

In a crowded football stadium, a man saw a wallet fall out of a spectator's purse. The man picked up the wallet and found that it contained \$100 in cash. Thinking that he could use the money and seeing no one watching, the man put the wallet in the pocket of his coat. Just then, the spectator approached the man and asked if he had seen a missing wallet. The man said no and went home with the wallet.

Of what crime, if any, is the man guilty?

- A. Embezzlement.
- B. False pretenses.
- C. Larceny.
- D. No crime.

Explanation:

Common property offenses

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| Larceny | Unlawful taking & carrying away of another's personal property Specific intent to permanently deprive the owner of the property |
| Larceny by trick | Obtaining possession of another's personal property By knowing false representation of past/present material fact Specific intent to permanently deprive the owner of the property |
| Embezzlement | Fraudulent conversion of another's property While in lawful possession of the property Specific intent to defraud the owner of the property |
| False pretenses | Obtaining title to another's property By knowing false representation of past/present material fact Specific intent to defraud the owner of the property |
| Robbery | Unlawful taking & carrying away of another's personal property By use or threat of force Specific intent to permanently deprive the owner of the property |
| Receiving stolen property | Taking possession or exercising control over stolen personal property Knowing the property was stolen Specific intent to permanently deprive the owner of the property |
| Trespass | Entry of a structure Without permission or legal necessity |
| Burglary | Unlawful (ie, trespassory) entry of a structure Specific intent to commit a crime therein |

A person who finds **lost or misplaced personal property** is guilty of **larceny** if he/she: **knows the identity of the owner** or has reason to believe that he/she can determine it **takes and carries away** the property—ie, exercises control over and moves it *and* possesses the **specific intent to permanently deprive** the owner of the property.

Here, the man saw the spectator's wallet fall out of her purse (knowledge of owner's identity). He picked up the wallet (taking and carrying away), noticed that it contained \$100, and decided to keep it (specific intent to permanently deprive). Therefore, the man is guilty of larceny **(Choice D)**.

(Choice A) Embezzlement occurs when a person in lawful possession of another's property fraudulently converts it. A person lawfully possesses another's property if the owner gave the person permission to possess or control it—eg, an owner entrusts a car to a friend. Since the man picked up the wallet without the spectator's permission (no lawful possession), he is not guilty of embezzlement.

(Choice B) Property is acquired by false pretenses when the defendant (1) obtains title (ie, legal ownership) to property (2) by knowingly making a false representation of a past or present material fact (3) with the specific intent to defraud the owner. Although the man knowingly lied to the spectator about her missing wallet, he merely obtained possession (not title) to the wallet. Therefore, he is not guilty of false pretenses.

Educational objective:

A person who finds lost or misplaced property is guilty of larceny if he/she (1) knows the identity of the owner or has reason to believe he/she can determine it, (2) takes and carries away the property, and (3) specifically intends to permanently deprive the owner of it.

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