

## **Criminal Exam 15**

It was 1:00 a.m., Nora had just smashed through a second story window and crawled inside Harvey's house. Harvey was in the basement working on his prized model trains. Nora surprised Harvey in the basement and chained him up. Nora took one of Harvey's model trains and raised her fist as if to strike Harvey and then left the premises, telling Harvey she'd be back to deal with him later. Nora returned the next three nights, giving Harvey a little food and water and taking additional various items from the house. When she returned the fourth night, Harvey was dead.

What common law crimes is Nora guilty of? What are her defenses?

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## **Example Answer:**

### Burglary

Is Nora guilty of burglary?

Burglary is the breaking and entering of the home of another at night with the intent to commit a felony inside. Burglary is a specific intent crime requiring that the intent to actually commit a felony inside the home.

Here Nora smashed through a second story window, which is a breaking; at night; with presumably the intent to commit larceny inside. Even if this was not her intent the first night it became apparent after the 2, 3 and 4<sup>th</sup> nights that she was intending to continue to steal from Harvey.

Nora is guilty of burglary.

### False imprisonment

Is Nora 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 Nora confined Harvey by chaining him up without his consent. Nora wished to keep Harvey changed up and therefore had the requisite intent to confine Harvey.

Nora is guilty of the crime of false imprisonment.

### Kidnapping

Is Nora guilty of kidnapping?

Kidnapping is the unlawful confinement and moving of victim or the unlawful confinement of victim in secret. Kidnapping is a general intent crime requiring only an intent to unlawfully confine the victim.

As explained above, Nora unlawfully confined Harvey. While she did not move Harvey she did confine him in secret. As explained above, Nora had the general intent to confine Harvey.

Nora is therefore guilty of kidnapping as she was confining Harvey in secret.

## Larceny

Is Nora 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 on the first night and on subsequent nights Nora took items and carried them away from Harvey house presumably with the intent to steal them and deprive Harvey of them. Based on the facts, Nora took each of the items on purpose and therefore met the specific intent required for larceny.

Nora is guilty of larceny.

## Murder

Murder is the unlawful killing of a person with malice aforethought. Murder is a general intent crime requiring only "malice aforethought" which means either an intent to kill, an intent to cause serious bodily harm, or an intent to commit a dangerous felony.

Here Nora unlawfully killed Harvey. While Nora may attempt to argue that the killing was an accident, and that she gave Harvey food and water. This argument will fail as the killing took place during multiple felonies, namely burglary and kidnapping. Under the felony-murder rule, because Nora intended to commit those felonies, Nora is responsible for any resulting murders occurring during those felonies.

Nora is guilty of murder.