

A woman was standing in the aisle of a subway car and put her purse on the seat next to her. A man approached the woman from behind and grabbed the purse off the seat. He then pushed the woman out of the way and ran out of the subway car while carrying the purse. The man was apprehended on the subway platform while in possession of the purse.

In a jurisdiction that follows the common law with respect to criminal offenses, of what crime can the man properly be convicted?

- A. Larceny, because force was not used until after he took the purse.
- B. Larceny, because he made no threat to use force.
- C. Robbery, because he physically took the purse from the woman's presence.
- D. Robbery, because he used force in leaving with the purse.

Explanation:

The common law definitions of larceny and robbery are still used in most jurisdictions. **Larceny** is defined as (1) the unlawful taking and carrying away of a victim's personal property (2) with the specific intent to permanently deprive the victim of that property. And larceny will **merge into robbery** when the **property is taken** from the victim's person or presence by either:

force – the use of **more force than necessary to acquire the property or to retain the property** immediately thereafter *or*

intimidation – a threat that places the victim in reasonable apprehension of immediate death or serious physical injury to the victim, the victim's close family member, or a person present during the crime.

Here, the man took the woman's purse while it was placed on the subway seat next to her *without* using force or intimidation. However, he did use force to *retain* the purse when he pushed the woman out of his way to escape. As a result, the use-of-force requirement was met, and the man can be convicted of robbery **(Choices A & B)**.

(Choice C) Although the man took the purse from the woman's presence (ie, a location reasonably close to her), he could only be convicted of robbery if he *also* used force or intimidation to take or keep the purse.

Educational objective:

Larceny merges into robbery when property is taken from the victim's person or presence by (1) *force*—more force than necessary to acquire or retain the property—or (2) *intimidation*—threat of immediate death or serious physical injury to the victim, the victim's close family member, or someone at the crime scene.

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Use-of-force requirement

No force = larceny



Just enough force = larceny



Too much force = robbery



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