

The ringmaster of a circus recognized a man sitting in the front row at one of his shows as his ex-wife's new boyfriend. Bitter and jealous, the ringmaster told one of the clowns who worked in the circus to choose the man to be a part of the show when it came time to involve members of the audience. He also instructed the clown to punch the man in the stomach once the other clowns were running around the stage and doing pranks for the audience. When it came time to involve audience members, the clown picked the man, and the man agreed to come on stage. The clown subsequently punched the man in the stomach as planned. The clown immediately regretted doing so, and he blurted out that the ringmaster had told him to do it. The man suffered internal bleeding as a result of the punch.

Can the ringmaster be properly convicted of battery?

- A. No, because the man implicitly consented to the battery by agreeing to be a part of the show.
- B. No, because the ringmaster can only be properly convicted of solicitation.
- C. Yes, because the clown's intent to punch the man was transferred to the ringmaster under the doctrine of transferred intent.
- D. Yes, because the ringmaster told the clown to punch the man in the stomach.

Explanation:

Criminal battery is the unlawful application of force to another that results in harmful or offensive contact. Although the force can be applied directly by the defendant, this requirement is also met if the defendant:

ordered another person to apply force, thereby acting as an [accomplice](#) or

set an object in motion that resulted in the application of force (eg, by throwing a rock at the victim).

Here, the ringmaster ordered the clown to punch the man in the stomach (unlawful application of force). The clown did so, causing the man to bleed internally (harmful contact). As a result, the ringmaster can be properly convicted of battery.

(Choice A) Consent to conduct that may cause bodily injury is a defense to battery when, in the case of a sporting event or similar activity, the defendant's conduct and the victim's injury were reasonably foreseeable. But here, it was not reasonably foreseeable that the man would sustain a punch that caused internal bleeding by participating in a circus show.

(Choice B) Solicitation occurs when a person (1) entices, encourages, requests, or commands another to commit a crime (2) with the specific intent that the crime be committed. If the crime is completed, the soliciting party is liable for the crime as an accomplice and the solicitation [merges](#) with the completed crime (as seen here).*

*Had the clown ignored the ringmaster's order, the ringmaster would only be guilty of solicitation.

(Choice C) Under the doctrine of [transferred intent](#), a defendant's intent to harm one person is transferred to another whom the defendant unintentionally harmed while attempting to harm the first person. This doctrine does not transfer intent from a person acting under the defendant's direction to the defendant.

Educational objective:

For battery, the defendant can unlawfully apply force to another by (1) applying the force directly, (2) ordering another person to apply force, or (3) setting an object in motion that results in the application of force.

Battery

