

Criminal Exam 7

Jessica owned 50 acres of land in the desert. She knew that she did not own the water rights to this land which would make it impossible for someone to build houses on this land. Jessica really needed money, however, as her two small children desperately needed surgery to correct a heart defect. If her children did not get the surgery, they would die.

Jessica advertised the land for sale in the paper as, "50 acres in the desert. Near Las Vegas. Water right included. \$2,500,000."

Bob Buyer met with Jessica and told her that he would pay her full asking price provided that the water rights were included. Jessica assured Bob Buyer that the water rights were included. Bob Buyer handed Jessica a check for \$2.5M and Jessica handed Bob Buyer the deed to the 50 acres.

Jessica, however, decided that the property was worth even more and changed the check to indicate that it was for \$3.5M. Jessica then endorsed the check and cashed it.

Bob Buyer didn't have \$3.5M in his account, he only had \$2.5M and the check bounced.

Bob Buyer then confronted Jessica with the changed check. Jessica pulled a gun out of her purse pointed it at Bob Buyer and said, "if you don't make that \$3.5M check good within the month, I'll kill you!"

What common law crimes can Jessica be guilty of? What are her defenses?

Example Answer

False pretenses

Can Jessica be guilty of false pretenses?

False pretenses is knowingly falsifying or concealing a material fact to fraudulently induce another to pass or receive title to property. False pretenses is a specific intent crime requiring an intent to defraud.

Here Jessica knowingly falsified a material fact when she told Bob Buyer that she owned the water rights to the property. She told Bob Buyer this lie in order to get the maximum price for her property and to induce Bob Buyer to purchase the property.

Jessica can be guilty of the crime of false pretenses.

Forgery

Can Jessica be 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 Jessica changed the check from a \$2.5M check to a \$3.5M check. The changing of the two to a three materially altered the check for the purpose of defrauding Bob Buyer out of an extra \$1M.

Jessica can be guilty of the crime of forgery.

Assault

Can Jessica be guilty of assault?

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

Here Jessica pointed a gun at Bob Buyer and told him he had one month to get her the extra \$1M. While this might place Bob Buyer in fear, the question is if the fear is a present fear or one for future harm. This is a close call. Although Jessica said she was going to kill Bob Buyer in one month, anytime someone pulls a gun on you would reasonably induce immediate fear.

On balance, even though Jessica said she would not kill him for a month, the act of pulling out a gun would likely cause fear of imminent bodily harm. Because the fear of bodily harm was both a future one and a present one, Jessica is likely guilty of the crime of assault.

Extortion

Did Jessica commit 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 Jessica threatened Bob Buyer with death if he did not get her an extra \$1M in one month's time. This was the taking of property of another, that is the \$1M with the threat of future harm, that is death in one month's time.

Jessica likely committed common law extortion under these facts.