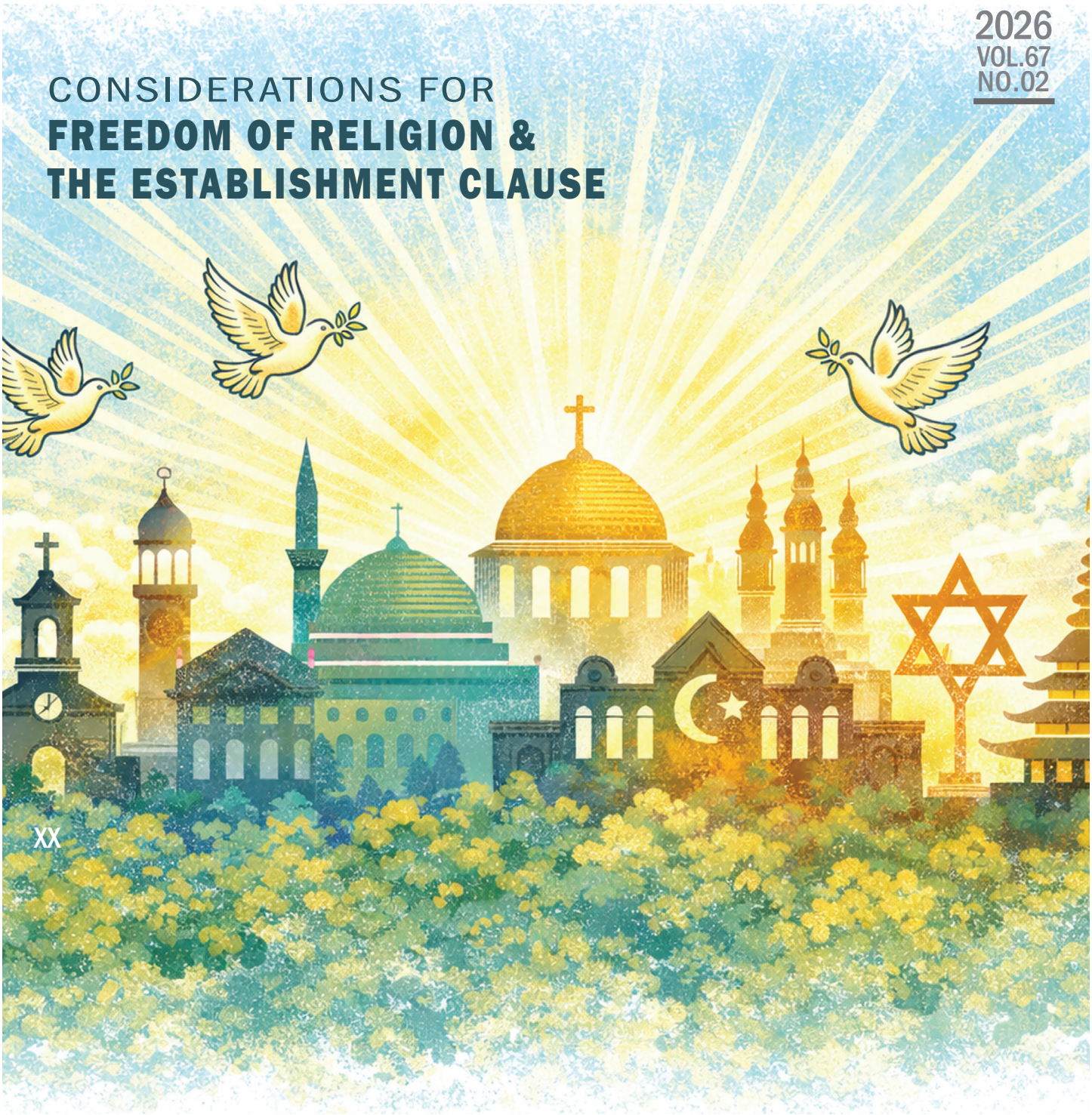
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CONSIDERATIONS FOR FREEDOM OF RELIGION & THE ESTABLISHMENT CLAUSE



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Is That Legal?

Marty Supreme





Opposite Page: Timothée Chalamet, Credit: Courtesy of A24
This Page: (L-R) Timothée Chalamet, Josh Safdie, Credit: Atsushi Nishijima

Based on its hefty collection of award nominations, I may be the only person in America who hated Marty Supreme. Marty Supreme follows the title character's drive to achieve his dream of being the best table tennis player in the world.[1] Based on a true story, it's less about table tennis and more about the series of crises (all his own making) that Marty navigates.

This movie is full of unlikeable characters who constantly yell at each other and make bad choices. Marty (Timothee Chalamet) is the most unlikeable character of them all. He's a self-centered user who does dumb things for seemingly no reason. A morally ambiguous protagonist can be interesting (think Tony Soprano). Unfortunately, while Chalamet's performance is strong, the character lacked the magnetism needed to make me root for him. This is problematic because this movie is sort of a sports movie, and rooting for the character is a key element of that genre. Sports movies typically build up to a climactic match against an adversary we are supposed to root against. Marty's general jerkiness undermined any narrative drama because I really didn't care what happened in his matches, which were often against pretty decent guys. The way the climactic scene was filmed, I wasn't even sure if I was supposed to root for Marty. To the extent this movie is about the journey rather than the sports, any interest I had in seeing Marty self-sabotage his efforts with another poor decision wore off after the 10th time he did it. By the end of the movie, I was just tired.

Some of the table tennis scenes looked cool, but without context, it was hard to know why someone won a point. Was it luck? Strategy? Physicality? During the action, you don't know how a point is going until the rally ends. That may be how table tennis works, but without that understanding, you are basically watching a ball go back and forth … until it isn't. There were other filmmaking decisions that I didn't get – the non-period-appropriate music and a random CGI scene early in the movie were particularly jarring.

Marty Supreme isn't all bad. Chalamet effectively portrays the desperation and intensity of his character. His ability to persuade other characters wasn't entirely believable, but Chalamet definitely tried his best. The movie also effectively intertwines Marty's choices with the characters he encounters. All the stupid things Marty does throughout the movie end up coming back to the story.

Ultimately, I felt this movie was anything but supreme, but nine Oscar nominations, including best picture and best actor, show I'm likely in the minority. It's worth checking out for Chalamet's performance (the one Marty Supreme Oscar nomination I agree with), but don't go into this film expecting a feel-good sports movie.

Minor spoiler: Early on, Marty needs the money his uncle owes him for working in his shoe store. Unfortunately for Marty, his uncle left town before paying him. Marty then 'robs' the store to get the money by pulling out a gun and ordering his co-worker to open the safe. What possible defenses would Marty raise in a criminal prosecution?

Mistake of fact: Under this defense, Marty would argue that taking the money was all a mistake because his uncle was supposed to pay him before he left town. Mistake of fact is recognized as a defense to specific intent crimes like theft because "when the defendant has an honest purpose, such purpose provides an excuse for an act that would otherwise be deemed criminal."[2] Mistake of fact can negate either "knowingly" or "purposely" mental states.[3] In this case, a mistake of fact would likely not help Marty. Mistake of fact "applies only … when the defendant holds a mistaken belief of facts … which…if true, would render the defendant's otherwise criminal conduct lawful."[4] While Marty believed he was owed the money, there was no factual misunderstanding that would make using a gun to force an employee to open the safe lawful.

Claim of right: Marty would argue that he was collecting the money that his uncle owed him. Under a claim of right, the defendant argues that he/she believed they had the right to the property, which would negate the mental state element of the theft offense (purposefully). In *State v. Mills*, the Montana Supreme Court held:



(L-R) Sandra Bernhard, Fran Drescher, Credit: Courtesy of A24



Gwyneth Paltrow, Credit: Courtesy of A24

> "an honest good-faith belief, even if mistaken, that a defendant had a legal right to take or withhold the property of another to satisfy or secure a claimed debt remains a cognizable fact defense to theft…because it precludes the state's contrary assertion that the defendant acted with knowledge that he or she had no lawful authority to conditionally withhold the property for payment or as security on the debt."[5]

While a claim of right can be a defense to a theft charge,[6] many courts have rejected the claim-of-right defense in robberies involving forcible debt collection.[7] Courts tend to disfavor the claim of right defense in robbery cases because it "encourages forcible self-help in pursuing property."[8] The Wisconsin Supreme Court explained this distinction as follows:

> "The distinction between specific personal property and money in general is important. A debtor can owe another $150, but the $150 in the debtor's pocket is not the specific property of the creditor. One has the intention to steal when he takes money from another's possession against the possessor's consent, even though he also intends to apply the stolen money to a debt. The efficacy of self-help by force to enforce a bona fide claim for money does not negate the intent to commit robbery."[9]

Had Marty simply grabbed money out of the register, a claim of right defense might have worked. Unfortunately for Marty, using a gun to convince his coworker to open the safe introduces force. The use of force and the fact that he was taking money as opposed to a specific piece of property that he thought was his would likely defeat his claim-of-right defense.

While this is sad for Marty, the knowledge that Marty might end up in prison for his actions is the only thing about this movie that made me smile.

Grade: D+

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Darren Shulman is the city attorney for Upper Arlington, Ohio. A graduate of Northwestern University and Harvard Law School, Darren previously served as the City Attorney for Delaware Ohio, Associate Legal Counsel for the Ohio Department of Administrative Services, and as an Assistant Prosecuting Attorney for the Montgomery County Prosecutor's Office. When Darren was the Delaware City Attorney, he co-hosted a movie review show called Through the Lens on local radio, which is now a podcast. Writing movie reviews through a legal lens allows Darren to combine his love of movies with his profession.

Notes:

[1]With a set up like this, you'd think *Marty Supreme* would be a comedy. Sadly, it is not.

[2]State v. Snowden, 7 Ohio App. 3d 358, 363, 455 N.E.2d 1058, 1065 (1982)(a go-go dancer promised to pay $80 for damages resulting from a traffic accident with defendant but never paid; the bar manager told defendant to come to the bar for payment; after repeatedly getting "the runaround," defendant went to the register while the barmaid stepped away, and during a struggle over two pistols kept near the register, defendant shot the manager as he emerged from the back office).

[3]*Id*. *See also* Celis v. State, 416 S.W.3d 419, 432 (Tex. Crim. App. 2013)(holding mistake of fact inapplicable to falsely holding oneself out as a lawyer because the offense requires no culpable mental state).

[4]People v. Lawson, 215 Cal. App. 4th 108, 111, 155 Cal. Rptr. 3d 236, 239 (2013)(rejecting defendant's request to overturn a theft conviction for stealing a $20 hoodie from Walmart where defendant claimed he "simply forgot" the hoodie draped over his shoulder while leaving the store; defendant lacked a mistaken belief that would justify leaving without payment and had removed the sales tag and concealed it inside the hoodie).

[5]State v. Mills, 2018 MT 254, ¶ 24, 393 Mont. 121, 136, 428 P.3d 834, 844 (guy hired to oversee a lady's ranch developed feelings for her but ended up stealing her stuff when she rebuffed him. While the court recognized the defense, unfortunately for Mr. Mills, the court also found that there was no evidence that Mills actually believed he had a right to take the property.)

[6]*See* People v. Tufunga, 21 Cal. 4th 935, 938, 987 P.2d 168, 169 (1999)(noting that many courts have restricted the use of the claim-of-right defense, but finding it can negate the mental state "element of robbery where the defendant is seeking to regain specific property in which he in good faith believes he has a bona fide claim of ownership or title.").

[7]*Id*.

[8]People v. Green, 5 N.Y.3d 538, 545, 841 N.E.2d 289, 293 (2005)(When defendant held his hand out towards victim, victim gave him a 'high five.' Defendant clarified that his hand was not a greeting, it was a demand for victim to hand over his portable CD player. Defendant grabbed it and started listening to the Busta Rhymes CD inside it. Defendant claimed that he thought the CD player was his CD player with a Busta Rhymes CD that had been stolen previously.)

[9]Edwards v. State, 49 Wis. 2d 105, 113–14, 181 N.W.2d 383, 388 (1970). *See also* State v. McMillen, 83 Haw. 264, 264, 925 P.2d 1088, 1088 (1996)(Defendant punched victim in the face and stole his backpack. Defendant claimed he did this because he mistakenly thought his friend "was trying to claim something that was rightfully his," and that he intervened to help.)

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