

## **Criminal Exam 11**

Buster was riding his bike down a dark alley in Stinkville when he saw Isabella picking through someone else's garbage. Buster told Isabella that she was better than that and that he had a great get rich quick scheme. Buster and Isabella agreed that Buster would pose as a drunken bum outside of a jewelry store. While Buster created a commotion, Isabella would be pretending to look at jewelry. As soon as the opportunity presented itself, Isabella would grab the jewelry and run out of the store. Buster would then attempt to delay any pursuit.

That afternoon, Buster and Isabella set off for the jewelry store. Buster walked around out front looking drunk and crazy and screaming profanity. Isabella walked into the store and started trying on expensive necklaces. When Isabella ran out of the store, Buster jumped in front of the store's door to block anyone from following her. After a few minutes, Buster spotted the necklace Isabella was trying on still sitting on the counter. It turned out that Isabella had changed her mind and decided not to steal anything. Buster then took out a gun, pointed it at the sales clerk who had been helping Isabella, grabbed the necklace and ran out of the store.

What common law crimes can Buster be charged with? What are his defenses?

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## **Example Answer:**

### Conspiracy

Can Buster be charged with conspiracy?

A conspiracy is an agreement between two or more persons to do an unlawful act. The agreement can be through words or actions alone. In addition, assisting with preparations to commit the unlawful act are enough for a conspiracy. Conspiracy is a specific intent crime, the co-conspirators must have the intent to complete the unlawful act.

Here, Buster and Isabella had an agreement to steal from a jewelry store. Buster and Isabella even went to the jewelry store and started the plan. There was an agreement to commit an unlawful act, namely larceny between Buster and Isabella. This is enough for a conspiracy to have been committed.

Buster may attempted to argue that since Isabella did not leave the store with any jewelry she had no intent to commit the crime. This fact is irrelevant as both Buster and Isabella had the intent to commit the crime up until Isabella apparently changed her mind. The fact that the agreed to plan was never completed is irrelevant, the crime is complete upon the formation of the agreement with the requisite intent.

Buster can be charged with conspiracy to commit larceny.

### Assault

Can Buster be charged with assault?

Assault is an attempt to batter or intentionally placing another in fear of imminent bodily harm. Assault is a specific intent crime requiring an intent to batter or place another in fear of a battery.

Here Buster pulled a gun on the sales clerk. This action would have reasonably placed the sales clerk in fear of imminent bodily harm, that is being shot. Finally, Buster did have the specific intent mental state required for assault. From the facts it appears that even if Buster did not intend to shoot the sales clerk, he certainly wanted to place her in fear of being shot.

Buster has committed assault.

## Robbery

Can Buster be charged with robbery?

Robbery is a larceny where the personal property is taken in the presence of the owner by force or threat of force. Robbery is a specific intent crime requiring an intent to steal a particular item.

Here Buster also took the necklace and left the store. This was the taking of personal property of another. Buster also pulled out a gun and pointed it at the sales clerk. As explained under assault (above) the sales clerk, upon seeing the gun, would have reasonably feared a threat of force. Buster has therefore taken the personal property of another by threat of force. This is a robbery.

Buster can be charged with robbery

## False Imprisonment

Can Buster be charged with False imprisonment?

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 Buster blocked the doorway of the store and would not let anyone leave for several minutes. This is the unlawful confinement of everyone in the store without their consent. Buster intended to confine the people in the store as he believed he was helping Isabella escape with jewelry.

Buster can be charged with false imprisonment.

## Accomplice Liability for Attempted Larceny

Can Buster be charged with accomplice liability for attempted larceny?

An accomplice aids, abets, encourages or assists the carrying out of a crime. Accomplice liability is a specific intent crime requiring the intent to aid in the commission of the crime. An accomplice is liable for the crime itself.

Here Buster was certainly trying to help Isabella commit a larceny by distracting people and then by blocking anyone's exit from the store after Isabella left.

Under accomplice liability, Buster will be charged for the crime itself so we must examine whether Isabella can be charged with attempted larceny. If Isabella can be charged with attempted larceny, then Buster can also be charged with attempted larceny through accomplice liability.

Larceny is the taking and carrying away of personal property of another without consent and with intent to steal. Larceny is a specific intent crime requiring the intent to steal a particular item. An attempted crime is the commission of an overt act which is a substantial step in the completion of the crime.

Here Isabella entered the store with Buster outside causing a commotion. She also began looking at various jewelry presumptively with the intent to steal that jewelry. These are both substantial steps in the completion of the larceny.

As Isabella would be able to be charged with attempted larceny, Buster, through accomplice liability is guilty of attempted larceny as well.

Buster can be charged with accomplice liability for attempted larceny. Under the common law Buster would be charged with the crime itself, namely attempted larceny.