

A skilled calligrapher crafted a letter on very old paper. She included details that would lead knowledgeable readers to believe the letter had been written by Thomas Jefferson to a friend. The calligrapher, who had a facsimile of Jefferson's autograph, made the signature and other writing on the letter resemble Jefferson's. She knew that the letter would attract the attention of local collectors.

When it did and she was contacted about selling it, she said that it had come into her hands from a foreign collector who wished anonymity, and that she could make no promises about its authenticity. As she had hoped, a collector paid her \$5,000 for the letter. Later the collector discovered the letter was not authentic, and handwriting analysis established that the calligrapher had written the letter.

In a jurisdiction that follows the common law definition of forgery, which crime(s) has the calligrapher committed?

- A. Both forgery and false pretenses.
- B. Forgery, because she created a false document with the intent to defraud, but not false pretenses, since she made no representation as to the authenticity of the document.
- C. Not forgery, because the document had no apparent legal significance, but false pretenses, since she misrepresented the source of the document.
- D. Not forgery, because the document had no apparent legal significance, and not false pretenses, since she made no representation as to the authenticity of the document.

## Explanation:

At common law (and in most jurisdictions), **forgery** occurs when a person:

**makes** (ie, creates or alters) a **false document** of apparent **legal significance** with the intent to defraud.

Documents of legal significance include checks, letters of recommendation, wills, diplomas, and other instruments that can **effectuate one's intent to defraud**. But such documents must have **value beyond their own existence**. Therefore, forgery cannot stem from instruments of mere social significance like historical documents (as seen here) and artwork (**Choices A & B**).

However, a person who makes a **false instrument of social significance** can be liable for **false pretenses** if he/she:

knowingly misrepresented a past or existing material fact  
did so with the specific intent to defraud *and*  
thereby obtained title to another's property or money.

Here, the calligrapher intentionally crafted a letter that appeared to be written and signed by Thomas Jefferson. Although she made no representations regarding the letter's authenticity, she did misrepresent the letter's source by claiming that it had come into her hands from a foreign collector. And since that misrepresentation caused a local collector to buy the letter, the calligrapher committed the crime of false pretenses (**Choices B & D**).

## Educational objective:

Forgery requires the making of a false document of apparent *legal* significance (eg, check, will). But a person who makes a false instrument of *social* significance (eg, historical document, artwork) can be liable for false pretenses.

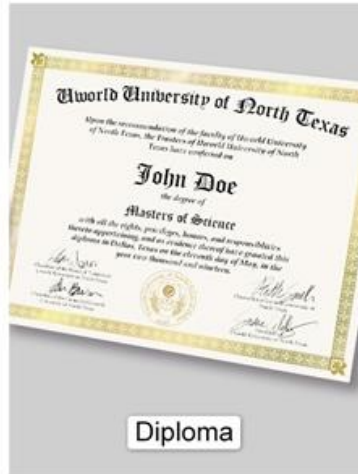
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## Forgery = legal significance



Bank check

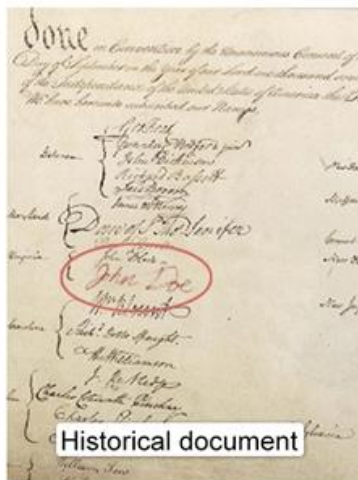


Diploma



Letter of recommendation

## False pretenses = social significance



Historical document



Artwork



False introduction