

## Case Brief

Crim law: mens rea requirement

1/28/15

### Identity of Case

People v. Scott, 27 P.2d 288 (Cal. 1996)

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### Summary of Facts/Procedural History

Defendants Scott and Brown drove to the park to shoot victims Hughes and Tripp. While firing at and injuring Tripp, defendants shot bystander Gibson. Defendants were charged with attempted murder of Hughes and Tripp, and Murder 2nd of Gibson under a transferred intent theory.

Defendants raise two objections to the murder charge against Gibson: 1) transferred intent only applies to murder 1, and 2) transferred intent cannot apply when they are charged with the attempted murder of the persons whom their intent was actually directed at.

Judgment affirmed.

### Statement of the Issue

How does transferred intent work?

### Holding

I don't care, they are guilty. Charges were valid.

### Reasoning

There is a long case history of transferred intent in murder cases in California. Under the classic formulation, the accused is deemed as culpable, and society is harmed as much, as if the defendant had accomplished what he had initially intended, and justice is achieved by punishing the defendant for a crime of the same seriousness as the one he tried to commit.

*Suesser*: defendant maliciously and with premeditation shot the person he believed to be Allen, requested jury instructions that if he had no malice towards the victim that it would be murder 2<sup>nd</sup> (malice bumps it up to murder 1<sup>st</sup>) jury instructions denied, and upheld on appeal. Courts basically reject the idea that there is insufficient intent, because the intent to kill the intended victim is typically so well established (malice, premeditation, etc).

This is legal fiction though. Transferring the intent from what would've been one crime to make a whole new crime is clearly legal fiction. Is that a problem? Is the intent used up if we charge the defendant for the intended victim (attempted murder) and the actual victim (accidental murder with transferred intent)?

It works out ok in the case law. There is a case where it states that the murderer who plans and kills for two murders is more culpable than the one who intends to kill one and kills someone else. In that case, Birreuta killed his intended victim and an accidental victim. The court ruled that it was unnecessary to rely on the fiction when the intended person was killed. Guy is sufficiently punished. But the legal fiction

is necessary when the intended person is not killed, because we have to punish them for intending to kill someone.

Because the facts in this case don't involve the fatal shooting of an intended victim, it is distinguishable from Birreuta. Defendant must be punished for "intentional" shooting, and we will use the legal fiction to get there.

#### Evaluation

Man oh man I do not agree with this.