

A woman was the trustee of a trust fund. The corpus of the fund was invested in certificates of deposit and high-grade bonds. When one of the certificates of deposit, in the amount of \$100,000, matured, the woman cashed the certificate and invested the proceeds under her own name in a speculative stock. In three months, the value of the stock had soared, and the woman sold the stock for \$200,000. With the proceeds of the sale, the woman purchased a \$120,000 certificate of deposit in the name of the trust. She gave the remaining \$80,000 to charity.

The woman is charged with embezzlement. Under the applicable statute, the degree of the crime (and, hence, the severity of the authorized punishment) depends upon the value of the property embezzled.

Of what crime, if any, could the woman properly be convicted?

- A. Embezzlement of \$200,000. (11%)
- B. Embezzlement of \$100,000. (67%)
- C. Embezzlement of \$80,000. (14%)
- D. No embezzlement crime. (7%)

Correct

67% Answered correctly

01 min, 09 secs Time Spent

2023 Version

Explanation:

Comparison of property offenses

	Actus reus	Mens rea
Embezzlement	Conversion of <i>lawfully</i> possessed property that belongs to another	Specific intent to defraud/permanently deprive
Larceny	<i>Unlawful</i> taking & carrying away of another's property	
Larceny by trick	Knowingly misrepresenting a material fact to obtain <i>possession</i> of another's property	
False pretenses	Knowingly misrepresenting a material fact to obtain <i>title</i> to another's property	

Embezzlement is the **fraudulent conversion of another's property** by a person **in lawful possession** of that property. Conversion is the inappropriate use of property in a manner that substantially interferes with the owner's right to the property. This occurs when the defendant treats the property as his/her own or uses it for his/her own purposes—even if the defendant does not personally benefit. A conversion remains fraudulent even if the defendant intends to replace the converted property with similar property of equal or greater value.

Here, as trustee of the trust fund, the woman lawfully possessed the certificate of deposit. She then fraudulently converted the certificate of deposit by cashing it and investing the proceeds under her own name in the speculative stock. And though the woman did not benefit from the conversion because she later returned a greater amount of money to the trust and donated the remaining amount to charity, she still committed embezzlement **(Choice D)**.

The severity of the **punishment** authorized by law **depends on the amount** the woman **embezzled**. The amount of an embezzlement is **measured by the value of the property** at the **time of conversion**. Here, the certificate of deposit was worth \$100,000 when the woman converted it by cashing it. Therefore, she can properly be convicted of embezzlement of \$100,000 **(Choices A & C)**.

Educational objective:

Embezzlement is the fraudulent conversion of the property of another by a person who is in lawful possession of that property. The amount of an embezzlement is measured by the value of the property at the time of conversion.

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