

Criminal Exam 12

Emily was sitting on a park bench when Abigail came out of no where and started pummeling her.

“That’s right Mary!” screamed Abigail, “That’s what you get!”

During the one-sided brawl Abigail’s two caret diamond ring flew off sending the diamond to the ground and the ring portion into the bushes.

“What do you want?!?” cried Emily. “I’m not Mary!!”

Just then Abigail stopped pummeling her. Abigail spotted the diamond on the ground and picked it up.

“This will due for now,” Abigail said with a smile. “Looks like Mary’s diamond is mine now. Ha!”

“Next week,” Abigail said, “you’d better get me a second diamond to match this so I can make earnings. If you don’t--- oh help you if you don’t --- I’ll beat you silly, Mary”

Emily ran away crying got a similar diamond and gave it to Abigail.

What common law crimes can Abigail be charged with? What are her defenses?

Example Answer:

Battery

Can Abigail be charged with 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 generally intent crime requiring only an intent for the force, not the physical harm or offensive touching.

Here the facts indicate that Abigail repeatedly pummeled Emily. There is every indication that Abigail intended to apply force to Emily. Abigail may attempt to argue that she intended to pummel Mary, not Emily and therefore lacked the requisite mens rea to complete the crime. This argument will fail as battery is a general intent crime only requiring an intent to use force and nothing more. Under these facts Abigail clearly intended to beat-up someone.

Abigail can be charged with battery.

Extortion

Can Abigail be charged with extortion?

Extortion is the taking of property of another with the threat of future harm. Extortion is a specific intent crime requiring the intent to take property of another.

Here Abigail threatened Emily with further beatings should Abigail not get a second diamond next week. Emily then went and got Abigail a second diamond. This was the taking of property, the diamond, of another, Emily, under the threat of future harm, i.e. getting beat-up next week.

Abigail may again attempt to argue she lacked the requisite mens rea to complete the crime of extortion as she believed she was speaking with Mary not Emily. This argument will fail. While extortion is a specific intent crime, it only requires an intent to take property of another. Here Abigail absolutely intended to take a diamond not belonging to her.

Abigail can be charged with extortion.

Larceny

Can Abigail be charged with Larceny?

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.

Here Abigail picked up her own diamond believing it was Emily's/Mary's. Abigail did intend to steal the item.

Abigail, however, can successfully argue the defense of legal impossibility. Based on the facts of this case, the diamond belonged to Abigail and it would be legally impossible for her to steal it.

Abigail is not guilty of larceny.

Attempted Larceny

Can Abigail be charged with attempted larceny?

As stated above, larceny is the taking and carrying away of personal property of another without consent and with intent to steal. An attempted crime is the commission of an overt act which is a substantial step in the completion of the crime.

Here Abigail picked up her own diamond believing it was Emily's/Mary's with an intent to steal the item. Abigail did intend to steal the item.

Just as with the crime of larceny, Abigail can successfully argue the defense of legal impossibility. Based on the facts of this case, the diamond belonged to Abigail and it would be legally impossible for her to steal it.

Abigail is not guilty of attempted larceny.