

EXAMINER'S ANALYSIS OF QUESTION NO. 15

MCL 750.530 defines unarmed robbery:

- (1) A person who, in the course of committing a larceny of any money or other property that may be the subject of larceny, uses force or violence against any person who is present, or who assaults or puts the person in fear, is guilty of a felony punishable by imprisonment for not more than 15 years.
- (2) As used in this section, "in the course of committing a larceny" includes acts that occur in an attempt to commit the larceny, or during the commission of the larceny, or in flight or attempted flight or after the commission of the larceny, or in an attempt to retain possession of the property.

The elements of unarmed robbery are that a defendant:

1. used force or violence against any person who was present or assaulted or put the person in fear;
2. in the course of committing a larceny;
3. while unarmed. MCL 750.530; M Crim JI 18.2.

Unarmed robbery is a specific intent crime. The defendant must have intended to permanently deprive the owner of the money or property. *People v Harverson*, 291 Mich App 171, 177-178 (2010); *People v Dupie*, 395 Mich 483,487 (1975).

The element of force, violence, or assault is satisfied even if it does not occur until after the money or property is taken. *People v Smith-Anthony*, 494 Mich 669, 686 (2013). The word "force" has been defined to include the exertion of "strength or physical power" and does not require an act of violence to the person. *People Passage*, 277 Mich App 175,178 (2007).

The element of specific intent that must be established is that the defendant intended to "permanently deprive the owner of the money or property. This requirement can be met in a number of ways. It is not only met by establishing the defendant had the intent to "permanently deprive" the owner of money or property. *People v Jones*, 98 Mich App 421, 425-426 (1980). The specific intent requirement can be established by keeping the property with the lack of purpose to return it within a reasonable time and in an unchanged condition, disposing of the property, keeping it in

exchange for compensation, transferring the property, and in other ways. *Jones*, 98 Mich App at 426.

In this case, Dan took the property (ring) which belonged to Pauline. Pauline was in the area when the theft occurred. However, she would not be deemed close enough to her purse such that it could be considered to be within her immediate presence. Dan was not armed when he took the ring. The taking of the ring was not accomplished by force, violence, assault, or by putting Pauline in fear. However, Dan did use force "in the course of the larceny" toward a person, Gail. This force was used by Dan after the taking of the ring as Dan was leaving the bar to get away from Pauline. While the act of force was minimal, it was sufficient to thwart Gail's attempt to prevent Dan from leaving the bar with Pauline's ring. *Passage*, 277 Mich App at 178.

As to the element of "permanently depriving" Pauline of the ring, Dan's express intent was to use it as collateral for John's repayment of his loan. Keeping the ring as collateral satisfies the definition of "permanently deprive." *Jones*, 98 Mich App at 426; *Harverson*, 291 Mich App at 177-178.

Both of Dan's arguments that he cannot be guilty of unarmed robbery would fail because he did use force in the course of taking the ring and intended to "permanently deprive" Pauline of the ring.