

A man entered the county museum at a time when it was open to the public, intending to steal an etching by a famous painter. Once inside, he took what he thought was the etching from an unlocked display case and concealed it under his coat. However, the etching was a photocopy of an original that had been loaned to another museum. A sign over the display case containing the photocopy said that similar photocopies were available free at the entrance. The man did not see the sign.

Burglary in the jurisdiction is defined as "entering a building unlawfully with the intent to commit a crime."

Of which crime(s) is the man guilty?

- A. Burglary and larceny.
- B. Burglary and attempted larceny.
- C. Larceny.
- D. Attempted larceny.

Explanation:

In this jurisdiction (and most others), **burglary** requires proof that a person **unlawfully entered** a building with the intent to commit a crime therein. Here, the man entered the museum with the intent to steal an etching. But since persons may **lawfully enter a building held open to the public**, his entry was *lawful*. Therefore, he is not guilty of burglary (**Choices A & B**).

However, the man is guilty of **larceny**—ie, the **unlawful (eg, nonconsensual) taking** and carrying away of another's personal property with the specific intent to permanently deprive the owner thereof. The man took a photocopy of the etching from the display case even though other copies were available for free at the museum's entrance (unlawful taking). He then completed the crime when he concealed the photocopy under his coat (carrying away) with the intent to steal it (permanent deprivation).

(Choices B & D) Attempt occurs when a person (1) has the specific intent to commit a crime, (2) engages in an **act** in furtherance of that crime, but (3) does not complete it. Since the man completed the larceny, he is not guilty of attempt.

Educational objective:

Burglary requires proof that a person unlawfully entered a building, so a person cannot burglarize a building while it is open to the public. And larceny requires proof that a person took another's personal property unlawfully—eg, without the owner's consent.

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Larceny
(unlawful taking requirement)

