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## FISCHER AND AVOIDABILITY: A REPLY TO WIDERKER AND KATZOFF

Daniel James Speak

In a recent exchange, John M. Fischer and David Widerker have debated whether or not it is appropriate to employ Frankfurt-style examples in efforts to challenge the intuitively plausible "principle of alternative possibilities." Most recently, David Widerker and Charlotte Katzoff have tried to defend Widerker's initial claim that such examples beg the question against libertarianism. As a libertarian sympathizer, I would like very much for these arguments to go through. However, I argue here that (1) their "molinist" critique is off-target, (2) their demonstration of the general falsity of Fischer's libertarianism misses the point, and (3) they infer the *relevance* of alternative possibilities from the *mere existence* of such alternatives in a way that requires unprovided justification.

The pages of this journal have recently been the setting for what I take to be an important debate for those concerned with the relationship between freedom and moral responsibility. At issue in this debate, broadly, has been the appropriateness of employing Frankfurt-style counterexamples to the principle of alternate possibilities (PAP)<sup>1</sup>. In these examples, an agent is choosing between two alternative courses of action, A and B. However, the agent is unaware of the presence of an intervener with the ability and desire to guarantee that she (the agent) choose A. So, if the intervener recognizes an inclination in the agent to choose B, he uses his power to bring it about that she chooses A. Thus, it seems that the agent *cannot avoid* choosing A. Nevertheless, it looks as if the agent can be held morally responsible for choosing A, provided she does so without intervention. In other words, she can be responsible for choosing A even though she could not do otherwise. David Widerker has argued that the structure of such examples presupposes the falsity of libertarianism.<sup>2</sup> That is, he suggests that the examples "work" only if some form of causal determinism obtains in the sequence.<sup>3</sup> If this is right, it is an important critique, since Frankfurt-style examples are supposed to be cases in which an individual intuitively is morally responsible. Compatibilistic arguments which employ such examples would, then, be unacceptably question-begging.

In response, John Martin Fischer has tried to show that the conditions for Frankfurt-style examples do not necessarily violate the intuitions of libertarians.<sup>4</sup> For, he argues, there are plausible versions of libertarianism



that can account for the in-principle predictable relationship in an agent between prior signs and subsequent actions required by the examples. More specifically, Fischer has pointed out that: (1) employing Widerker's reasoning involves rejecting without argument the view (associated with Molina, among others) that subjunctive conditionals pertaining to free actions could be rendered true by non-causal facts, and (2) forms of libertarianism can be constructed that side-step Widerker's attack. In particular, Fischer presents a version of libertarianism in which there is indeterminacy in the agent's deliberations, but not in the transition from the agent's best judgment to action. This plausible version of libertarianism, he claims, is compatible with Frankfurt-style counterexamples.

In the latest salvo, David Widerker and Charlotte Katzoff defend the original claim that the counterfactual intervention required by Frankfurt-style examples assumes conditions that the libertarian finds problematic.<sup>5</sup> They argue, first, that Fischer's suggestion about the relevant subjunctive conditionals undermines the coherence of Molinism. Also, they insist that the version of libertarianism Fischer develops is demonstrably false. Finally, they suggest that even if Fischer's libertarianism is granted, alternative possibilities are still necessary for moral responsibility.

This is obviously a rough sketch of their arguments and fuller development will be necessary shortly. However, I should say at this point that my own intuitions are incompatibilistic. This would, of course, make Widerker and Katzoff natural allies. Nevertheless, I feel compelled to respond to them (grudgingly) on Fischer's behalf. The contentions of Widerker and Katzoff in "Avoidability and Libertarianism" seem to me to be largely on the wrong track. I begin by arguing that their first two responses leave Fischer's thesis untouched. That is, I try to show that nothing in Fischer's argument hangs either on the coherence of Molinism or the universal applicability of the form of libertarianism he sketches as an example. But their third point—regarding the presence of alternatives even in this libertarian case—has promise. However, their account of the possible alternatives is confusing and ambiguous. After attempting to remove this confusion by suggesting various interpretations of their account, I argue that their conclusion comes too quickly. For it does not follow (directly) from the fact that there are alternatives in these cases that such alternatives constitute a necessary condition for moral responsibility. In fact, it is precisely this inference that Fischer explicitly attempts to discredit in Chapter seven of *The Metaphysics of Free Will*. There he contends that the mere presence of alternatives (even in Frankfurt cases) only reveals that there is a "flicker of freedom." He goes on to defend the claim that such flickers are not robust enough to ground our attributions of moral responsibility.<sup>6</sup> While Widerker and Katzoff are aware of this "anti-flicker" strategy, they fail to take it seriously enough.

### I. The "Molinist" Problem

Widerker and Katzoff begin their response by claiming that Fischer's account of (what they call) "Molinist necessity" renders Molinism inco-

herent. That is, if Molina's view about the power of non-causal facts were as Fischer describes, then it would be incompatible with other features of Molina's general theory. As I suggested above, this response seems off-target.

Fischer's concern is with a particular libertarian view about agency—one compatible with Frankfurt-style examples. On this view, an agent's actions can be accurately predicted if the predictor has access to crucial facts about the agent (say, facts about her character, values, etc.). Still, a libertarian of this sort will stop short of saying that the agent's action, though predictable, is causally determined.

This is to say that, according to Fischer, conditionals like the following could be true:

- (5) If Jones were to show an inclination at T to decide to vote for Reagan at T+i, then Jones would decide to vote for Reagan at T+i.

Furthermore, the truth of such conditionals need not be determined by causal facts. Thus, it could also be true that

- (5b) If Jones were to show an inclination at T to decide to vote for Reagan at T+i, then Jones would *freely* decide to vote for Reagan at T+i.

Fischer contends that it is possible for subjunctive conditionals of freedom like those above to be true. Widerker and Katzoff have merely assumed the falsity of this contention in their analysis of Frankfurt-style examples.

Admittedly, Fischer attributes this view about subjunctive conditionals of freedom to Molina. And perhaps he could have been a bit more cautious by resisting the urge to term this view "Molinism." However, Fischer is explicit about his intentions at this point. He says, "'Molinism' is just a convenient term for the specific view under consideration here." That is, Fischer uses "Molinism" simply to refer to the claim that there can be true subjunctive conditionals of freedom. According to Fischer, Widerker's claim that libertarianism is incompatible with Frankfurt examples assumes that a form of libertarianism in which non-causal facts can produce a kind of necessity is false.

Now I hope it is clear why the response of Widerker and Katzoff misses the point. Their claim is that Fischer's interpretation of Molina makes Molinism (broadly construed) inconsistent. But this counter threatens the argument only if Fischer is seeking to offer an interpretation of part of Molina's views which could then be imbedded within an account of Molina's views as a whole. But this is not Fischer's intention. According to Fischer, Widerker's claim that libertarianism is incompatible with Frankfurt examples assumes that a form of libertarianism in which non-causal facts can produce a kind of necessity is false. And this should not be merely assumed.

## II. The response to Dennett's libertarianism

In "A Reply To Widerker" Fischer formulates another version of libertari-

anism that he believes is compatible with Frankfurt-style examples. Following suggestions by Daniel Dennett, he proposes an account of action in which there is indeterminacy in the process leading to an agent's best judgment. However, there *is* causal determination from the agent's best judgment to the agent's action. In this sort of case, it is clear that one could construct a Frankfurt-style example. For the agent could manifest a sign of his best judgment that a potential intervener could read and respond to.

To explain, we could suppose for example, that whatever processes of deliberation Jones employs in contemplating whom to vote for are not deterministic. That is, at no point during his deliberation could the outcome of his voting be inerrantly predicted. Thus, Jones appears to be free in a relevant libertarian sense. However, we could also suppose that once Jones forms the best judgment—that (say) he ought to vote for Reagan—then it is inevitable that he vote for Reagan. Further, we can imagine that if Jones forms the best judgment that he ought to vote for Reagan, he also presents a certain sign of this judgment. Let us assume that he exhibits a distinctive neural pattern. In this case, an intervener (properly constituted) could recognize this pattern and respond accordingly. This seems to be a case in which Frankfurt-style examples are compatible with libertarianism.

Widerker and Katzoff, however, believe that this account of action is demonstrably false. For, they argue, if the above sort of libertarianism were an accurate description of action, then weakness of the will would be impossible. This is because weakness of the will is defined here as the failure of an agent to act on his best judgment. There can be no such failure if causal determinism obtains between best judgment and action. At this point, Widerker and Katzoff simply point out, by example, that people sometimes do act against their best judgment. An individual may very well know that he ought to go to the dentist rather than put it off. Nevertheless, he does not make the appointment. Thus, the Dennett/Fischer suggestion on behalf of the libertarian must be false.

Now, this response would be appropriate if the universal scope of this version of libertarianism were necessary to establish Fischer's view. But this is not the case. Again, Fischer is intending to show that an action can be free in a libertarian sense and yet still be predictable in a way required by the Frankfurt examples. Thus, Fischer can admit that human action often displays *akrasia* without giving up his point. He does not need Dennett's libertarianism to be true in *every* case. He needs only *one* case in which there is indeterminacy in the agent's deliberation and yet there is determination from best judgment to action. If there is (or could be) just one such case, then a Frankfurt-style example can be constructed that will show that the agent in this case can be responsible for an action even though she could not have avoided it. And presumably a libertarian will admit that at least *some* cases are (or could be) like this. That is, there is (or could be) at least one person who is so constituted that she cannot fail (in a particular circumstance) to act on her best judgment. This, it seems to me, is Fischer's point. If this is right, then the response of Widerker and Katzoff misses the mark again. For it makes no difference whether or not this version of libertarianism is uni-

versally accurate.

But perhaps Widerker and Katzoff are suggesting that the reality of incontinence, which they illustrate in a particular case, tells us something about human motivational structure in general. Perhaps they are arguing that weakness of the will is always possible for an agent in every circumstance.<sup>8</sup> If this were true, then I grant that Fischer's libertarianism would be discredited.

I do not believe, however, that Widerker and Katzoff have the argumentative machinery in place necessary to reach this conclusion.<sup>9</sup> Such machinery would have to justify the inference from the existence of incontinence on some occasions to the universal possibility of incontinence for all human agents in every circumstance. How could this inference possibly be justified? Given the example they have constructed, and the accompanying argumentation, Widerker and Katzoff seem justified only in asserting that some actions of some agents are not ensured by (and thus are not "deterministically related to") the agent's best judgment. To make the argument that seems to me necessary to invalidate Fischer's claim, they need to defend something like: (\*) If the actions of some agents are not ensured by their best judgments, then the actions of *no* agents are ensured by their best judgment. This would be an intriguing claim, but I do not see any straightforward way of establishing it. Since Widerker and Katzoff have given us no reason to accept (\*), I conclude that Fischer's thesis remains viable.

Fischer merely presents a hypothetical possibility. He is not seeking to give an account of how all or most people actually are. Similarly, Harry Frankfurt was not assuming that his original examples captured some essential or common feature of human action. We can safely presume that situations in which there is a looming intervener are statistically rare. The point is the *possibility*. And the same is true with Fischer's example. At issue is whether or not this particular libertarian description of action *can* apply to at least one case. Widerker and Katzoff seem to have provided no reason for doubting this.

### III. Ubiquitous Alternatives

In their final argument, Widerker and Katzoff grant the plausibility of Fischer's hybrid libertarianism (merely for the sake of argument). Then they attempt to show that even if this form of libertarianism is right, there will still be room in Frankfurt examples for some alternative possibilities. In particular, they claim that we would hold an agent accountable under these circumstances (at least in part) because the agent could have formed an alternative best judgment. As they point out, Fischer rejects this idea, and proposes this example:

... a baby has fallen into a swimming pool in front of you and is in immediate danger of drowning. All you have to do is bend over and pick the baby up; this would be extremely easy for you, and we may suppose that there are no other morally relevant reasons.<sup>10</sup>

Suppose, now, that this is a Frankfurt case in which the intervener intends for you to save the baby. Thus, it is impossible for you to do otherwise than save the baby (since the intervener is able to read a sign of your best judgment and respond accordingly). Further, let us suppose that you save the baby without intervention. Clearly you are responsible for your act. Now, Fischer admits that you could have formed an alternative best judgment. But he claims (a la Susan Wolf) that it is simply implausible to think that it is the existence of this very peculiar alternative that grounds your responsibility for the action. Why think that it is because you could have judged it best *not* to save the baby (when you had every reason to do so) that you are responsible, in the actual sequence, for saving the baby? Why think, as it were, that being able to judge irrationally should be relevant to such ascriptions?

In response, Widerker and Katzoff wonder "...whether the sort of possibility Fischer imagines is coherent, whether a normal person could judge best something for which he sees no good reason."<sup>11</sup> But this seems to be tantamount to granting Fischer his point. If this option is incoherent for a normal person, then it looks to be a case in which a normal person has no alternatives and yet is morally responsible.

However, they suggest, in an apparent counter to the above reasoning, that we suppose "...the alternative possibility in question is that of forming simply a *different judgment*" (their italics).<sup>12</sup> This is confusing. It is unclear what the relationship is between a judgment and a best judgment, and why an alternative best judgment might be incoherent but an alternative judgment is not. What sense can be made of the distinction between a *different best judgment* and merely a *different judgment*?

Perhaps they are appealing to a type-token distinction. Perhaps, that is, they are imagining that it is incoherent for a normal person to form a *different type* of judgment in this circumstance, but such a person could nevertheless form a *different token* judgment. When you formed the best judgment at t1 to save the child at t3, for example, you could also have formed the best judgment at t2 to save the child at t3. Another possibility here is that, while you formed the token judgment that you should save the baby by pulling her out of the pool by her feet, you could have avoided this token judgment by forming the alternative token judgment that you should pull her out by her arms.

The danger with this response is that it does not seem to avoid or address Fischer's initial challenge. Fischer's argument was that even if you could form an alternative best judgment in the drowning-baby case, the alternatives available to a normal person would be too thin to ground moral responsibility. If the alternatives that Widerker and Katzoff ultimately appeal to are mere token differences, then Fischer's argument (plausibly) goes through. Why think that it is because you had mere temporal or stylistic options of this limited sort that you are responsible for your action?<sup>13</sup> This sort of alternative possibility would not seem to be sufficiently robust to ground responsibility ascriptions.

There is a second way in which Widerker and Katzoff might attempt to make sense of their crucial distinction between different best judgments and different judgments. They might claim that a best judgment

is an all-things-considered judgment, but there can be other judgments which are not all-things-considered. On this account, you could not have reached a different all-things-considered judgment, but not all actions result from such judgments. Many of our judgments are premature or not fully informed. Sometimes such judgments lead to action. And you could have acted, in the drowning-baby case, on a less-than-all-things-considered judgment.

This analysis still appears to fall prey to Fischer's plausibility argument against the relevance of these sorts of alternatives. Admittedly, Widerker and Katzoff can, on this reading, maintain their position that a best judgment not to save the baby is incoherent. However, they will have to grant that a normal person could come to a different judgment only by (say) ignoring relevant data or failing to pay attention to the details of the situation. Furthermore, they will be forced to insist that it is in virtue of such alternatives that you are responsible for saving the baby. You are responsible because you could have acted in an irrational (indeed, one might say "irresponsible") fashion. Fischer argues that this is odd, and it *does* seem paradoxical that moral responsibility should rest on the possibility of irrationality.<sup>14</sup>

Finally, Widerker and Katzoff might be appealing to a distinction very different from the sort considered above.<sup>15</sup> Notice that the two potential interpretations I have explored involve differences in (what I will call) the *structure* of the alternative judgments. Thus, on these interpretations the difference between a best judgment and a merely different judgment is not a matter of *content*. Both judgments are still about what is *best to do*. But it might be that Widerker and Katzoff are appealing to a difference in the *content* of the alternative judgment. A best judgment is about what is best to do. A different judgment might be about what is *expedient, convenient, cruel, or fun to do*.

In response, recall Fischer's flicker argument. We want to know if the alternatives available to you in the drowning baby case can reasonably be thought to provide a foundation for our ascription to you of responsibility for saving the baby. Is it *because* you could have formed a judgment with different content (as here defined) that you are responsible for your action? I contend that Fischer's negative answer to this question remains plausible and defensible.

Why? Because Fischer's would-be interlocutor seems to be on the horns of a dilemma. Your alternative judgment either can lead to action or it cannot. If it cannot, then it is not relevant to ascriptions of responsibility. Who cares if you can form the judgment that it would be (say) more convenient not to save the baby if your judgment cannot issue in action? Intuitively, only alternative judgments that can lead to alternative actions can bear on the question of responsibility for a given action. On the other hand, if the judgment in question *can* lead to action, then the problem of irrationality reappears. No normal person can fail to save the baby. The example is constructed so that any such failure will be irrational. And failing to save the baby will be irrational regardless of the content of the judgment that leads to this action. In defense of Fischer, I simply re-emphasize his initial Wolfian claim that it is implau-

sible to think that our attributions of responsibility rest on the possibility of this sort of irrationality. Thus, this interpretation of the notion of a merely different judgment in terms of difference in content is no more satisfying than the interpretations in terms of difference in structure.

In general, Widerker and Katzoff seem to assume what is false: that the inference from the *existence* of alternatives to the *relevance* of alternatives requires no argument.<sup>16</sup> I think incompatibilists, such as Widerker and Katzoff, need to respond to Fischer's argument that the sort of alternatives Widerker and Katzoff have isolated are not *relevant*. It is not enough to find a flicker of freedom, as Widerker and Katzoff have done. It must also be shown that these flickers have the kind of robustness sufficient to ground responsibility. Those of us who are tempted by incompatibilism must go on, as it were, to "fan" the flickers of freedom.<sup>17</sup>

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#### NOTES

1. See Harry Frankfurt's two seminal papers: "Alternate Possibilities and Moral Responsibility," *Journal of Philosophy*, 45 (1969), 829-839 and "Freedom of the Will and the Concept of a Person," *Journal of Philosophy*, 68 (1971), 5-20. Frankfurt's work has spawned an enormous literature. Some particularly salient discussions include Peter van Inwagen's *An Essay On Free Will* (New York: Oxford University Press, 1983), and Chapter 7 of John Martin Fischer's *The Metaphysics of Free Will* (Cambridge: Blackwell Publishers Inc., 1994).

2. David Widerker, "Libertarianism and the Avoidability of Decisions," *Faith and Philosophy*, vol 12 (1995), pp. 113-117.

3. Widerker presents this argument in: "Libertarianism and Frankfurt's Attack on the Principle of Alternative Possibilities," *The Philosophical Review*, 104 (1995), 247-261. Robert Kane has made a similar argument in a review of Linda Zagzebski's *The Dilemma of Freedom and Foreknowledge in Mind*, vol 105 (1996), pp. 518-520. Kane develops this argument in his latest book, *The Significance Of Free Will* (New York, Oxford University Press, 1996). See pp. 142-3. The leading idea here is that the force of the counterexamples depends upon the ability of the intervener to accurately predict the agent's action at  $t_3$  from some earlier point in time  $t_1$ . But such accuracy can only be guaranteed if the agent is determined at  $t_1$  to act in a certain way at  $t_3$ . Since whether or not this sort of determination exists is an essential question in the debate, the compatibilist can employ Frankfurt-style examples only by breaching dialectical propriety. Some replies to the Widerker/Kane style of argument are: Eleonore Stump's "Libertarian Freedom and the Principle of Alternative Possibilities," in *Faith, Freedom and Rationality*, ed. Daniel Howard-Snyder and Jeff Jordan (Rowman and Littlefield, 1996), 73-88 and "Alternative Possibilities and Responsibility: the Flicker of Freedom", delivered at the APA Pacific Meetings, Los Angeles, March 1998, as well as two forthcoming articles, one by David Hunt ("Moral Responsibility and Unavoidable Action" in *Philosophical Studies*) and the other by Alfred R. Mele and David Robb ("Rescuing Frankfurt-style Cases" in *The Philosophical Review*).

4. John M. Fischer, "Libertarianism and Avoidability: A Reply To

Widerker," *Faith and Philosophy*, vol 12 (1995), pp. 119-125.

5. David Widerker and Charlotte Katzoff, "Avoidability and Libertarianism: A Reply to Fischer," *Faith and Philosophy*, vol 13 (1996), pp. 415-421.

6. Fischer pushes this line in the conclusion of "Libertarianism And Avoidability: A Reply To Widerker".

7. John M. Fischer, *Faith and Philosophy*, vol 12 (1995), p. 120

8. I thank an anonymous referee at *Faith and Philosophy* for this point.

9. Nor am I confident that this is the sort of argument they are attempting to develop. Nevertheless, it is a possible style of argument and, therefore, deserves attention.

10. John M. Fischer, *Faith and Philosophy*, vol 12 (1995), p. 124

11. Widerker and Katzoff, *Faith and Philosophy*, vol 12 (1995), p. 419

12. Widerker and Katzoff, *Faith and Philosophy*, vol 12 (1995), p. 419

13. I take this also to be a criticism of Carl Ginet's strategy in "In Defense of the Principle of Alternative Possibilities" [*Philosophical Perspectives*, vol 10 (1996)]. There he finds temporal flickers of freedom in Frankfurt-style examples. However, he does not attempt to show why we should think such alternatives are *relevant*.

14. See Susan Wolf, *Freedom Within Reason* (New York: Oxford University Press, 1990).

15. Widerker and Katzoff seem to make another closely related assumption. They assume that all plausible accounts of moral responsibility include avoidability as a necessary condition. Thus they conclude their article with the following assessment of the drowning-baby case: "... the judgment's being avoidable is the only alternative which remains for viewing the agent as morally responsible, even from the point of view of Fischer's libertarian." This assumption is also false. Fischer and Ravizza, for example, have recently formulated a description of moral responsibility that seems to capture our ordinary intuitions, but that does not make being able to do otherwise a necessary condition. In the drowning-baby case, then, they will assert that you can be held accountable for saving the baby even if you could not have done otherwise provided your action is the result of your own reasons-responsive mechanism. See *Responsibility and Control: A Theory of Responsibility* (Cambridge: Cambridge University Press, 1998) for a fuller account.

16. I thank an anonymous referee at *Faith and Philosophy* for making this interpretation more explicit. Originally, I failed to see that this distinction is subtly different from the one between an all-things-considered judgment and a less-than-all-things-considered one. But, alas, I think they meet the same fate, as I argue shortly.

17. I will state now what is patently obvious: that I owe an enormous debt to John Martin Fischer both for his general influence and specific insight. If not for his encouragement and direction, this project would have been neither started nor completed. Of course this does not mean that he can rightly be blamed for the final product. I also thank Paul Hoffman for reading and responding to an earlier version of this paper. Finally, I have benefitted from insightful comments by two anonymous referees for *Faith and Philosophy*.