

Scared to Death

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Because of a case currently pending in Gaston County -- story [here](#) -- several people have asked me about the law as it concerns scaring a person to death. Let me start off with two caveats. First, this post is *not* a comment on the Gaston County case, about which I know nothing more than what I read in the newspaper, or on any pending case. It's just a little black-letter law on an interesting subject. Second, I will readily admit to having no special knowledge about the scientific or medical aspects of scaring someone to death. However, it seems like it is *possible* to scare someone to death, as reflected in a Scientific American article available [here](#).

With those caveats in mind, let's look at the law. One can imagine a scenario where grandson, the only heir to grandma's fortune, is desperate to get his hands on the money. Grandma won't turn it loose, and is threatening to change her will to leave all the money to her cat, Truffles, so grandson decides to kill her. Knowing that she has a weak heart, he puts on a hockey mask, hides behind a houseplant, and when the grandma walks by, he leaps out and makes menacing noises. She's terrified, has a heart attack, and dies. That's first-degree murder under the theory of premeditation and deliberation.

North Carolina law also provides that a killing "committed in the perpetration or attempted perpetration of any arson, rape or a sex offense, robbery, kidnapping, burglary, or other felony committed or attempted with the use of a deadly weapon" is first-degree murder under the felony murder theory. G.S. 14-17. The killing need not be intentional. See, e.g., *State v. Gibbs*, 335 N.C. 1 (1993). So a defendant who puts on his hockey mask and jumps out from behind a streetlight with the intention of robbing a passer-by has committed first-degree felony murder if the victim is so terrified that he dies.

The felony murder doctrine applies even if the killing need not be a part of the commission of the underlying felony, so long as there is "an unbroken chain of events leading from the attempted felony to the act causing death, so that the homicide is part of a series of events forming one continuous transaction." *State v. Coleman*, 161 N.C. App. 224 (2003) (internal quotation marks and citations omitted). A defendant's attempt to escape apprehension for a crime is normally part of such a continuous transaction, so a killing committed during an attempt to escape normally falls within the felony murder rule. See, e.g., *State v. Doyle*, 161 N.C. App. 247 (2003). It sounds like that's the basis of the charge in the Gaston County case, where the defendant, while trying to escape apprehension for a failed bank robbery, apparently broke into a house, which the state contends scared the elderly woman who lived there so much that she had a heart attack.

One can imagine scenarios where scaring someone to death results in other degrees of homicide, too. For example, a nursing home employee who, as a prank, not intending any harm, dresses in a terrifying costume and scares a resident to death might arguably exhibit the sort of extreme recklessness than can support a second-degree murder charge.

Folks who can think of good scenarios for other degrees of homicide, feel free to post them in the comments section -- it can be a sort of a macabre contest.

All interesting stuff, and of course, while it's a hot issue in North Carolina right now, it isn't limited to North Carolina. According to an article available [here](#), there are at least a couple of cases elsewhere in which first-degree murder convictions have been based on a defendant's scaring a victim to death. I imagine that these cases tend to involve a

lot of expert testimony about the cause of death, with the state trying to prove that the heart attack was caused by the defendant's conduct and the defense arguing that the victim was just in poor health and set to expire, regardless.