

Criminal Exam 13

Jesse needed money. He saw Oscar, an ex con, walking down the street.

“Hey Oscar,” said Jesse, “how about you rob that bank over there and get me some money.”

“I don’t think so,” said Oscar.

Jesse grabbed Oscar by the arm and yanked him towards him.

“How can I convince you?” asked Jesse.

“You can’t,” said Oscar.

“Well I’m not letting you go,” said Jesse.

Oscar had \$5 in his shirt pocket and Jesse grabbed it.

“This is mine,” said Jesse.

“Look,” said Oscar, “if you’d like to actually *earn* some money, take these tractor parts over to the old farm house across town. I’ll pay you \$20.”

“OK,” said Jesse, letting Oscar go. As Jesse walked away, he decided to just keep the tractor parts for himself.

What common law crimes is Jesse guilty of? What are his defenses?

Example Answer:

Solicitation

Is Jesse guilty of solicitation?

Solicitation is asking another to commit a crime. It makes no difference whether the other person agrees to the request. Once the question is asked, the crime is completed.

Here Jesse asked Oscar to rob a bank. It makes no difference that Oscar refused the request. Upon asking, Jesse was guilty of the crime.

Jesse is guilty of solicitation.

Battery

Is Jesse guilty 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 Jesse grabbed Oscar's arm and yanked it without Oscar's permission. The grabbing and yanking of the arm was an unlawful application of force without consent.

Jesse is guilty of battering Oscar.

False imprisonment

Is Jesse guilty of 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 Jesse held on to Oscar and would not let him go. This is the confinement of Oscar without his consent.

Jesse is guilty of false imprisonment of Oscar.

Larceny

Is Jesse guilty of 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 Jesse took \$5 from Oscar without Oscar's consent. Jesse never gave the money back and simply walked away with it. This is larceny and not robbery as Jesse did not use force or the threat of force to take the money.

Jesse is guilty of larceny.

Embezzlement

Is Jesse guilty of 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 Jesse was in lawful possession of the tractor parts as he had Oscar's permission to deliver them to the old farm house. When Jesse decided to keep the tractor parts he had actual intent to defraud both Jesse and whoever at the farm house was receiving the parts.

Jesse is guilty of the crime of embezzlement.