

A man told his neighbor that he was going away for two weeks and asked the neighbor to keep an eye on his house. The neighbor agreed. The man gave the neighbor a key to use to check on the house. The neighbor decided to have a party in the man's house. He invited a number of friends. One friend went into the man's bedroom, took some of the man's rings, and put them in his pocket.

Which of the following is true?

- A. The neighbor and the friend are guilty of burglary.
- B. The neighbor is guilty of burglary and the friend is guilty of larceny.
- C. The neighbor is guilty of trespass and the friend is guilty of larceny.
- D. The friend is guilty of larceny and the neighbor is not guilty of any crime.

### **Explanation:**

**Trespass** is the **unlawful entry** of a structure—ie, an entry that occurs without legal necessity or the possessor's permission. And a permissible entry can become unlawful if the entering person **exceeds the scope of permission**—eg, receiving permission to wait in a lobby but exploring an office.

Here, the man gave the neighbor permission to enter by asking the neighbor to watch the man's house and giving the neighbor a key. And since the man did not restrict the neighbor's use of or access to the house, the neighbor did not exceed the scope of the man's permission by having a party. Therefore, the neighbor is not guilty of trespass **(Choice C)**.

**Burglary** is the **trespassory entry** of a structure with the intent **to commit any crime therein**. Since the neighbor's entry was permissible (not trespassory) and there is no indication that he intended to commit a crime inside, he is not guilty of burglary **(Choices A & B)**. The friend's entry was also permissible since the neighbor (the possessor) invited him in. Therefore, the friend is not guilty of burglary **(Choice A)**.

**Larceny** is the (1) **unlawful taking and carrying away** of another's personal property with (2) the **intent to permanently deprive** the owner of that property. Here, the neighbor did not take any of the man's property (no larceny). But the friend took the man's rings (taking) and put them in his pocket (carrying away) to presumably keep them (intent to permanently deprive). Therefore, the friend is guilty of larceny.

### **Educational objective:**

Trespass is the unlawful entry of a structure—ie, an entry without legal necessity or permission. Trespass rises to burglary if the person enters the structure with the intent to commit any crime therein. And larceny is the unlawful taking and carrying away of another's personal property with the intent to permanently deprive the owner thereof.

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