

Don decides to kidnap a young woman (Shirley) that he has been stalking for several days. He plans on forcing Shirley to withdraw money from her bank account at several ATMs, take the money from her, and then release her. Don tells his friend Adam of his scheme and Adam says that it sounds like a good plan. Adam suggests that he help Don kidnap the woman, and provides a gun to be used in the kidnapping and robbery. Don says he'll give Adam half of the money they get from Shirley, and Adam agrees.

The next evening, Don and Adam follow Shirley, in Adam's car, as she leaves her apartment and walks to a local grocery store. When Shirley takes her usual short cut through an alley, Don grabs her and at gun point, forces her into the car. They drive Shirley to a local ATM and Don makes her remove \$200. from her bank account, using the gun to threaten her. They repeat this several times at other ATMs and take a total of \$1000. from Shirley. Don says its time to take Shirley back to her neighborhood and drop her off. Adam agrees, but insists that they walk Shirley upstairs and tie her up in her apartment so that she cannot immediately call the police, giving them the chance to make their escape.

Don doesn't like the idea, and tells Adam as much, and gives him back his gun. Don waits downstairs in the car while Adam takes Shirley up to her apartment. Adam ties Shirley up on her couch and returns to the car. Afterwards, Don and Adam go to Don's house and split the money they took from Shirley. An hour or so later, an unrelated gas leak in Shirley's apartment building causes an explosion and fire, which results in Shirley's death.

Don and Adam are charged with the kidnapping, robbery, and first degree murder of Shirley. At their trial, the jury was instructed on deliberate and premeditated first degree murder, and first degree felony murder. Don and Adam are convicted of all charges.

On appeal, Don contends that the trial court erred in refusing to instruct, as he requested, regarding his proffered defense of withdrawal. How should the appellate court rule regarding this contention?

Adam argues that there was insufficient evidence to convict him of the kidnapping and robbery of Shirley. Under what theory or theories could his conviction of kidnapping and robbery be upheld?

Both Don and Adam argue that there was insufficient evidence to support their convictions of the murder of Shirley. Under what theory or theories of liability might Don and Adam's murder conviction be upheld? They argue that it was the gas leak and fire (not their actions) that caused Shirley's death. How should the appellate court rule on this argument? They also argue that they could be convicted, at most, of second degree murder, as there was insufficient evidence of premeditation and deliberation, and because the jury was improperly instructed on felony murder in the commission of kidnapping and robbery. Should the appellate court accept or reject these arguments?