

## Criminal Exam 16

Ella worked as a massage therapist. She had just finished Laura's massage when Laura began to complain.

"That was the worst massage I've ever gotten," Laura said. Laura got out her checkbook to pay, but then changed her mind.

"That massage wasn't worth anything," she complained some more. "In fact, I'm going to take some of your massage oil as payment to me for the damage you have done to me. You're lucky I don't sue."

Laura picked up the bottle of massage oil and started walking for the door.

"Hey," said Ella, "get you're thieving self back here." Laura ignored her and kept walking. Ella then tried to grab Laura, but missed. Laura just laughed as she walked out the door.

After Laura left Ella noticed Laura's checkbook on the floor.

"Well what do we have here?" said Ella.

Ella took out a check and wrote herself a payment for her services, the massage oil, plus a healthy tip.

"That seems fair," said Ella to herself.

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

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## **Example Answer**

### Attempted battery

Is Ella guilty of attempted battery?

An attempted crime is the commission of an overt act which is a substantial step in the completion of the crime. A 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 Ella attempted to grab Laura as she left. Had Laura succeeded her grabbing Laura would have been an unlawful application of force resulting in an offensive touching. Laura attempting to grab Laura was an overt act which was a substantial step in completion of a battery, i.e. grabbing Laura.

Ella's attempt to grab Laura was an attempted battery. Ella is guilty of attempted battery attempted battery.

### Assault

Is Ella guilty of assault?

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

As explained above, Ella is guilty of an attempted battery, she is therefore guilty of assault.

### Defense of property

Can Ella claim the defense of property to excuse her from her attempted battery and assault?

A person has the right to use non-deadly force to defend his property against an unlawful taking. Here, Laura unlawfully took Ella's massage oil after. Ella initially tried to use words alone to get Laura to stop. When Laura kept on going Ella tried to grab her. This is appropriate non-deadly force to defend property from a larceny.

Ella can use the defense of property to excuse her from her attempted battery and assault.

## Forgery

Is Ella guilty of forgery?

Forgery is the material altering a document with intent to defraud. Forgery is a specific intent crime requiring an intent to defraud.

Here Ella took Laura's checkbook and wrote herself a check. This was the materially altering of a document, namely the writing of a check with the intent to defraud Laura out of her money.

Ella is guilty of forgery.