

ONE CASE ILLUSTRATING FELONY MURDER RULE

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The felony murder rule

- Concept derived from the British legal system (used in Great Britain during the XIth century to 1957)
- Law in most states and under federal law that allows anyone who is accused of committing a violent felony to be charged with murder if the commission of that felony results in the death of someone
- Originates from the doctrine of “transferred intent”: when the intention to harm one individual inadvertently causes a second person to be hurt instead, the perpetrator is still held responsible
- The only two states in the US that do not have felony murder laws are Hawaii and Kentucky
- Developed in its modern form by William Hawkins with *Treatise of Pleas of the Crown* (1716)

To what extent the felony murder rule is such a hot button issue?

Tison v. Arizona’s case (1987)

I. Presentation of the case

- On July 30th, 1978: the three Tison brothers entered the Arizona State Prison at Florence and effected the escape of their father from prison where he was serving a life sentence for having killed a guard during previous escape
- During the events, Greenawalt, one of the Tison brothers, and the father, Gary Tison, killed an entire family, in particular to steal their car in order to escape

⇒ *Does participation in the escape that led to a murder mean that they can be considered guilty of a felony murder?*

II. The proof of intent

- Transferred intent’s doctrine
- Meger’s doctrine

*“In the present case the evidence does not show that petitioner killed or attempted to kill. The evidence does demonstrate beyond a reasonable doubt, however, **that petitioner intended to kill.** Petitioner **played an active part** in preparing the breakout, including obtaining a getaway car and various weapons. At the breakout scene itself, **petitioner played a crucial role** by, among other things, holding a gun on prison guards. Petitioner knew that Gary Tison's murder conviction arose out of the killing of a guard during an earlier prison escape attempt. [...] and that he recognized that after the escape there was a possibility of killings.” Sandra Day O’Connor*

III. The controversy of the death penalty in the felony murder rule

This case raised the dilemma whether should apply ***Enmund v. Florida’s precedent (1982)*** about death penalty in case of intention to kill or not

- *“The imposition of the death penalty under the felony murder rule when the defendant did not intentionally kill the victim constituted cruel and unusual punishment under the Eighth Amendment of the United States constitution.”* Justice Byron Raymond "Whizzer" White
- Since 1976: **only eight persons** have been executed for murder they did not have directly committed