

Local police notified local gas station attendants that a robber had recently committed armed robberies at five gas stations in the city. The police said that the robber was a 75-year-old woman with white hair who drove a vintage, cream-colored Ford Thunderbird. Attendants were advised to call police if they saw her but not to attempt to apprehend her. Armed robbery is a felony under state law.

A traveler was passing through the city on a cross-country journey. The traveler was a 75-year-old woman who had white hair and drove a vintage, cream-colored Ford Thunderbird. When the traveler drove into a gas station in the city, the owner thought that the traveler must be the robber wanted by the police. After checking the oil at the traveler's request, the owner falsely informed the traveler that she had a broken fan belt, that her car could not be driven without a new belt, that it would take him about an hour to replace it, and that she should stay in his office for consultation about the repair. The traveler was greatly annoyed that her journey was delayed, but she stayed in the owner's office while she waited for her car. The owner then telephoned the police and, within the hour, the police came and questioned the traveler. The police immediately determined that the traveler was not the robber, and the traveler resumed her journey without further delay.

If the traveler sues the owner for false imprisonment, will the traveler likely prevail?

- A. No, because the owner reasonably believed that the traveler was the robber.
- B. No, because the traveler suffered no physical or mental harm.
- C. Yes, because the owner lied to the traveler about the condition of her car.
- D. Yes, if the traveler reasonably believed she could not leave the owner's premises.

Explanation:

Private citizen's privilege to arrest

Felony	Felony was committed <i>and</i> Defendant reasonably suspects plaintiff committed that felony
Misdemeanor	Plaintiff committed breach of the peace (misdemeanor involving violence or likely causing imminent disturbance of public order) <i>and</i> Crime committed in defendant's presence

False imprisonment occurs when a defendant intentionally confines the plaintiff within fixed boundaries and the plaintiff is aware of, or harmed by, the confinement. However, when the defendant is a private citizen (ie, not a police officer), the confinement is **privileged** when (1) a **felony** has been **committed** and (2) the defendant **reasonably suspects** that the **plaintiff** committed the felony.

Here, the owner was privileged to confine—eg, arrest—the traveler because (1) five felony armed robberies had been committed at gas stations in the city and (2) the owner reasonably believed that the traveler committed those robberies since she and her car matched the police description. Therefore, the traveler will not prevail on her false imprisonment claim.

(Choice B) For false imprisonment, proof of physical or mental harm is unnecessary if the traveler was aware of her confinement. Instead, her claim will fail because the owner was privileged to confine her.

(Choices C & D) Even if the traveler can show that the owner lied to her about the condition of her car to prevent her from leaving (intent to confine) and that she reasonably believed she could not leave (confinement and awareness), her false imprisonment claim will fail because the owner had the right to confine her.

Educational objective:

A defendant is privileged to confine (eg, arrest) a plaintiff when a felony has been committed and the defendant reasonably suspects that the plaintiff committed it.

References

Restatement (Second) of Torts § 35 (Am. Law Inst. 1965) (definition of false imprisonment).

Restatement (Second) of Torts § 119(b) (Am. Law Inst. 1965) (arrest without a warrant).

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