

Case Brief

Crim law, Homicide, depraved heart murder (murder 2nd)

Hughes, 2/21/15

Identity of Case

Commonwealth v. Malone, 47 A.2d 445 (Pa. 1946)

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Summary of Facts/Procedural History

Malone, 17, partially loaded a gun and went to the theater with it, then met up with the decedent, a 13 year old friend, at a dairy store. They were sitting together, Malone suggested they played Russian roulette, spun the wheel, and shot at his friend. Friend died. Malone convicted of 2nd degree murder.

Appeals based on a lack of malice. Judgment affirmed.

Statement of the Issue

Can malice be proved without actual intent to kill?

Holding

Yes, it's called "depraved heart murder." Mental state= wanton and reckless disregard for human life.

Reasoning

Reckless conduct that results in the death of another is malice at common law. Malice is not limited to intent (when the recklessness is severe enough).

In this case the defendant knew the gun was loaded. He was also 17, and should've known better. Pulling the trigger was also intentional.

Evaluation