

A man admired his coworker's wristwatch and frequently said how much he wished he had one like it. The coworker decided to give the man the watch for his birthday the following week. On the weekend before the man's birthday, the man and the coworker attended a company picnic. The coworker took his watch off and left it on a blanket when he went off to join in a touch football game. The man strolled by, saw the watch on the blanket, and decided to steal it. He bent over and picked up the watch. Before he could pocket it, however, the coworker returned. When the coworker saw the man holding the watch, the coworker said, "I know how much you like that watch. I was planning to give it to you for your birthday. Go ahead and take it now." The man kept the watch.

Which crime has the man committed?

- A. Attempted larceny.
- B. Embezzlement.
- C. Larceny.
- D. No crime.

Explanation:

Larceny is the:

unlawful taking and **carrying away** of another's personal property with the **specific intent to permanently deprive** the owner of that property (ie, intent to steal).

An unlawful taking occurs when the defendant removes the property from the owner's possession and control without consent. Property is carried away as soon as the defendant moves it a short distance (eg, mere inches). And once the defendant has committed larceny, it is **no defense** that the **owner later consented** to the taking.

Here, the man grabbed the coworker's watch without his permission (unlawful taking) and picked it up (carrying away) with the intent to steal it. Although the coworker then told the man that he could have the watch, the coworker's consent is not a defense because it was given *after* the man had committed larceny (**Choice D**).

(Choice A) Attempted larceny occurs when the defendant (1) possesses the specific intent to steal, (2) commits an overt act in furtherance of the theft, but (3) does not complete it. But here, the man *completed* the larceny once he bent over and picked up the watch.

(Choice B) Embezzlement requires proof that a person in lawful possession of another's property fraudulently converted it. Lawful possession occurs when a person possesses or controls the property with the owner's permission. Here, the man did not lawfully possess the watch when he picked it up because he did not have the coworker's permission to do so. Therefore, the man did not commit embezzlement.

Educational objective:

Larceny is the (1) unlawful taking and carrying away of another's personal property (2) with the specific intent to permanently deprive the owner of that property. And the owner's consent to the taking after the defendant has completed the larceny does not negate the defendant's criminal liability.

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