

A bartender asked a woman to spend a weekend with him at his apartment and promised her they would get married on the following Monday. The woman agreed and also promised the bartender that she would not tell anyone of their plans. Unknown to the woman, the bartender had no intention of marrying her.

After the woman came to his apartment, the bartender told her he was going for cigarettes. He called the woman's father and told him that he had his daughter and would kill her if he did not receive \$100,000. The bartender was arrested on Sunday afternoon when he went to pick up the \$100,000. The woman was still at the apartment and knew nothing of the bartender's attempt to get the money.

Of which crime is the bartender guilty?

- A. Kidnapping.
- B. Attempted kidnapping.
- C. Kidnapping or attempted kidnapping but not both.
- D. Neither kidnapping nor attempted kidnapping.

## Explanation:

### Kidnapping

<b>Common law</b>	Forcibly abducting or stealing person from his/her own country & sending to another country	
<b>MPC</b>	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	
<b>Modern view</b>	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 (1) the **unlawful and intentional confinement** of another coupled with (2) the movement or concealment of that person. Confinement occurs when the victim's freedom of movement is restricted **against his/her will**—ie, by force, threat of force, or deception. As a result, there is *no* kidnapping if the **victim consents** to the confinement.

Here, the man convinced the woman to spend the weekend with him by falsely promising to marry her. But his false promise did not restrict the woman to the apartment against her will—she remained there voluntarily. As a result, the man cannot be convicted of kidnapping **(Choices A & C)**. And he cannot be convicted of **attempted** kidnapping because he (1) never intended to kidnap the woman and (2) did not commit an overt act in furtherance of that crime. Instead, he merely intended to trick the father into paying a \$100,000 ransom **(Choices B & C)**.

**Educational objective:**

Under the modern view, kidnapping is the unlawful and intentional confinement of another that involves the movement or concealment of that person. Since confinement occurs when a person's movement is restricted against his/her will, consent is a defense to kidnapping.

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