

A woman's ex-husband was getting remarried. The woman believed that he was making a mistake and that she needed to stop him. On the day of his wedding, held outdoors at a park, the woman hid behind some bushes she knew her ex-husband would have to pass before entering the area where the ceremony would take place. When her ex-husband was a few feet away, the woman got his attention and told him to come behind the bushes to talk. When he resisted, the woman pulled out a gun and the husband reluctantly walked around the bushes to talk to her. The woman then proceeded to tell him that he could not get married. Once the ex-husband was able to convince the woman that he would not get married, he was able to leave and notified the police. The woman was subsequently arrested and charged with kidnapping.

Is the woman guilty of kidnapping?

- A. No, because the ex-husband was not actually confined.
- B. No, because the ex-husband was only forced to move a few feet.
- C. Yes, because the woman forced the ex-husband to go behind the bushes.
- D. Yes, because the woman prevented the ex-husband from entering the area where the ceremony would take place.

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.

Under the modern view, **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.

Confinement occurs when the victim's freedom of movement is significantly restricted. It is not enough that the victim is prevented from taking a path or entering an area; the victim must be prevented from leaving an area or compelled to go somewhere the victim does not want to go. Additionally, the victim need only be **moved a short distance** to satisfy the movement requirement.

Here, the ex-husband was intentionally confined when the woman threatened him with a gun to compel him to come behind the bushes against his will (**Choice A**). And since the man was forced to walk a few feet, the movement requirement was also satisfied (**Choice B**). Therefore, the woman is guilty of kidnapping.

*General intent crimes such as kidnapping require only the intent to perform an act that is unlawful.

(Choice D) The man was confined because he was forced to go someplace he did not want to go—behind the bushes. Merely preventing a victim from taking a path or entering an area does not constitute confinement.

Educational objective:

Under the modern view, kidnapping is the unlawful and intentional confinement of another against that person's will, coupled with the movement or hiding of that person. To satisfy the movement requirement, the victim need only be moved a short distance.

References

Charles E. Torcia, 3 Wharton's Criminal Law § 207 (15th ed. 2020) (discussing kidnapping requirements).

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