

A Criminal Analysis of Jesse James Hollywood and Rational Choice Theory

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Biography

Jesse James Hollywood was born January 28, 1980 and grew up in West Hills, California. He was from an affluent and close community, and was active in sports in his youth. His parents were very involved in his athletics as well as other aspects of his life. Hollywood's father, Jack Hollywood, coached the junior baseball league team that Hollywood and his future victim, Nick Markowitz played on together (Castro, 2009). The biggest disruption to his early life was a short term move to Colorado where his parents had hoped to open a restaurant (Scheeres, 2009).

Throughout elementary and high school Hollywood was socially active, having a large group of friends and being generally active in his community. During his sophomore year of high school he began exhibiting emotional behavior and was expelled for yelling at and threatening a teacher. After being expelled from El Camino Real High School he enrolled at Calabasas High School. At Calabasas he was on the varsity baseball team until he incurred back and leg injuries while playing, at which time he was forced to quit baseball (Scheeres, 2009).

At some point in the year after being forced out of baseball he began entering the drug world, primarily using and selling marijuana. By the age of 19, Hollywood had purchased a \$200,000 home and several expensive automobiles with the profits of his drug sales. Hollywood's drug enterprise was so lucrative that he had to recruit several distributors to help him meet the needs of his "clients" (Werner, 2001). Hollywood created a "party" atmosphere around himself, engaging in the use of marijuana and other drugs while also engaging in and

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condoning underage drinking. At no point in Hollywood's life before crime did he have industrious employment in a legitimate career of any type (Miller, 2005).

As a result of his drug network Hollywood had recruited many of his friends as drug distributors. One of those distributors, Ben Markowitz, decided to get out of the drug business. He did so while still owing Hollywood \$1,200 for drugs that were entrusted to him. There was also a feud between the two as a result of Markowitz exposing Hollywood's insurance fraud activities (Castro, 2009). Hollywood and several of his friends attempted to locate Markowitz, but they were unsuccessful, they instead captured his half-brother, Nicolas "Nick" Markowitz. After the kidnapping was completed, Hollywood contacted his lawyer, Stephen Hogg, in an attempt to determine the legal penalties for what he was involved in. While he initially had intentions to return Nick after resolving the dispute with his brother, after he was told of the possibility of a life-sentence for the kidnapping, he determined that returning him was too risky (Connel, 2009). Hollywood at that point contacted another friend, Ryan Hoyt, who also owed him a drug debt. In exchange for clearing the debt, Hoyt would have to kill Nick Markowitz. Hollywood ordered the murder, but arranged to be out to dinner with his girlfriend while it was taking place (Werner, 2001).

After the body of Nick Markowitz was found, Hollywood fled to Las Vegas, Colorado, then back to California before he traveled to Canada and eventually to Brazil until his eventual capture, at which time he was returned to the United States (Connel, 2009). While in Brazil, Hollywood used the alias Michael Costa Giroux to elude detection. He became known around his neighborhood in Brazil as being very social, but also having a volatile temper. Hollywood supported himself by working for a bar as well as teaching private English classes. Several months before Hollywood's eventual arrest, he had sex with a native Brazilian in an attempt to

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fight extradition, he was unsuccessful as his son was not born until after his arrest (Chu, 2005). On July 8, 2009 Hollywood was found to be guilty of kidnapping and first-degree murder (Associated Press, 2009).

Overall Jesse James Hollywood's early life does not suggest a path that would lead to adopting a criminal identity and pursuing a life of crime. Before the kidnapping and eventual murder Hollywood's crimes had been limited to underage drinking, drug dealing and insurance fraud. Other than an explosive temper, Hollywood showed no signs of violent behavior (Scheeres, 2009).

Rational Choice Theory

Rational choice theory was developed in several phases by various philosophers, sociologists and criminologists over a large span of time. The principle theorists for rational choice theory were Cesare Beccaria and Jeremy Bentham during the utilitarian period of its development, in the late 18th century. More recently, in the 1970s and 1980s it was revived by post-classical theorists such as Gary Becker and Ronald Clarke. The classical rational choice theorists believed that torture and the death penalty were ineffective punishments. In recent times the theory has been utilized in founding other theories, such as routine activity theory and deterrence theory.

The theory assumes that the human is a rational actor and defines crime as occurring when a potential offender weights the benefits against the potential punishment for their crime and decides that the risk is acceptable (Keel, 2005). The theory claims that if a punishment is proportional to the crime and is carried out swiftly, then crime will be deterred. Rational choice

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theory is deeply rooted in the classical approach to criminal behavior (Siegel, 2009:92).

According to Robert Keel (2005), the central components of rational choice theory are:

(1) The human being is a rational actor, (2) Rationality involves an end/means calculation, (3) People (freely) choose all behavior, both conforming and deviant, based on their rational calculations, (4) The central element of calculation involves a cost benefit analysis: Pleasure versus Pain, (5) Choice, with all other conditions equal, will be directed towards the maximization of individual pleasure, (6) Choice can be controlled through the perception and understanding of the potential pain or punishment that will follow an act judged to be in violation of the social good, the social contract, (7) The state is responsible for maintaining order and preserving the common good through a system of laws (this system is the embodiment of the social contract), (8) The Swift, Severe, and Certain punishment are the key elements in understanding a law's ability to control human behavior.

The key components of the theory are the rationality of the being, the conscious choosing of a behavior based on a cost benefit analysis weighted towards the greatest acquisition of personal pleasure and the potential for swift, severe and certain punishment if the individual is caught (Keel, 2005).

Rational choice theory does not function on any moral or social protocols, but merely a function of reasoning of what is in the best interest of the individual with respect to pain threat and the pleasure appetite of the individual. There is not a consideration of right or wrong in the decision making process according to the theory. Rational choice theory requires laws to define crimes and to institute a standardized punishment (Becker, 1968).

Rational choice theory places an expectation with governments that all crime is committed through a rational thought process and that all crime can be deterred or weakened by

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correct punishment (Siegel, 2009:111), this model eliminates the possibility for the offender to be rehabilitated. There are numerous criticisms of the theory. The key criticisms are that the theory does not provide for spontaneous motivations and that it does not account for sociological pressures (Keel, 2005). The application and thorough testing of the theory are prevented by insufficient funds to law enforcement to ensure that all crimes were punished (Becker, 1968).

If interpreted in its most strict form, the theory would provide that without any laws at all crime would overtake society as a result of the decision making process not having a consideration of the legal consequences. Also in this interpretation, if governments were to find the perfect balance for laws and apply them reliably and evenly, then crime should diminish to being almost non-existent.

Application of the Theory

On the surface rational choice theory may seem to only remotely apply to this case, but rational choice was persistent throughout the commission of the crimes. Jesse James Hollywood did not consider the punishments for the crime of kidnapping Nick Markowitz initially. Control theory cannot be applied in this situation because Hollywood exhibited strong connections to friends and family during his youth and into the beginning of his deviant career. Anomie and other theories involving class conflict or differentiation do not seem to apply as Hollywood was raised in and lived in an affluent neighborhood up until the time he fled the country after the murder. At no time did Hollywood receive an external deviant label that would have integrated into his self-identity, however, his ambitions of becoming a “badass gangster” (Scheeres, 2009), could be seen as an attempt at self-labeling, but the pattern of behavior required for labeling theory to apply does not hold beyond the murder of Markowitz.

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From the reaction Hollywood displayed after learning of the potential consequences it can be determined that he either thought the punishment would be less severe or did not consider the punishment at all before allowing the act to continue. Upon learning of the potential that he could be sentenced to life in prison is when Hollywood made a rational decision to not return Markowitz, but instead decided to order his murder and the disposal of his body.

The decision to take a human life in such a planned way, given that such a murder would carry a possible penalty of death seems illogical in the basic understanding of rational choice theory, but if going beyond surface-level elements it is possible to establish a rational decision making process for the crime. If applying a few elements of routine activity theory it can be determined that the murder was a lower-risk crime than the kidnapping because of the number of witnesses to the kidnapping and the availability of first-hand testimony from the victim.

Rational choice theory specifies an aspect of personal pleasure from committing a crime. When applied directly to ordering the murder of Nick Markowitz the personal pleasure or avoiding of pain in the form of punishment relationship is resolved through a complicated rationality which attempts to minimize the risk associated with the decision to kidnap Markowitz by removing the evidence of the kidnapping. The kidnapping itself was likely to have been a decision made rather quickly as the opportunity for the kidnapping was quite short. It is known that the reason for the kidnapping is an attempt to reclaim a drug debt owed to Hollywood by Markowitz's brother. As a result of the discussion between Hollywood and his attorney, it can be determined that Hollywood had no prior knowledge of the penalty for kidnapping, and therefore was able to conduct the criminal act with confidence in that using the means of the kidnapping to encourage Ben Markowitz to repay the debt would have more potential benefit than the cost of any potential legal threat. The fact that all of the individuals involved were at some point friends

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and most were former teammates likely influenced Hollywood into feeling that the crime was less severe than it actually was. It is known that the initial intent was to capture Ben Markowitz, not Nick, and therefore any premeditation about the crime would have represented the crime of kidnaping an adult, with whom Hollywood may have been able to amicably resolve the situation.

Hollywood's earlier criminal behavior which went mostly undetected by law enforcement represents a flaw with the crime and punishment system that could have given Hollywood a sense of being immune to legal sanctions, which would have a bearing on the rational decision of committing a crime.

Why did Jesse James Hollywood become a criminal? Hollywood became a criminal because he evaluated his choices against the risk of punishment and determined that the risk was low. Why did Jesse James Hollywood order the murder of Nick Markowitz? Hollywood ordered the murder because he made the decision that the change of facing consequences would be lower if Nick Markowitz were killed instead of being returned to his family.

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