

A customer asked to see an expensive watch in a jewelry store. In conversation with the store clerk, the customer falsely claimed to be the son of the mayor. When handed the watch, the customer asked if he could put it on, walk around a bit so he could see how it felt on his wrist, and briefly step outside to observe it in natural light. The clerk agreed, saying, "I know I can trust someone like you with the merchandise." The customer walked out of the store wearing the watch and did not return. A week later, the clerk was at a gathering when she spotted the customer wearing the watch. She told him that he must either pay for the watch or give it back. He hissed, "You'll be sorry if you mess with me." Intimidated, the clerk backed off.

The following list of crimes is in descending order of seriousness.

What is the most serious crime the customer committed?

- A. Robbery.
- B. Larceny.
- C. False pretenses.
- D. Embezzlement.

Explanation:

Larceny occurs when a person (1) unlawfully takes and carries away another's personal property (2) with the specific intent to permanently deprive the owner of that property. An **unlawful taking** occurs when a person obtains possession of another's property **without privilege or valid consent**. This can arise when consent is obtained by **knowingly misrepresenting** a past or present material fact (ie, **larceny by trick**).

Here, the customer took the watch and carried it outside with the intent to permanently keep it. And though the clerk gave the customer permission to take the watch, she only did so because the customer falsely told her that he was the mayor's son. As a result, the clerk's consent was invalid, and the customer committed larceny.

(Choice A) Larceny is elevated to robbery when property is taken from another by force or intimidation. Here, the customer merely used deception to take the watch. And though he later intimidated the clerk with his threat, the unlawful taking and carrying away had already occurred. Therefore, no robbery occurred.

(Choice C) The crime of false pretenses differs from larceny by trick in that the defendant acquires title to—not just custody or possession of—the property. Since the customer merely obtained *custody* of the watch, he did not commit false pretenses.

(Choice D) Embezzlement is the fraudulent conversion of another's property by a person in *lawful* possession of that property. Here, no embezzlement occurred because the customer *unlawfully* possessed the watch due to his misrepresentation.

Educational objective:

Larceny is (1) the unlawful taking and carrying away of another's personal property with (2) the specific intent to permanently deprive the owner of it. A taking is unlawful when the person obtains possession of property without the owner's valid consent—eg, by knowingly misrepresenting a past or present material fact.

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Distinguishing property crimes

