

## Criminal Exam 9

Rich Valley High was the high school where all of the rich kids went. Dave, was not a rich kid, he was actually an undercover cop, who pretended to be student. Dave noticed that Amber always seemed to be a little jittery and suspected she was on the new designer drug "jitters" which consisted of a combination of cocaine, crystal meth, ecstasy, and a shot of Gin. Amber was on jitters and would often steal other kids lunch money by telling them she'd kick their teeth in if they did not give her the money. Other times she would just grab their cash when they were not looking.

Dave began watching Amber closely. Twice a week for four weeks Dave would approach Amber and ask to buy some jitters from her. Amber always told Dave to get lost until one day when Amber reluctantly agreed as long as Dave would "leave her alone." Amber handed Dave a bag of jitters and Dave handed Amber \$300.

As Amber took the \$300 her arm inadvertently shot out and hit Dave in the face.

"Oh, I'm sorry," Amber said, "I'm just so jumpy that my arm must have hit you spontaneously."

"That's OK," said Dave putting hand cuffs on her, "these should keep your jumpy hands under control."

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

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## **Example Answer:**

### Infancy defense

Can Amber argue the infancy defense?

Under common law persons under age 7 were incapable of committing a crime and persons age 7-14 have a rebuttable presumption that they are incapable of committing a crime.

Under our facts, Amber's age is not given except to indicate that she is in high school. It is possible Amber is only 14. If she is there would be a rebuttable presumption that she was incapable of committing the crimes below.

### Assault of other kids

Is Amber 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 Amber told the other children that she would kick their teeth in. These words would reasonably place one of Amber's classmates in fear of imminent bodily harm, i.e. that is that their teeth would be kicked in.

Under these facts, Amber is guilty of assault.

### Larceny

Is Amber be 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 Amber carried away property of the other children, i.e. their lunch money, with the intent of keeping it for herself and not returning it.

Under these facts, Amber can be guilty of larceny.

### Robbery of other kids

Is Amber guilty of Robbery?

Robbery is a larceny where the personal property is taken in the presence of the owner by force or threat of force. Robbery is a specific intent crime requiring an intent to steal a particular item.

Here Amber got the other children to give her their lunch money by threatening to kick their teeth in. The threat of having teeth kicked in is a threat of force in the presence of the children Amber was taking the lunch money from.

### Battery of Dave

Is Amber guilty of battering Dave?

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 to use the force, not the physical harm or offensive touching.

Here Amber applied force to Dave which resulted in an offensive touching, i.e. she hit him.

Defenses: Amber should be able to argue the defense of automatism. Amber only hit Dave because her arm jerked uncontrollably. Automatism is a mental or physical condition preventing the act from being voluntary. Under our facts, Amber's arm movement was apparently involuntary.

Because the battery was the result of Amber's automatism and because Amber did not have the requisite intent to move her arm or cause physical harm to Dave, Amber is not guilty of battering Dave.

### Selling Drugs

Although present in modern criminal statutes, at common law there was no crime of selling drugs.