

A man intended to rob a local convenience store that was rumored to contain a large safe. One night, the man walked into the convenience store, pointed a gun at the store owner, and demanded to know where the safe was kept. Frightened, the store owner pointed to a storage room located at the back of the store and approximately 20 feet from where the man and the store owner were standing. The man then moved the store owner to the storage room and forced him to open the safe. The man fled after taking the money in the safe, and the store owner immediately called the police. The man was later arrested and charged with robbery and kidnapping.

Can the man be properly convicted of kidnapping?

- A. No, because the man did not move the store owner more than was necessary to complete the robbery.
- B. No, because the storage room was only 20 feet away from the store owner.
- C. Yes, because the man unlawfully moved the store owner into the storage room during the commission of the robbery.
- D. Yes, because the man's conduct amounted to confinement of the store owner.

Explanation:

Kidnapping

Common law	Forcibly abducting or stealing person from his/her own country & sending to another country	
MPC	Unlawfully moving or confining another to: hold for ransom or as hostage facilitate commission of felony or flight thereafter injure/terrorize victim or another <i>or</i> interfere with governmental/political function	
Modern view	General	Intentional & unlawful confinement involving: some movement (asportation) <i>or</i> concealment
	Aggravated	General kidnapping committed for: ransom commission of other crime offensive purpose <i>or</i> child stealing

MPC = Model Penal Code.

Kidnapping is:

the intentional and unlawful **confinement** of another **against** that **person's will** (eg, by force, threat, or fraud) coupled with either **moving** or hiding that person.

A perpetrator need only **move the victim** a short distance—even a few feet—to satisfy the movement (ie, asportation) element of kidnapping (**Choice B**). However, for a kidnapping to occur **incident to** the commission of **another offense**, the movement of the victim must be **more than is necessary to complete** the **other offense**.^{*} Otherwise, the perpetrator cannot be convicted of kidnapping.

Here, the man entered the store intending to commit robbery. The man then pointed a gun at the store owner (force) and moved him into the storage room (confinement) so that the store owner could open the safe. But since the movement of the store owner was no more than was necessary to complete the robbery, the man cannot be properly convicted of kidnapping (**Choices C & D**).

*Courts will consider several factors, including (1) the duration and significance of the movement, (2) whether the movement was an inherent part or independent of the other offense, and (3) whether the movement made the other offense easier to commit.

Educational objective:

For a kidnapping to occur incident to the commission of another offense, the victim must be moved more than is necessary to complete the other offense.

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