THOUGHT  COMPLETED ACT
Smallwood

- Required mens rea for attempted murder is specific intent to murder.
- Intent to kill may be proved by circumstantial evidence.
- Standard of Review for Sufficiency of the Evidence Claim: Whether the evidence shows directly or supports a rational inference of the facts to be proved, from which the trier of fact could fairly be convinced beyond a reasonable doubt of the defendant's guilt of the offense charged.
Why require Specific Intent?

♦ Linguistic: Need to intend the result in order to attempt it.

♦ Moral: One who intends to commit a criminal harm does a greater moral wrong that one who does so recklessly or negligently.

♦ Utilitarian: The wicked act was likely to be followed by hurtful consequences.
Assault in the First Degree

1) A person is guilty of assault in the first degree if he or she, with intent to inflict great bodily harm:
(a) Assaults another with a firearm or any deadly weapon or by any force or means likely to produce great bodily harm or death; or
(b) Administers, exposes, or transmits to or causes to be taken by another, poison, the human immunodeficiency virus as defined in chapter 70.24 RCW, or any other destructive or noxious substance; or
(c) Assaults another and inflicts great bodily harm.
MPC § 5.01 & Commentaries

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<th>CONDUCT</th>
<th>ATTENDANT CIRCUMSTANCES</th>
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<td>Purpose</td>
<td>RULE OF PARITY</td>
<td>Purpose Belief</td>
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<td>(Whatever MR is required for the completed crime)</td>
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Where do we draw the Line?

♦ Buys a gun,
♦ Searches for victim,
♦ Finds victim,
♦ Walks toward victim,
♦ Takes aim,
♦ And finally fires, but misses
Concerns in Drawing Line

♦ Intent

♦ Repent

♦ Law Enforcement
Attempt: Actus Reus Tests

- Last Step (Eagleton). No longer used
- Proximity
- Intent + Overt Act (Williams)
- Res Ipsa Loquitur/Unequivocal (The Act speaks for itself)
- MPC/Substantial Step (conduct that is strongly corroborative of the defendant’s criminal purpose)