

Criminal Exam 1

Ralph was the operator of the carnival Ferris wheel. It was a tough life being a carnie, but Ralph did enjoy the screams of little children. Or at least he thought he enjoyed the screams. He couldn't be certain where the screams came from. Doc said they were all in his head. But he didn't know. All he knew was that there was loud screaming in his head. And sometimes he blacked out even when he wasn't drinking.

Zed operated the carnival freak show next to the Ferris wheel. One day the bearded lady came running out of the freak show tent crying. Zed was chasing after her, but stopped next to Ralph.

"Hey Ralph," said Zed, "can you hold my money bag while I go after the bearded lady?"

"No problem," said Ralph.

As soon as Ralph was handed the bag, the voices in his head got louder and louder. Soon the voices were screaming. He knew there was only one way to make the screaming stop. Ralph reached into Zed's money bag and grabbed \$100 and put it in his pocket. Oh that was better. Yes, the screaming was quiet now.

A little while later a local family who had come to see the carnival approached Ralph.

"Hello there, sir," the father of the family said, "you must be the freak show operator. Well there are four of us, so here is \$20."

Ralph took the money and put it in his pocket.

A little while later the man with the shrunken head walked out of the freak show tent.

"Wait a minute," said Ralph, "we can't have you leaving the show."

"But I need to leave," said the man's tiny mouth.

"Back inside with you!" Ralph said as he pushed the man with the shrunken head back into the freak show tent.

What common law crimes can Ralph be guilty of? What are his defenses?

Example Answer:

Embezzlement

Did Ralph commit embezzlement?

Embezzlement is the conversion of property of another by one who is already in lawful possession of it. Conversion is a specific intent crime requiring an actual intent to defraud.

Here Ralph took one hundred dollars from Zed's money bag. Ralph was in lawful possession of the money at the time as Zed had asked Ralph to hold the bag while he chased the bearded lady. The facts are unclear what Ralph was thinking at the time he took the \$100 out of the bag as there was a lot of screaming in his head. The fact that he put the money in his pocket, however, shows an intent to keep the money and defraud Zed out of his money.

Ralph likely committed embezzlement.

Defenses: Ralph may be able to argue mental illness as a defense.

In order use the defense of mental illness the defendant must show he or she was insane at the time the act was committed.

There are four tests for the defense of mental illness which might be considered by the court in evaluating Ralph: The M'Naghten rule, the irresistible impulse standard, the federal standard, and the Model Penal Code standard.

The M'Naghten rule states that a defense of insanity is proper where the defendant suffered a mental disease where he did not know the nature and quality of his act or he did not know his act was wrong. Here there is no indication that Ralph did not know right from wrong, only a very loud voice in his head. Ralph would probably not be able to claim the defense of mental illness under the M'Naghten rule.

The irresistible impulse standard states that a defense of insanity is proper where the defendant suffered a mental disease where he was unable to control his conduct and acted under an irresistible impulse. Here the voice was screaming in Ralph's head and would not stop until he took the \$100 from the bag. This is a close call as to how much control Ralph had over his own conduct. If the court concludes that Ralph did have control over his own conduct he will not be able to claim the defense of mental illness under the irresistible impulse test. However, because the screaming did stop once Ralph took the \$100 it is likely that a trier of fact would find that Ralph did not have control over his actions. Therefore Ralph

may be able to claim the defenses of mental illness under the irresistible impulse standard.

Under the federal standard, a defense of insanity is proper where the defendant, as a result of a severe mental disease, was unable to appreciate the nature and quality or the wrongfulness of his acts. Here there is no indication that Ralph did not understand that he was taking \$100 from Zed or that his actions were wrong. Ralph would probably not be able to claim the defense of mental illness under the federal rule.

Under the Model Penal Code standard a defense of insanity is proper where the defendant, as a result of a severe mental disease or defect, lacks substantial capacity to either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law. As stated previously there is no indication that Ralph did not know or appreciate that he was taking money from Zed. The screaming in his head, however, may have forced him to take the money and thus be unable to conform his conduct to the requirements of the law. Ralph may be able to claim the defense of mental illness under the Model Penal Code standard.

Ralph likely committed embezzlement, but under either the M’Naghten rule or the Model Penal Code Ralph may be able to claim the defense of mental illness if the trier of fact finds that the screams in his head forced him to take Zed’s money.

False pretenses

Did Ralph commit the crime of false pretenses?

False pretenses is knowingly falsifying or concealing a material fact to fraudulently induce another to pass or receive title to property. False pretenses is a specific intent crime requiring an intent to defraud.

Here when the family approached, Ralph did not tell them he was not in charge of the freak show. He stayed silent, took the family’s money, and put it in his pocket. By not telling the family he was not in charge of the freak show he was concealing a material fact to induce the family to pay him money. The facts are silent on Ralph’s intent, nevertheless, because Ralph put the money in his pocket he was showing an intent to keep the money and defraud the family.

Ralph is guilty of the crime of false pretenses.

Battery

Did Ralph commit the common law crime of battery?

Battery is an unlawful application of force to the person of another that results in physical harm or an offensive touching. Battery is a general intent crime requiring only an intent for the force, not the physical harm or offensive touching.

Here Ralph pushed the man with the shrunken head. The pushing was an application of force to another. There is no indication that the man with the shrunken head wanted to be pushed and a reasonable person would find being shoved offensive.

Ralph likely committed the common law crime of battery.

False imprisonment

Did Ralph falsely imprison the man with the shrunken head?

False imprisonment is the unlawful confinement of a person without his valid consent. False imprisonment is a general intent crime requiring only an intent to confine the person.

Here Ralph would not allow the man with the shrunken head to leave the freak show tent. Not allowing the man with the shrunken head to leave was an unlawful confinement and the fact that the man wanted to leave shows that Ralph did not have his consent to confine him.

Ralph is likely guilty of the common law crime of false imprisonment.