



## Libertarianism and Luck

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### Abstract

According to event-causal modest libertarian accounts of free action, the sort of control an agent requires to perform free actions consists in the action's being nondeviantly and indeterministically caused by apt reasons of the agent. It has been argued that these modest views succumb to a problem of luck because they imply that, given exactly the same past up to the time of action, and the same laws of nature, at this time the agent could have performed a different action, or no action at all. Hence, it appears that whatever the agent does at this time as a result of indeterministic deliberation is a matter of freedom- or responsibility-undermining luck. In this paper, I argue that neither Robert Kane's variant of modest libertarianism, which combines a form of non-traditional agent causation with indeterministic event causation, nor John Lemos' weightings variant, in which agents perform intentional acts of assigning weights to their reasons, circumvents the luck objection.

Research Article



### Keywords

Agent-causal, event-causal, luck objection, modest Libertarianism, weighting reasons.

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## Introduction

Even relatively modest libertarian accounts of free action and moral responsibility that avoid appeal to agent causation or to metaphysically exotic agents, such as Cartesian minds, appear to succumb to the so-called “luck objection.” Fueling this objection is the libertarian requirement that a free choice must be aptly and indeterministically caused by suitable reason states of the agent. This requirement, conjoined with other innocuous elements of modest libertarian views, generates the result that, seemingly, it is a matter of freedom-or responsibility-undermining luck whether an agent makes one choice rather than another, or none at all, when the past and the laws of nature remain exactly as they are until the moment of choice. In this paper, I first outline Robert Kane’s recently adjusted version of modest libertarianism that introduces a non-traditional and relatively benign variety of agent causation, and argue that it fails to escape the luck objection. I then address John Lemos’ “weightings model” of libertarian free choice in which agents’ reasons are not imbued with precise determinate “weights”; rather agents assign weights to their reasons. I argue that the weighting model, too, remains susceptible to the luck objection.

## Modest Libertarianism

It is customary to distinguish between causal chains associated with action from deviant motion-producing chains in discussions of free action. The thought of intentionally letting go of a rope may so unnerve you that you inadvertently loosen your grip on the rope.<sup>1</sup> The loosening here is the result of a deviant motion-producing chain. Another useful distinction is the distinction between indirectly and directly (or basically) free actions. An indirectly free action is a free action whose freedom is inherited from the freedom of other actions to which it is suitably related. A directly free action is a free action that is not indirectly free. Event-causal libertarians propose that a free action (mental or otherwise) be performed for reasons, and its being so performed consists, partially, in the agent’s having apt reasons that nondeviantly cause it. Such libertarians allow that an indirectly free action may be determined by its proximate causal precursors but differ from compatibilists in that they maintain that even the immediate causal antecedents of a directly free action do not determine that action. These antecedents and the natural laws do not preclude some chance that that action not occur.<sup>2</sup> Typically, libertarians insist

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1. See, e.g., Davidson 1963.

2. See, e.g., Kane 1996. Frequently, modest libertarians agree that events that are directly free and indeterministically caused are the making of decisions (e.g., Clarke 2000, p. 23).

on the following.

*AP*: Your action *A*, which you perform at time *t*, is directly free only if there is another possible world with the same past and laws in which, at *t*, you refrain from doing *A*.

*AP* is incorporated in Kane's plurality conditions on free choice. Kane calls choices or actions by which we may form or reform our existing wills (our characters, motives, or purposes) *self-forming actions* (SFAs). He says, "self-forming choices must satisfy *plurality conditions* for free choice: the power to make them and the power to do otherwise (e.g., to make some alternative choice) *either way*, voluntarily, intentionally *and rationally*" (Kane, 2021, pp. 18-19).<sup>1</sup>

Think of a metaphysically lean modest libertarian view as adding to the best compatibilist account of free action the constraint that germane reason states (or their neural realizers) indeterministically cause directly free actions. The resulting libertarianism dictates that the sort of control that free decision requires—freedom-level control—assuming such decisions are directly free, consists in apt agent-involving events, such as the agent's pertinent beliefs and desires, nondeviantly and indeterministically causing the decision.<sup>2</sup> This thesis about modest libertarian freedom-level control is the thesis that *control is causal*.

### Introducing the Luck Problem

Lean modest libertarian views face a problem of luck. I first summarize what I call the "*No Explanation Version*" of the luck problem I have developed. I then argue that neither Kane's supplementation of the lean view with a non-conventional form of agent causation, nor Lemos' "weighting" contribution to such a view, circumvents this problem.

Standardly conceived, akratic or incontinent action (whether the action is a bodily action or a mental action, such as making a decision) is free, intentional action contrary to your better or best judgment. Continent action is, roughly, action in accordance with your better judgment. Imagine that, in the actual world, *w*, John has reasons at *t* to decide to refrain from robbing some church's poor box at some later time and competing reasons at *t* to decide to

1. See, also, Kane 1996, pp. 107-115.

2. Such accounts have been defended or discussed by, e.g., Dennett 1978; Fischer 1995, 2011, 2014; Mele 1995; Kane 1996, 1999a, 1999b; Clarke 2000, 2003, 2011; Franklin 2011a, 2014, 2018; Haji 2016, 2019.

steal at that later time. Deliberating about what to do, he forms the all-things-considered judgment that it is best for him to decide to refrain and he continently at  $t$  decides to refrain.<sup>8</sup> Assume that John's reasons to decide to refrain nondeviantly and indeterministically cause this decision. The causal trajectory, or a segment of such a trajectory, of your decision, is *smooth* provided: it is free of responsibility-undermining factors, such as, for instance, the impact of pervasive manipulation; you do not succumb to akratic or other irrational influences in making the decision; and in the absence of new information, further deliberation, or reconsideration, you decide in accordance with such a judgment, barring unusual circumstances (such as the occurrence of events over which you lack any control and that would prevent you from deciding consistently with your best judgment). Assume that the segment of the causal trajectory that commences, roughly, with John's deliberations about whether to refrain and extends to his making at  $t$  the decision to refrain in  $w$ , is smooth. Assume, further, that John exercises self-control in deciding to refrain, and at  $t$ , he indeterministically decides to refrain from stealing. Assume, finally, that there is an apt causal explanation of John's deciding at  $t$  to refrain from stealing in  $w$ : his reason states nondeviantly cause this decision. Modest libertarians insist on such an explanation because they accept the thesis that *control is causal*. They concur that responsibility requires freedom-level control and this control largely *consists* in your reason states appropriately causing your actions. Since John at  $t$  indeterministically decides to refrain in  $w$ , there is a world,  $w^*$ , which has the same natural laws as  $w$ , and is past-wise indiscernible from  $w$ , right up to  $t$  in which at  $t$  John decides at  $t$  to steal. Dub such a world a *contrast world*. Is there an appropriate causal connection between his reason states and his deciding at  $t$  to steal in contrast world,  $w^*$ , as modest libertarianism requires, if John is to exercise freedom-level control in deciding at  $t$  to steal in  $w^*$ ? Is there a *detailed causal explanation* of his deciding to steal in  $w^*$ ? Regarding John's decision to steal in  $w^*$ , typical modest libertarians require that there be a suitable causal association between the agent's reason states and the pertinent decision because, as Kane's plurality conditions make clear, these libertarians contend that free action or responsibility presupposes your having two-way *control*; you have causal control in performing the action, and had you done otherwise, you would have had causal control in doing otherwise. Since such libertarians take the relevant control to be causal, in the contrast world (or worlds), there must be an apt causal connection between the morally responsible agent's reason states and what she does in that world.

Consider three possibilities in attempting to explain John's deciding to steal in contrast world  $w^*$ . Each is suspect. First, John's reasons to decide to steal

causally generate his continent decision to steal in  $w^*$ . This option, however, is inconsistent with the assumption that the past (and the laws) are fixed. Recall, John in the actual world  $w$  judges that it is best for him to refrain, so he must judge similarly in  $w^*$ , and furthermore, the relevant segment of the causal trajectory to his deciding to refrain in  $w$  is smooth. If John decides to steal in  $w^*$ , then his so deciding seems to be akratic: his deciding to steal is a (putatively) free, mental action that runs against what we may assume is a consciously held best judgment of his.

Second, John's decision to steal in  $w^*$  is akratic. If so, there is a problem with the etiology of John's deciding to steal, assuming that the relevant segment of the causal trajectory to his deciding to refrain in  $w$  is smooth. In conventional accounts of akratic action, when an agent performs a strict akratic action, there is a misalignment between the motivational strength of the desire from which her act causally derives (the motivationally strongest desire) and her consciously held best judgment.<sup>1</sup> If we accept these typical accounts, John's best judgment that he ought to refrain from stealing should stand opposed to his, assume, stronger desire to steal. With John's supposedly libertarian free decision in  $w^*$ , however, there is no such misalignment because the past in this world right up to  $t$  is indiscernible from what it is in  $w$ . So, the motivational strength of John's desire to steal in  $w^*$  does not differ from its motivational strength in  $w$ . However, we may safely suppose that because he continently decides to refrain in  $w$ , his desire to refrain from stealing has greater motivational clout than his competing desire to steal and, moreover, there is no misalignment between this stronger desire and his judgment that it is better for him to refrain. So, how is John's akratic decision to steal in  $w^*$  to be explained?

Elsewhere, I have argued that without some change in the etiology of his action, such as, contrary to what actually transpires in  $w$ , John fails to exercise self-control, selectively focuses on the immediate short-term pleasures of stealing, and downplays the long-term benefits of refraining to steal prior to deciding at  $t$ , there is no plausible causal explanation of his deciding at  $t$  to steal in  $w^*$ .<sup>2</sup>

Regarding the second option that John akratically decides to steal in  $w^*$ , it is implausible that typical modest libertarians be committed to the view that in John-like cases in which John acts continently in  $w$ , John could have freely decided to do otherwise in some contrast world only if he had akratically

1. See, e.g., Watson 1975; Mele 1995, ch. 2.

2. See, e.g., Haji 2013. I have also argued that other accounts of akratic action fare no better when it comes to explaining why John\* decides to steal in contrast world  $w^*$ . See, e.g., Haji 2012.

decided to do otherwise. This sort of commitment would violate the proposal, several modest libertarians accept, that in mundane cases of free action, we have the power to do otherwise intentionally, continently, and rationally.<sup>1</sup> Regarding self-forming actions (SFAs), which appear to be exemplars of directly free actions, Kane writes:

[SFAs] must be undetermined by the agent's pre-existing will and the agents must have what I call *plural voluntary control* (PVC) over them ... It would not suffice, for example—if these actions are to be “will-setting” and not already “will-settled”—that the agents could voluntarily and purposefully perform them, but could only do otherwise by accident or mistake, inadvertently, involuntarily, or unintentionally. If that were the case, agents could never form or *reform* their own wills, for they would always be acting *from a will already formed* and set one way. And having the power to form and reform one's own will is a precondition on my view for having freedom of *will* of the kind required for moral responsibility in a genuine libertarian sense, rather than merely freedom of *action*. (2013, p. 61, notes omitted)

On the third option, if John decides to steal in  $w^*$  in opposition to his consciously held best judgment, he has suffered a breakdown in agency.<sup>2</sup> If so, his decision to steal, even supposing that in this case, he *decides* to steal, is presumably not free.<sup>3</sup>

Since the past and the laws in the poor box example in both the actual world,  $w$ , and the contrast world,  $w^*$ , are precisely the same up to the time John decides to refrain from stealing or to steal, barring an explanation to the contrary, we would expect John's reasons for his choice to refrain from stealing to prevail or win even in  $w^*$ . This is especially so if his choice to refrain from stealing in the actual world is continent. Presumably, as John does not choose akratically, as a result of a breakdown in agency, or being manipulated in contrast world  $w^*$ , we should wonder about why his reasons to steal (rather than his reasons to refrain from stealing) prevail in  $w^*$  when, given exactly the same past and the laws, his reasons to refrain prevail in the actual world.

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1. See, e.g., Kane 1996, p. 114; 2013, p. 61.

2. On breakdowns of agency, see Mele 2006, pp. 60-61, 125-129; Mele 2008, pp. 268-271; Haji 2019, pp. 86-87.

3. Libertarians might object that akratic misalignment does not pre-exist the apt choice but is created by the akratic agents themselves when they choose (see Kane 1999a, 114n17). Again, I have addressed this concern elsewhere. See, e.g., Haji 2016, pp. 287-288.

Kane concedes that “libertarian views, in general, must try to show that whatever chance may be involved in undetermined choices need not undermine free agency and responsibility” (2014, pp. 207–208). He proposes that to show this one must defend the claim that “the agent *makes one set of reasons win out* over the other at the moment of choice, so that the agent can be fully responsible for causing it to be the case that one choice rather than the other is made, despite the indeterminism” (Kane, 2014, p. 208). To support the claim flanked by quotation marks, Kane invokes his *concurrent efforts thesis*. An effort of will is a mental action consisting in an agent’s trying to make a particular decision or choice. Kane’s previously proposed solution to the explanatory luck problem in cases where the actions at issue are choices or decisions appeals to the idea that the agent simultaneously tries to make each of two or more competing choices or decisions: “the *agent makes one set of reasons prevail* over the other *by making an effort to do so against the competing effort to make a contrary choice*” (Kane, 1999b, p. 208).<sup>1</sup>

The *concurrent efforts thesis* on its own, however, will not solve the luck problem. Since exerting an effort of will is simply a mental *action*, just as a choice is a mental action, the problem of luck reemerges with such efforts themselves. The mental action, *E*, that is the effort exerted or made to make one set of reasons prevail is itself subject to luck. In addition, either effort *E* is (directly) free or it is not. If the latter, the subsequent choice, something that if free would be indirectly free, is not free. If the former—that is, if effort *E* is supposedly directly free—then the problem of luck reemerges with *E* itself. It thus appears that one cannot appeal to something the agent does, such as making an effort of will—some mental action of the agent—that is not itself identical to making some choice, at the time this choice is made, to evade the problem of luck.

In his prior work, Kane also calls upon the *prevailing reasons thesis* to help with the luck problem: “The agents will *make one set of reasons or motives prevail over the others then and there by deciding*” (1996, p.133). Since John (putatively freely) chooses or decides, at *t*, to refrain from stealing in the actual world, and this decision is indeterministically caused, there are contrast worlds in which he indeterministically decides, at *t*, to steal. In the actual world, John makes his reasons to decide to refrain prevail “then and there by deciding” to refrain; in the contrast worlds, John makes his reasons to decide to steal win out by deciding to steal. Here, I simply mention one problem with the

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1. Also see Kane 1999a, 2000, 2002, 2011. Readers who balk at the thought that an agent may *try to choose to A* (Kane 1999b, pp. 231, 233–34; Kane 2011, pp. 391–92; Kane 2014, pp. 193–202, 208–209) may prefer to think in terms of an agent’s trying to bring it about that she chooses to *A*.

*prevailing reasons thesis*. Deciding to do something does not determine which reasons win out; rather, it is the other way around. Your prevalent reasons underpin which decision you make.<sup>1</sup>

### **New Elements in Kane's Libertarianism**

Kane's latest and perceptive variation of modest libertarianism includes important additional constituents (or develops constituents implicit in his former view). I outline these constituents and then argue that they do not mitigate the luck problem.

#### *(1) Efforts of will reconsidered*

In his very recent thinking about modest libertarianism, Kane somewhat modifies what he says about efforts of will in making free choices:

Importantly, however, it is not being claimed here (as I have done in earlier writings) that these efforts or exercises of willpower aimed at different choices would be occurring at the same time during deliberation. Nor will they be occurring throughout the entire deliberation. Rather, different efforts or exertions of willpower may be initiated at different times, depending on the course of the agent's reasoning or thought processes. (2021, p. 9)

#### *(2) Dynamic agent causation*

Kane insists that "event-causal" libertarianism is a misnomer of his libertarian view since his view has always drawn on a component that involves a sort of causation by agents—not agent causation as customarily conceptualized where human agents or substances, as opposed to events or states involving substances, can be causes—but a different version. The following passage summarizes this view of agent causation and its place in Kane's libertarianism.

Agents ...are to be conceived as information-responsive complex dynamical systems . *Complex dynamical systems* are understood in this context in the manner of "dynamical systems theory." Such systems ... are systems in which emergent capacities arise as a result of greater complexity. When the emergent capacities arise, the systems as a whole or various subsystems of them impose novel constraints on the behavior of their parts ... [C]omplex dynamical systems exhibit what I am calling here *teleological guidance control* (TGC) when they tend through

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1. See Haji 2019, pp. 94-98 for further critical discussion of the *prevailing reasons thesis*.

feedback loops and error correction mechanisms to converge on a goal (called an attractor) in the face of perturbations. Such control, as neuroscientist Marius Usher argues (2006), *is necessary for any voluntary activity* and he interprets it in terms of dynamic systems theory, as I would as well ... An important consequence of understanding the agent causation involved in free agency and free will in this way is that the causal role of the agent in intentional actions of the kind needed for free agency and will is not *reducible* to causation by mental states of the agent alone. That would leave out the added role of the agent, qua complex dynamical *system*, exercising teleological guidance control over the processes *causally linking* mental states and events to actions (2021, pp. 4-15, notes omitted).

Kane proposes that his account of free action combines dynamic agent causation and indeterministic event causation:

To reduce agent causation to causation by mental states and events ... would leave out the *systemic control* by the agent, qua information responsive dynamical system, over the *manner* in which the mental states cause the resulting events. Without this systemic control, the causation by mental states would be “deviant” and the outcomes would not be intentional actions of the agent, but merely accidental occurrences. On the other hand ... to leave out references to the causal role of mental states and events and merely to say that agents caused their free actions would also not suffice. For the event descriptions spell out in crucial detail *how* and *why* the agents caused their free actions, information that would be left out if one just said the agents caused their free actions ... [This theory] might be called an agent-causal/event-causal (AC/EC) theory (2021, p. 17).

### The Luck Objection and Kane’s New Responses

Directly targeting the luck objection, Kane writes:

[T]here is an obvious response to this luck objection in terms of the AC/EC view... For in the case of undetermined self-forming choices, as understood on this AC/EC view, it is *not* correct to assume, as this explanatory luck objection does, that “different free choices could emerge from the same past of an agent.” This is not true if it means the agent could make opposing choices—for example, to steal or not to steal—given exactly the same prior reasoning leading up to the moment of choice. All that follows... from the fact that a self-forming choice is

undetermined is that it might be made at a given time or might *fail* to be made at that time. And it does *not* follow if it fails, that the opposing choice—not to steal—would be made at that same time, given exactly the same reasoning leading up to the choice to steal. Moreover, this would be true whichever choice is successfully made in an undetermined self-forming choice situation. (2021, p. 19)

Suppose that at  $t$ , John exerts an effort of will to make his reasons to decide to steal prevail, but the effort fails. Presumably, in exerting this effort, he exercises his powers of dynamic agent causation, but despite this exercise, the effort does not succeed. Assume that the outcome of this failed exertion of effort is that no choice is made at this time. But now consider the following. In some non-actual contrast world with the same past up to  $t$  and the same laws, John exerts this sort of effort—the effort to make the reasons to decide to steal prevail—the effort succeeds, and he decides to steal. (For convenience, refer to John in this contrast world,  $w^*$ , as John\*.) What is the causal explanation of his decision to steal in world  $w^*$ , and what explains the differential outcomes in the actual world,  $w$ , and  $w^*$ ? *Not* the effort John exerted in the actual world: the same effort (or type of effort) is exerted in both worlds. *Not* John as a dynamic agent cause: if we suppose that the effort implicates agent-causation of this variety—the effort, which is a mental action, is partially the product of John’s exercising his apt powers of agent causation—he exercises the same sort of power in both worlds.<sup>1</sup>

Elaborating briefly, assume that, at  $t$ , John exerts an effort in favor of his choice to steal in  $w$ . There are two broad options: either this effort succeeds or it fails. Suppose, first, that the effort succeeds and John decides to steal. If this is a libertarian free choice, then in some contrast world,  $w^*$ , with the same past and the laws as  $w$ , John\* does otherwise. On one possibility, in some such world, John\* decides not to steal. This merely fuels the luck objection. On a second possibility, in some such world, John\* makes no decision at all. Perhaps one might try to explain this no-choice occurrence by venturing that there has been a breakdown in agency. If this is so, the plurality conditions on free choices that Kane requires are not satisfied, and John is not morally responsible for his actual-world decision to steal. Recognizing this problem, one may reason that the better option is that in the contrast world,  $w^*$ , where John\* makes no choice, there is no breakdown in agency; it’s simply that John\* makes no decision at all and, perhaps, continues to deliberate in this

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1. I discuss why a modest libertarian view, supplemented with traditional agent causation, will not evade the luck objection in Haji 2004.

world. But then the explanatory luck objection is *still* with us: the effort John exerts to make his reasons to decide to steal prevail does not explain the difference in outcome; nor does the exercise of his agent-causal powers. As far as I can see, no other elements in the etiology of John's decision to steal will turn the trick either.

Suppose, second, that John's effort in the actual world,  $w$ , to make his reasons to decide to steal prevail fails. Assume that, at  $t1$ , in the actual world he makes no choice at all. The satisfaction of *AP*—one of Kane's plurality conditions—requires that in some contrast world, at  $t1$ , John\* does otherwise. With no breakdowns of agency, John\* might, at  $t1$ , decide to refrain from stealing or he might decide to steal in  $w^*$ . With either of these options, the luck objection remains: with fixed pasts, what explains whatever choice John\* makes in the non-actual world,  $w^*$ , and what explains the difference in outcomes across the germane worlds?

Kane remarks that the explanatory luck objection contains a kernel of truth:

[R]esidual arbitrariness seems to remain in all self-forming choices because the agents cannot in principle have *sufficient* or *overriding* (“*conclusive*” or “*decisive*”) prior reasons for making one option and one set of reasons prevail over the other. Therein lies the truth in this explanatory luck objection: An undetermined free choice *cannot be completely explained by the entire past*, including past causes or reasons; and I think it is a truth that reveals something important about free will generally. (2021, p.20)

Grant that an “undetermined free choice *cannot be completely explained by the entire past*, including past causes or reasons.” An underlying moral of the luck objection is that with agents like John and John\*, something the agent does must make a difference to the differential outcomes in the relevant worlds. With fixed pasts and the disparity in outcomes, it does not seem that this difference can be attributed to anything that the agent does (or fails to do) in the different worlds: the agent (like John) does (or fails to do) exactly the same things (or types of thing) in both.

It looks as though Kane's beefed-up AC/EC modest libertarianism does not circumvent the explanatory luck objection.

### The Weightings Model

Lemos defends an “indeterministic weightings model” (2021, p.137) of libertarian free action. Directly free actions are the result of indeterministic deliberative processes in which “an agent assigns in an undetermined way evaluative weights to the reasons she has for each of the options she is

considering and her choice is a result of this indeterministic process” (2021, p.139).<sup>1</sup> Lemos writes:

[O]n the indeterministic weightings model that I will defend if two exactly similar agents, Mary and Mary\*, possessing exactly similar life histories and possessing exactly similar mental and brain states at the start of deliberation end up making different choices, then they would not be exactly similar during deliberation and at the moment of choosing. Rather, on the indeterministic weightings model, libertarian free choices are the result of the path that indeterministic deliberation processes go. As with modest libertarianism, any differences in the free choices of Mary and Mary\* are to be explained by the different paths that their deliberations go. (2021, p.139)

Lemos introduces Jane who is deliberating about whether to vacation in Hawaii or Colorado. She finds Hawaii attractive because of its snorkeling and surfing opportunities. She is drawn to Colorado because of the mountain vistas and prospects of whitewater rafting. How does she decide between the two assuming the same past right up to the time of choice and the same laws of nature? The principal driving force of the weightings model is that Jane makes one set of reasons—perhaps her Colorado- favoring reasons—prevail rather than the competing set by appropriately “weighting” the reasons in this set. Lemos explains:

Jane values the opportunities offered by both Hawaii and Colorado; that’s why it is hard to decide and that’s why she is led to deliberate. But there’s no reason to think that prior to deliberation one set of her values had any greater weight for her than the other. Rather, it may well be that in deliberating she must assign some greater value to the reasons for one option and some lesser value to the reasons for another option. Indeed, it may also be the case that these assignments of weights may be causally undetermined. Suppose that as Jane deliberates she assigns in an undetermined way a greater evaluative weight to snorkeling and surfing and lesser weight to mountain views and whitewater rafting, and suppose as well that her choice of the Hawaii vacation is dictated by this assignment of weights. Here we have a vision of her choice as the product of an indeterministic deliberative process which she controls by her assignment of weights to the reasons in favor of each of the options. She ends up choosing the Hawaii vacation because she gave the greater

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1. Carlos Moya (2015) also defends a weighting model. I discuss Moya views in Haji 2019, 99-101, 275-277.

weight to the reasons which support that option, but she could have chosen otherwise had she weighted her reasons differently. (2021, 142-43)

Lemos emphasizes that assigning weights to reasons is “something that the agent does intentionally and for reasons. Thus, the deliberative weightings model gives us just as much reason to think that whichever option is chosen the agent will be responsible for the choice made” (2021, 149-50).<sup>1</sup> There is theoretical motivation for weightings to be intentional actions: The following is a constraint—the “*agency constraint*”—on the adequacy of any account of why, or in virtue of what, an agent’s set of reasons to choose or to do something prevails in order that she be responsible for her choice. The agent must *do* something to make some set of reasons prevail and she must have control in doing whatever she does to make some set of reasons prevail. Roughly, of competing sets of the agent’s reasons, if one of these prevails, it must prevail by virtue of an exercise of her agency; the prevailing of some set of her reasons cannot be divorced from actions regarding which she has responsibility-level control. The rationale for the *agency constraint* is forthright: its satisfaction is necessary to evade the resurgence of the luck problem. Suppose you fail to do anything to make some of your reason states prevail. In Kane’s efforts account, since indeterminism lies between the effort and choice, your effort might fail, and this fans the flames of the luck objection. Similarly, with modest libertarianism more generally, if your deliberations leave it open which of your reasons prevail, and, thus, which choice you make, the choice you make seems to be a matter of luck. You contribute whatever you can to your making some choice, but the upshot—the choice you make—depends on which competing set of reasons prevail; sometimes one set prevails, sometimes some other, and it is not up to you which set prevails. Briefly, if some set of reasons prevails independently of an exercise of your agency, it seems that which set prevails is a matter of luck, and, thus, which choice you make is a matter of luck. If you make a reason to decide to do something prevail by weighting it appropriately, and weighting itself is something you intentionally do, then the *agency constraint* is *seemingly* satisfied.

I take up two problems that Lemos himself addresses with his weightings model: luck associated with intentional acts of weighting and the very freedom of these acts of weighting. Regarding the first, an initial concern arises in connection with just when the agent, *S*, performs the weighting action, *WA*,

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1. See, also, Lemos 2021, 143.

relative to the time,  $t$ , of  $S$ 's decision.  $S$  does  $WA$ , in the actual world,  $w$ , either before  $t$  or at  $t$ . Suppose  $WA$  is performed before  $t$ . Then the pre- $t$  pasts of the actual world  $w$ , and the germane contrast world  $w^*$  would *not* be identical, as they are supposed to be with the sort of indeterministic choice at issue. So, suppose  $S$  does  $WA$  at the very time of decision,  $t$ . Again, there are two possibilities. Either  $WA$ , supposedly performed at  $t$  (the time of decision), is free or it is not. If the latter, it is unclear how the decision to which the weighted reason gives rise, or that is otherwise appropriately associated with this reason, can be free. Assuming the position that  $WA$  is indirectly free fares no better; from which directly free action of the agent does  $WA$  inherit its freedom? Moreover, it appears that there would be an attendant problem of luck concerning this putative directly free ancestral action. This problem can be brought out by supposing that the weighting action,  $WA$ , itself is directly free. If  $WA$  is an intentional action, it appears that these acts themselves will be subject to luck in a fashion that simply resurrects the luck problem. To explain, imagine that in the actual world,  $w$ , Jane assigns greater weight to her reasons to holiday in Hawaii, and thereby makes these reasons prevail; they “trump” her Colorado-favoring reasons. Suppose, with the same past and the laws up to the time of assigning weights, Jane\* in some contrast world,  $w^*$ , makes her Colorado-favoring reasons prevail by weighting them more heavily than her Hawaii-favoring reasons. One may reasonably wonder what explains Jane\*'s intentional act of weighting in  $w^*$ , and what explains the differential outcomes in the two worlds, when both worlds have the same past until the moment of weighting and identical laws.<sup>1</sup>

Lemos' primary response to whether the weighting action itself is infected with responsibility-subversive luck appears to be that deliberation frequently occurs over some period of time. Different reasons for, let's suppose, two different choices, may come to the agent's mind during this period and she may continue to weigh these reasons as her deliberation progresses:

Even if Jane and Jane\* are exactly the same as they begin to weight the reasons for their options and even if due to indeterminacy in the deliberative process, they end up making different choices, it will not follow that their choices will be random happenings beyond their control. This is because whichever choices are made, it will be the intelligible result of the paths their thinking went, the reasons considered, and the weight given to those reasons in the light of other considerations. Such deliberation is controlled and intentional, even if indeterministic. (2021, 146)

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1. Lemos attributes this sort of concern to Neil Levy (2008; 2011, 70-71).

However, this is an ineffective response to the concern that the different weightings themselves are a matter of luck. During the process of deliberation, ponder each individual occurrence of weighting. Regarding the first occurrence, assume that Jane weights some reason in favor of A more heavily than some reason in favor of B in  $w$ . Since this intentional act of weighting is indeterministic, suppose that in a non-actual possible world,  $w^*$ , with the same past and the laws, Jane\* reverses this weighting. If this sort of thing is true for *each occurrence of weighting*, there is no reason to think that the luck objection regarding particular intentional acts of weighting has been avoided.

Lemos proposes that owing to the indeterminacy of the deliberation process, there is no way to ensure that two exactly similar agents who begin deliberating will have all the same thoughts and experiences as they deliberate. For instance, different considerations may indeterministically come to these agents' minds, the agents may weight these differently and, thus, the final outcomes of their deliberation may be different, one agent's indeterministic deliberation culminating in the choice of A, and the other's in the choice of B (Lemos 2021, 146-47).

Again, this fails to alleviate the problem of luck concerning the agent's intentional acts of weighting and the choices that result from these acts. Suppose Jane begins to deliberate at  $t1$  about where to vacation. Imagine that her first assignment of weights to reasons occurs at  $t2$ , and she indeterministically weights the reasons that favor holidaying in Colorado more heavily than those that favor going to Hawaii. In a contrast world with the same past up to  $t2$ , and the same laws, Jane\* reverses this assignment of weights. It appears that nothing that Lemos has on offer so far precludes the charge that Jane's first act of weighting that she performs at  $t2$  is luck-infected to the extent that its freedom is undermined. If so, there is no reason to suppose that the subsequent (or concurrent) choice Jane makes, whatever it is, is free.

Addressing, now, in more detail the freedom of intentional acts of weightings, as I proposed previously, these acts, if free, appear to be directly free. But what accounts for their freedom? On pain of an ugly regress, *not* prior weightings. Lemos' solution mirrors the solution Kane offers to account for the freedom of efforts of will; free intentional acts of weightings need be free only in a compatibilist sense of "free":<sup>1</sup>

So, for instance, when I am assigning weights to the reasons for each of my choice options, as long as I am not acting under coercion or subject

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1. Kane, 2011, fn14, 403-404; 2019, 156-157.

to hidden neural controllers and as long as I am responsive to reasons and weighting them in a manner consistent with my second order desires, then I may rightly be said to have control over the assigning of weights to the reasons. Thus, if I assign the weights in such a manner that establishes my control over the assignment of those weights, then I will have control over the decision that results from that assignment of weights. (2021, 151)

Responding to the obvious rejoinder that an indeterministic account of free action seems superfluous if foundational elements of the indeterministic weightings model—intentional acts of weighting themselves—need be free only in a compatibilist sense, Lemos writes:<sup>1</sup>

To act while meeting such compatibilist standards of control does not suffice for having *ultimate* responsibility for what one does. To act while meeting compatibilist standards, merely establishes that one's act issues from one's own character... However, if we lived in a deterministic universe such that all of our choices were necessitated, then we would not be able to shape the character from which most of our actions issue. For in a deterministic universe, the shaping of our character would just be the result of our genetics and environmental conditions. To shape our characters in a manner that allows us to be ultimately responsible for who we are and what we do, then some of our actions must be causally undetermined actions over which we exert PVC [plural voluntary control]. But we can only exert PVC over undetermined actions by having compatibilist control over events that transpire in the deliberation process which leads to choice - whether the efforts of will (Kane's view) or the assigning of weights to reasons (my view). For only then will the path of the deliberation be a reflection of our own character. (2021, 152)

This line of reasoning should be resisted. If weightings are actions that can be intentional and free, then, presumably, we can be morally responsible—morally praiseworthy or blameworthy—for them. Suppose John weights his reasons to steal far more heavily than he weights his reasons to refrain from stealing, and he weights on the basis of the non-culpable belief that he is doing moral wrong in performing this intentional act of weighting. In addition, assume that all other conditions of blameworthiness are in place regarding his weighting. Then John may well be blameworthy for his act of weighting.

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1. See, e.g., Mele 2006, 53 for this sort of rejoinder.

Compatibilists may even allow that John is ultimately responsible for his weighting when the notion of *ultimate responsibility* is analyzed in a suitable compatibilist fashion. For example, some compatibilists may claim that John is ultimately responsible for his action because he wholeheartedly identifies with it.<sup>1</sup> Others might propose that he is ultimately responsible because his action issues from a reasons-responsive process for which he has taken responsibility.<sup>2</sup> Yet others might claim that he is ultimately responsible because it is not the case that the act of weighting is generated by springs of action acquired as a result of bypassing John's considerable capacities of deliberative control.<sup>3</sup> However, if responsibility for an intentional action, such as a decision, requires that one be ultimately responsible for that decision and, furthermore, as libertarians such as Lemos insist, one cannot be ultimately responsible for an intentional action unless this action is aptly indeterministically produced, then one cannot be responsible for an intentional and free weighting if the freedom of weightings is not to be accounted for by any appeal to indeterminism but solely on the basis of some compatibilist expedient.

One may try to argue for the asymmetry that an account of free *decisions* may be different from an account of free *weightings*; the freedom requirements of these two sorts of intentional action differ. Weightings can be free and you can be responsible for them even when the account of freedom and responsibility is compatibilist through and through, but decisions can be free and you can be morally responsible for them only given both indeterminism and a supporting compatibilist account of free weightings. As far as I can see, Lemos does not supply a rationale for this asymmetry that any compatibilist should accept.

## Conclusion

I conclude that both Kane's hybrid modest EV/AC libertarianism, which invokes dynamic agent causation and indeterministic event causation, and Lemos' weightings variant, fall victim to the luck objection.<sup>4</sup>

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1. See, e.g., Frankfurt 1987.

2. See, e.g., Fischer and Ravizza 1998.

3. See, e.g., Mele 1995.

4. This paper was completed during my tenure of a 2017-2022 Social Sciences and Humanities Research (SSHRC) grant. I thank this granting agency for its support.

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