that involves taking someone against their will and holding them captive.

Sincerely,

Ashley

[Year]

Trial Brief

PLEG230

ASHLEY DAVIS

B00660547

District Court, Oneida County, Idaho

Court Address: 151 Courthouse Road

Malad, Idaho, 83252

STATE OF IDAHO

V.

Will Davis

Trial Brief

The concept of double jeopardy is enshrined in the Fifth Amendment of the United States Constitution, which states that no person shall "be subject for the same offense to be twice put in jeopardy of life or limb." However, the dual sovereignty doctrine, a principle in the U.S. legal system, allows for a person to be tried for the same crime in both federal and state courts. This is because the federal and state governments are separate sovereigns, each with their own laws and courts.

The federal kidnapping statute, 18 USC Section 1201, has several elements that must be proven to establish a prima facie case. These include:

1. The defendant unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away the victim.
2. The defendant held the victim for ransom, reward, or otherwise; and
3. The kidnapping involved interstate or foreign commerce.

The state kidnapping charges will have their own elements that must be proven, which can vary from state to state. However, they generally involve the unlawful seizure and detention of another person against their will. To determine whether the federal prosecutors can make a prima facie case, we would need to examine the specific facts of the case. If the alleged kidnapping involved crossing state lines or otherwise affected interstate commerce, then it is possible that the federal charge could be brought in addition to the state charge.

The principle of double jeopardy, which is protected by the Fifth Amendment to the United States Constitution, prevents an individual from being prosecuted twice for the same offense. However, there are certain legal factors to consider when determining if double jeopardy can apply when there is a possible state and federal cause of action. These factors include:

1. Separate Sovereigns Doctrine: This doctrine allows for separate prosecutions of the same conduct by state and federal governments because they are considered separate sovereigns. This means that even if a person is acquitted or convicted in a state court, they can still be tried in federal court for the same offense, and vice versa.
2. Same Offense: For double jeopardy to apply, the two charges must be for the "same offense". This is determined by the "same elements" test, which states that if each

charge requires proof of a fact that the other does not, then they are not the same offense.

3. Final Judgment: Double jeopardy applies only after a final judgment has been rendered. This means that if the first trial was not completed or the judgment was not final (for example, because of a mistrial), then double jeopardy does not apply.

4. Attachment of Jeopardy: Jeopardy must "attach" before double jeopardy can apply. In a jury trial, jeopardy attaches when the jury is sworn in. In a bench trial, it attaches when the first witness is sworn in.

5. Dual Criminality: If the act committed is a crime in both jurisdictions (state and federal), then double jeopardy could potentially apply. However, this is subject to the Separate Sovereigns Doctrine.

6. Blockburger Test: This test is used to determine whether two charges constitute the "same offense" for double jeopardy purposes. If each charge requires proof of an element that the other does not, then they are not the same offense, and double jeopardy does not apply.

Kidnapping is a serious crime that is punishable under both state and federal laws in the United States. However, there are differences between state and federal kidnapping charges, which primarily revolve around jurisdiction, severity of punishment, and the circumstances of the crime.

1. Jurisdiction: State kidnapping charges are typically handled by local law enforcement and prosecuted in state courts. These charges apply when the crime occurs within the boundaries of a single state. On the other hand, federal kidnapping charges are handled

by federal law enforcement agencies (like the FBI) and prosecuted in federal courts. Federal charges apply when the crime crosses state lines or involves interstate or international activity.

2. Severity of Punishment: Generally, federal crimes carry more severe penalties than state crimes. This is also true for kidnapping charges. Federal kidnapping charges can result in life imprisonment, especially if the victim is not released unharmed. State penalties for kidnapping vary widely from state to state, but they are typically less severe than federal penalties.

3. Circumstances of the Crime: Federal kidnapping charges often involve specific circumstances or elements that elevate the crime to a federal level. For example, if the kidnapper uses a means of interstate commerce (like the internet or the U.S. mail) to commit the crime, or if the victim is a foreign official, a federal officer, or the crime occurs on a ship or aircraft, the crime can be charged at the federal level.

To determine if a federal prosecutor can make a case that a federal kidnapping occurred, several facts and legal principles should be evaluated:

1. Interstate or International Aspect: Under the Federal Kidnapping Act (18 U.S.C. § 1201), the act of kidnapping becomes a federal crime when it involves crossing state or national borders. The prosecutor must prove that the defendant transported the victim across state or national lines.

2. Intent: The prosecutor must prove that the defendant intended to kidnap the victim. This can be shown through actions, statements, or circumstances surrounding the event.

3. Seizure and Detention: The prosecutor must prove that the defendant seized and detained the victim against their will. This can be shown through physical evidence, witness testimony, or the victim's testimony.
4. Demand for Ransom: If a demand for ransom was made, this can strengthen the prosecutor's case. However, a demand for ransom is not necessary to prove a federal kidnapping.
5. Use of Any Means of Interstate Commerce: The use of any means of interstate commerce to commit, facilitate, or further the act of kidnapping can also make the crime federal. This includes the use of mail, wire, or any instrumentality of interstate or foreign commerce.
6. Harm to the Victim: The prosecutor must prove that the victim was harmed or threatened with harm. This can be physical or psychological harm.
7. Involvement of Federal Officers or Employees: If the victim is a federal officer or employee, or the kidnapping occurred within the special maritime and territorial jurisdiction of the United States, it can be considered a federal crime.
8. Legal Precedents: The prosecutor should also consider legal precedents, or previous court decisions, that have interpreted the Federal Kidnapping Act.

These are the primary factors that a federal prosecutor would need to evaluate to make a case for federal kidnapping. Each case is unique, and the specific facts and circumstances will determine the strength of the prosecutor's case.

In conclusion, while the concept of double jeopardy generally protects individuals from being tried twice for the same crime, the dual sovereignty doctrine allows for both federal and state charges to be brought in certain circumstances. The specific elements of the federal and state kidnapping charges will need to be examined considering the facts of the case to determine whether both charges can be brought. In summary, while both state and federal laws prohibit kidnapping, the charges and penalties can differ significantly. The jurisdiction, severity of punishment, and specific circumstances of the crime are the main factors that differentiate state and federal kidnapping charges.

Motion to Dismiss

PLEG230

ASHLEY DAVIS

B00660547

District Court, Oneida County, Idaho
Court Address: 151 Courthouse Road
Malad, Idaho, 83252

STATE OF IDAHO

V.

NOTICE OF MOTION
TO DISMISS

Will Davis

Motion to Dismiss

COMES NOW Defendant, Will Davis by and through his undersigned counsel, and pursuant to Rule 119 of the Idaho Rules of Civil Procedure, hereby moves this Court to dismiss the complaint filed by the State of Idaho for on the basis of Idaho "Stand your ground" laws. Pursuant to Idaho Statute 118-16, 32-102, & 19-202A, Defendant hereby moves the Court to dismiss Plaintiff's Complaint with prejudice. The Defendant is a minor. The bases for this Motion are set forth in the accompanying Memorandum.

Dated this 10th day of October, 2023

Lillian DeBee

Debee & Associates LLC.

146 Main Street Malad, Idaho 83252

(208) 766-7946