

An employee and her boss were leaving work late one evening. As they were passing a dark alleyway on the way to their cars, the defendant jumped out holding a knife. The defendant abruptly pushed the boss against the wall of a nearby building, held the knife to the boss's throat, and demanded the watch on his wrist. The boss complied. The defendant then turned to the employee and threatened to stab the boss if the employee did not hand over her money. The employee handed her wallet to the defendant, who took the wallet and ran away. Shortly thereafter, the police found and arrested the defendant.

What crime(s) can the defendant be properly convicted of?

- A. Assault on the employee, battery on the boss, and robbery from both the employee and the boss.
- B. Battery on the boss, and larceny from both the employee and the boss.
- C. Larceny from the employee and the boss, and robbery from the boss.
- D. Robbery from both the employee and the boss.

Explanation:

Larceny is the unlawful taking and carrying away of the victim's personal property with the specific intent to permanently deprive the victim of that property (ie, to steal). Larceny is **elevated to robbery** when:

the property is **taken from the victim's person** or presence *and*

the taking is achieved **by force or threat of force** against the victim, the victim's family member, or another person present.

The threat-of-force element of robbery can be **satisfied by a battery**, which is the unlawful application of force to another resulting in bodily injury or an offensive touching. This element can **also be satisfied by an assault**, which is an attempted battery or conduct that intentionally puts the victim in reasonable apprehension of imminent bodily harm.

Here, the defendant battered the boss by grabbing him, pushing him against a wall, and holding a knife to his throat. The defendant also assaulted the boss by threatening to stab him. But the defendant did not assault the employee since he did not attempt to batter her or place her in apprehension of bodily harm **(Choice A)**. The defendant then committed larceny by taking the boss's watch and the employee's wallet.

Both larcenies elevated to robbery since (1) the taking from the boss was accomplished by force and threat of force against him and (2) the taking from the employee was achieved by threatening force against the boss. Since larceny satisfies the taking requirement for robbery—and both battery and assault satisfy the threat-of-force requirement—all three crimes are **lesser included offenses**. This means that they **merge with the robbery** and the defendant can **only be convicted of robbery**; not the other crimes **(Choices B & C)**.

Educational objective:

Robbery requires a taking of the victim's property by force or intimidation. Since larceny satisfies the taking requirement and battery/assault satisfy the force or intimidation requirement, they are lesser included offenses that merge with robbery.

**Robbery
(greater offense)**

Larceny (lesser offense)

- Unlawful taking & carrying away of victim's property
- Specific intent to permanently deprive

+

Battery (lesser offense)

- force used to cause bodily injury or offensive touching

OR

Assault (lesser offense)

- attempted battery or conduct causing apprehension of imminent harm