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Who Got Away With Murder? An Analysis and Discussion About the Death of Sam Keating in Season 1 of ABC's "How to Get Away With Murder"

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Who Got Away With Murder? An Analysis and Discussion About the Death of Sam Keating in Season 1 of ABC's "How to Get Away With Murder"

Abstract

This article will address the individuals present in the home and the events surrounding the death of Sam Keating to see if anyone actually got away with murder. The remainder of the article will outline the details surrounding Sam's death and will address the Felony Murder Rule and accomplice liability. The point of this article is not to make determinative decisions of how a court would rule. Rather, this will address the characters in question based on relevant case law and the Pennsylvania Code of Crimes. The individuals and potential charges would be subject to prosecutorial discretion and reasonable minds may differ about the charges applicable to each individual.

Keywords

How to Get Away with Murder, TV, television shows, TV and law, legal TV shows, criminal law

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INTRODUCTION

How to Get Away with Murder is a television show about a law professor, Annalise Keating, and her mentorship of five students.¹ Annalise introduces her criminal law class as a course on "How to Get Away with Murder."² Every year, Annalise selects five students to mentor through an

¹ *How to Get Away with Murder* (2014), IMDB, <http://www.imdb.com/title/tt3205802/> (last visited May 21, 2017).

² *Id.*

internship.³ Annalise chooses Wes Gibbons, Connor Walsh, Laurel Castillo, Michaela Pratt, and Asher Millstone as her interns.⁴ The interns work closely with Annalise's other employees, Bonnie Winterbottom and Frank Delfino, in her law firm located in her home in Philadelphia, Pennsylvania.⁵ Annalise's husband is also a professor at Middleton University.⁶ Annalise is having an affair with a Philadelphia police officer named Nate Lahey.⁷

Season 1 of the show focuses on two murders through a series of flashback and flashforward scenes.⁸ The first murder is of Lila Stangard.⁹ Annalise and her staff represent Rebecca Sutter in this case as one of the suspects for the murder.¹⁰ Through the representation, Rebecca and Wes begin to date.¹¹ Lila was one of Sam's students, as well as his mistress.¹² During the course of the investigation and representation, Sam and Lila's relationship became public knowledge.¹³ Nate and Rebecca were fighting to find ways to prove her innocence and began to suspect Sam as the murderer.¹⁴ It turns out that Sam is not the murderer, but in trying to gather

³ *How to Get Away with Murder*, *supra* note 1.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

evidence against him, Sam ends up dead in his home.¹⁵

The second murder the show focuses on is of Sam Keating. This article will address the individuals present in the home and the events surrounding his death to see if anyone actually got away with murder. The remainder of the article will outline the details surrounding Sam's death and will address the Felony Murder Rule and accomplice liability. The point of this article is not to make determinative decisions of how a court would rule. Rather, this will address the characters in question based on relevant case law and the Pennsylvania Code of Crimes. The individuals and potential charges would be subject to prosecutorial discretion and reasonable minds may differ about the charges applicable to each individual.¹⁶

THE DEATH OF SAM KEATING

Rebecca was on trial for the murder of a friend from college named Lila Stangard. Rebecca and Nate believe that Sam was the person who actually killed Lila.¹⁷ In order to frame Sam, Nate gave Rebecca a USB drive and told her, "Plug it into his computer. It'll download all his phone information."¹⁸ Wes knew that Rebecca met with Nate and that they had formulated some sort of plan to steal information from his computer, but he

¹⁵ *How to Get Away with Murder*, *supra* note 1.

¹⁶ *United States v. Adams*, 788 F.3d 115, 116 (4th Cir. 2015) (Agee, J., concurring) ("The Government possesses 'broad' prosecutorial discretion.") (citation omitted).

¹⁷ *How to Get Away with Murder: He Has a Wife* (ABC television broadcast Nov. 13, 2014).

¹⁸ *Id.*

did not know when Rebecca was planning on following through.¹⁹ Sam is home alone after a fight with Annalise when Michaela walks into the house to turn in a trophy awarded to her to get out of an exam. While Michaela explains to Sam why she is there, she sees Rebecca enter the home. Rebecca looks at Michaela and says, “Call Wes,” before running upstairs to Sam’s bedroom where his computer is.²⁰ Michaela calls Wes who is in the car with Connor and Laurel.²¹ When Michaela tells Wes that Rebecca and Sam are fighting, Wes encourages Connor to drive faster to get to the Keating house.²² When Wes, Connor, and Laurel get to the house, they see that Sam has broken down the bedroom door and Rebecca is hiding in the bathroom.²³ In the bathroom, the data from Sam’s computer is downloading to the USB drive.²⁴ Wes speaks to Rebecca through the door of the bathroom and tells her to come out.²⁵ Connor, Laurel, and Michaela are watching from the doorway, unaware of what is going on.²⁶

As Rebecca comes out slowly from the bathroom, Sam tells them he will not do anything, so Wes and Rebecca walk towards the door.²⁷ Sam

¹⁹ *How to Get Away with Murder: He Has a Wife*, *supra* note 17.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

then tackles Rebecca from behind, and the USB drive drops to the ground.²⁸ Wes yells to Laurel and tells her to pick up the fallen USB drive; she dives to the ground to do so²⁹. Sam is fighting and struggling against all five of the people in his home, and the scuffle moves out into the hallway.³⁰ Michaela pushes him over the bannister and Sam falls to the first floor and has blood oozing from his ears; he appears to be dead.³¹

The group believes that Sam is dead, and they begin to blame each other.³² Michaela says she is not at fault, because she was protecting Laurel.³³ Rebecca also states that she did not ask for anyone's help.³⁴ It turns out that Sam is not yet dead, and he starts to strangle Rebecca.³⁵ When Wes notices, he runs over and hits Sam over the head with the trophy that Michaela was in the house turning in.³⁶ Blood splatters all over Rebecca and Sam dies.³⁷

²⁸ *How to Get Away with Murder: He Has a Wife*, *supra* note 19

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

FELONY MURDER

The Pennsylvania Criminal Code defines murder of the second degree as a criminal homicide that "...is committed while defendant was engaged as a principal or an accomplice in the perpetration of a felony."³⁸

Causation plays a big role in felony murder. Jurisdictions are split between proximate cause and agency.³⁹ Pennsylvania first leaned toward the theory of proximate cause in 1949 when in *Commonwealth v. Almeida* a police officer was shot and killed by another police officer during a robbery.⁴⁰ It was held that killing was a natural consequence of the robbery and, therefore, under the theory of proximate causation, the felon was guilty of the murder.⁴¹ This theory continued in Pennsylvania when, in 1955, a felon was found to be liable for a co-felon's death by the person that was intended to be the victim.⁴²

Pennsylvania overturned the use of the proximate cause theory through two different cases. First, *Commonwealth v. Redline* overturned the *Thomas* decision by holding that the killing of a co-felon by an intended victim is a justified killing and, therefore, is not chargeable as murder.⁴³ Second, *Commonwealth v. Meyers* overturned the *Almeida* decision and use

³⁸ 18 Pa.C.S. § 2502(b).

³⁹ See Michelle S. Simon, *Whose Crime Is It Anyway?: Liability for the Lethal Acts of Nonparticipants in the Felony*, 71 U. DET. MERCY L. REV. 223, 224 (1994).

⁴⁰ *Commonwealth v. Almeida*, 68 A.2d 595 (Pa. 1949).

⁴¹ Simon, *supra* note 40. .

⁴² *Commonwealth v. Thomas*, 117 A.2d 204, 206 (Pa. 1955).

⁴³ *Commonwealth v. Redline*, 137 A.2d 472 (Pa. 1958).

of the theory of proximate causation altogether.⁴⁴ Here, the court adopted the agency theory of liability. The court held that any liability imposed for a homicide that results from a felony must be based on acts that are in done in furtherance of the felony.⁴⁵ There needs to be a closer causal relationship between the felony and the liability than is provided with the theory of proximate causation.⁴⁶

The “Felony Murder Rule” is similar to strict liability in that it does not require mens rea specifically for the killing. “The Commonwealth is not relieved of the burden to prove that the defendant engaged in the underlying felony with the requisite mens rea. Since each crime enumerated in the felony-murder statute is a crime of specific intent, the Commonwealth must prove such intent. Once such intent is shown, the felony-murder doctrine merely imputes the malice incident to the intentional felony over to the killing, which, moreover, must be accomplished in furtherance of the intentional felony.”⁴⁷

As with establishing complicity in any crime, co-felons can be held liable for a homicide done by another felon in furtherance of the crime. “A person engaged in the commission of an unlawful act is legally responsible for all of the consequences which may naturally or necessarily flow from it,

⁴⁴ Commonwealth v. Myers, 261 A.2d 550 (Pa. 1970).

⁴⁵ See *Id.* at 557.

⁴⁶ See *Id.*

⁴⁷ Commonwealth v. Rawls, 328 Pa. Super. 469, 473-74 (Pa. Super. Ct. 1984).

and that, if he combines and confederates with others to accomplish an illegal purpose, he is liable ... for the acts of each and all who participate with him ...”⁴⁸

ACCOMPLICE LIABILITY

Accomplice liability is used to hold a person liable for the exact acts and crimes committed, or attempted, by another; it is not an individual crime.⁴⁹

A person is liable for the conduct of another person when he: (1) acts with the culpability necessary for the offense and causes an innocent person to engage in such conduct, (2) is imposed liability by law, or (3) is an accomplice in committing the offense.⁵⁰ A person is considered an accomplice of a crime if he (1) intentionally promotes or facilitates the commission of a crime by soliciting another person to commit the crime or agreeing or attempting to help another person commit the crime or (2) is deemed an accomplice by law.⁵¹

An accomplice may be held “liable for the natural and reasonable or probable consequences of any act that he knowingly aided or encouraged.”⁵² This means that an individual’s culpability may extend if the

⁴⁸ *Commonwealth v. Campbell*, 89 Mass. 541, 543-44 (1863).

⁴⁹ See Joshua Dressler, *Reassessing the Theoretical Underpinnings of Accomplice Liability: New Solutions to an Old Problem*, 37 *HASTINGS L.J.* 91, 96-98 (1985).

⁵⁰ 18 Pa.C.S. § 306(b)(1)-(3).

⁵¹ 18 Pa.C.S. § 306(c)(1)-(2).

⁵² *Gonzales v. Duenas-Alvarez*, 549 U.S. 183, 190 (2007).

results are foreseeable. However, “it is also necessary to determine whether the principal has taken actions beyond those that the accomplice intended. In such instances, it cannot be said that the accomplice intended to bring about the conduct, and therefore, any criminal liability for the result would have to rest on some other ground.”⁵³

THE PROGRESSION OF THE CRIMES

The incident began with the solicitation of the crime to Rebecca by Nate. In Pennsylvania, “[a] person is guilty of solicitation to commit a crime if with the intent of promoting or facilitating its commission he commands, encourages or requests another person to engage in specific conduct which would constitute such crime or an attempt to commit such crime or which would establish his complicity in its commission or attempted commission.”⁵⁴ A person who solicits a crime is guilty of a crime of the same degree as the crime solicited.⁵⁵ Nate handed Rebecca the USB drive with explicit instructions of what would happen when she used it. He intended to promote the crime to Rebecca, as well as facilitate the crime by providing the USB drive.

Rebecca entered the Keating home with the intent of committing computer trespass. In Pennsylvania, “[a] person commits the offense of computer trespass if he knowingly and without authority or in excess of

⁵³ Commonwealth v. Roebuck, 612 Pa. 642 (Pa. 2011) headnote 15.

⁵⁴ 18 Pa.C.S. § 902(a).

⁵⁵ 18 Pa.C.S. § 905.

given authority uses a computer or computer network with the intent to temporarily or permanently remove computer data, computer programs or computer software from a computer or computer network.”⁵⁶ Rebecca also committed theft by unlawful taking or disposition. “A person is guilty of theft if he unlawfully transfers, or exercises unlawful control over, immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.”⁵⁷ Property can be something that is intangible, such as computer data.⁵⁸ Rebecca unlawfully transferred Sam’s property to a USB drive in order to benefit herself. Rebecca would have been benefitted if she were to use the information gained to frame Sam for the murder of Lila.

When Michaela pushed Sam over the balcony and injured him, the theft became a robbery. “A person is guilty of robbery if, in the course of committing a theft, he inflicts serious bodily injury upon another.”⁵⁹ The fact that the information was already taken off of the computer and that the group was running away from Sam is irrelevant. “In the course of a theft” encompasses fleeing the scene.⁶⁰

The robbery progressed to murder when Wes used the trophy to hit Sam over the head while Sam was strangling Rebecca. In order to be

⁵⁶ 18 Pa.C.S. § 7615(a)(1).

⁵⁷ 18 Pa.C.S. § 3921(b).

⁵⁸ See 18 Pa.C.S. § 3901 Definition of “Property.”

⁵⁹ 18 Pa.C.S. § 3701(a)(1)(i).

⁶⁰ See 18 Pa.C.S. § 3701(2).

convicted of felony murder, the elements of murder in the second degree, as well as the elements of the underlying felonies must be shown.⁶¹ Felony murder, or murder of the second degree, is appropriate when the death occurred while the “...defendant was engaged as a principal or an accomplice in the perpetration of a felony.”⁶² Perpetration of a felony consists of “[t]he act of the defendant in engaging in or being an accomplice in the commission of, or an attempt to commit, or flight after committing, or attempting to commit robbery, rape, or deviate sexual intercourse by force or threat of force, arson, burglary or kidnapping.”⁶³ Here, the death of the victim happened while the individuals were attempting to flee after the robbery. They believed Sam was already dead, and were discussing how to leave the scene and get rid of the body.

ESTABLISHING COMPLICITY FOR THE ROBBERY

As stated above, co-felons can be held accountable for a murder that occurs in furtherance of a violent felony. In order to get to that point, the individuals must be considered co-felons in regards to the underlying felony that ended with the murder.

As the principal, Rebecca is responsible for the acts of everyone else in the house. She acted with the requisite intent to commit the theft, and engaged innocent people in assisting her. When she ran up the stairs at the

⁶¹ Commonwealth v. Holmes, 468 Pa. 409, 364 A.2d 259 (1976).

⁶² 18 Pa.C.S. § 2502(b).

⁶³ 18 Pa.C.S. § 2502 Definitions.

beginning, she yelled to Michaela to call Wes and then Michaela also ended up pushing Sam over the balcony, turning the theft into robbery. The escalation from theft to robbery was a reasonable and foreseeable consequence for Rebecca. She knew that she was entering somebody else's home with the intent to steal information. It is foreseeable that this would anger someone and that someone would try to prevent the theft of their property, it is also foreseeable that innocent friends would attempt to help to protect Rebecca if they were unaware of her criminal acts. Therefore, Rebecca is liable for the robbery even though she was not the one that injured Sam and escalated the theft to a robbery.

Wes is also responsible for the robbery because he knew that Rebecca was stealing information off of Sam's computer. Additionally, he shouted at Laurel to grab the USB drive after it fell to the ground. Laurel was another innocent bystander who was unaware of the criminal activity going on. Because of Wes' encouragement, she aided in the theft and made Wes liable.

Although Nate was not in the house, he may still be liable as an accomplice because he solicited the crime of computer theft to Rebecca. The main question in regards to Nate is if Rebecca's actions as the principal were reasonably foreseeable to Nate. As discussed above, a person who solicits a crime is can be liable for the crime committed, but the results have

to be reasonable and foreseeable. If Rebecca's actions went beyond what Nate could have reasonably expected, then he would not be held responsible for her actions. Here, it is definitely foreseeable to Nate that Rebecca would follow through with the crime and enter the home to steal the data from the computer. It is also foreseeable that conflict may escalate to a level using violence and force when entering into someone's home to steal. Due to the foreseeability, Nate's solicitation of the crime makes him liable for the robbery.

Michaela, Laurel, and Connor are not liable for the robbery. Connor drove Wes to the scene, Laurel grabbed the USB drive, and Michaela pushed Sam over the balcony, however, none of the them had the requisite intent to steal the information or harm Sam. So although Rebecca and Wes will be liable for their conduct and its escalation, none of the innocent actors would be liable for the robbery.

CONCLUSION: WHO GOT AWAY WITH MURDER?

The individuals that may be held liable for the murder are Rebecca, Wes, and Nate. However, it does appear that Wes is acting in defense of Rebecca while she is being strangled. An individual is allowed to use force to protect others if they would be entitled to use the same amount of force to protect himself when the intervention is necessary to protect the other

person.⁶⁴ Deadly force may be used as a defense if the individual is faced with deadly force.⁶⁵ Sam strangling Rebecca would be considered deadly force. Defense of self and defense of another person by force are justifications that alleviate one from criminal liability of the harm done.⁶⁶

However, the person utilizing one of these defenses must act as the innocent party. In other words, “[t]o claim self-defense, the defendant must be free from fault in provoking or escalating the altercation that led to the offense, before the defendant can be excused from using deadly force. Likewise, the Commonwealth can negate a self-defense claim by proving the defendant used more force than reasonably necessary to protect against death or serious bodily injury.”⁶⁷ Here, the situation that required defense was brought on and provoked by the individuals and, therefore, Wes would not be entitled to the justification of defense. Because of their liability for the robbery, Rebecca, Wes, and Nate would be liable for murder in the second degree due to their involvement in the felony. They are the only three characters who got away with murder.

⁶⁴ 18 Pa.C.S. § 506.

⁶⁵ 18 Pa.C.S. § 505(b)(2).

⁶⁶ 18 Pa.C.S. § 502.

⁶⁷ Commonwealth v. McCarthy, 2016 Pa. Super. Unpub. LEXIS 132, 9 (Pa. Super. Ct. 2016).