

## Question MEE 2 – February 2022 – Selected Answer 1

1. The woman may have committed a number of crimes five months ago.

(a) The woman did not commit armed robbery of the \$100 cash. At issue is whether the woman had the necessary level of intent for armed robbery. Armed robbery is defined in State A as "theft of property, when in the course of the theft the offender is carrying a dangerous weapon and either (1) uses force, violence, or assault or (2) puts the victim in fear of serious injury."

Robbery is a specific intent crime, meaning that, here, in order to be criminally liable, the woman had to intend to use force, violence, or assault, or she had to have intended to put the homeowner in fear of serious injury. Nothing in the facts indicates that the woman used force or violence while interacting with the homeowner. She used only words and did not come into physical contact with the homeowner. The homeowner also did not assault the homeowner. Assault involves intentionally placing another person in reasonable apprehension of serious bodily harm using more than mere words. Though the woman was holding pruning shears, she made no threats or movements indicating that she intended to cause apprehension of serious bodily harm, and it would not have been reasonable for the homeowner to think that the woman was about to commit a battery against him. She did not say that she would hurt him. Finally, though the homeowner may have been in fear of serious injury (the facts state that the homeowner was frightened by the woman's cold tone and the pruning shears in her hand), the woman did not *intend* to place the homeowner in fear of serious injury. Therefore, she lacked the requisite intent for robbery as it is defined in State A.

Even if the woman could be found to have committed robbery, armed robbery in State A requires the carrying of a dangerous weapon. A dangerous weapon is defined in State A as "any (1) firearm, (2) device that was designed for use as a weapon and capable of producing death or great bodily harm, or (3) device that is being used in a manner likely to produce death or great bodily harm." The woman was carrying pruning shears when she interacted with the homeowner, which she held at her side, pointed toward the ground during their interaction. Pruning shears certainly are not a firearm, so they do not fit into the first category of the dangerous weapon definition. Pruning shears are designed for gardening and landscaping, and were not designed for use as a weapon, so they do not fit into the second category of State A's dangerous weapon definition. Lastly, the woman was not using the pruning shears in a manner likely to produce death or great bodily harm when she spoke with the homeowner. She was holding the pruning shears at her side, pointed toward the ground, and though holding pruning shears at all might have suggested some level of threat, she

was not using the pruning shears in a manner likely to kill or injure the homeowner. Therefore, the woman was not using the pruning shears as a dangerous weapon, and cannot be held criminally liable for armed robbery.

(b) The woman did commit theft of the figurine. At issue is whether the woman had the requisite intent for theft when she decided that she was entitled to the homeowner's bronze garden figurine as compensation for a tip the woman felt she should have, but was not paid by the homeowner. Theft in State A is defined as "the unlawful taking and carrying away of property from the person or custody of another, with intent to permanently deprive the owner of the property." A person lacks the requisite level of intent for larceny/theft when they believe the item they are taking belongs to them. However, the woman did not believe the figurine belonged to her when she took the figurine. The facts state that after the woman had already been paid the \$100 she was owed for her services, she "decided that she was entitled to something extra." She decided that she was entitled to more than she was repaid. So after making sure the homeowner was not looking, she took the figurine from the homeowner's lawn (taking away of property from his custody) put it in her truck, and drove away (showing intent to permanently deprive the homeowner of the figurine). While the facts do not indicate that the woman ever planned to return the figurine to the homeowner, the woman's intent to permanently deprive him of the figurine was ultimately manifested by her decision to sell the figurine to her assistant.

(c) Under State A law, a person commits criminal possession of stolen property when the person possesses property that the person knows or reasonably should know is stolen property with intent either (1) to benefit that person or a person other than an owner thereof, or (2) to impede the recovery by an owner. The woman arguably may not have initially committed criminal possession of stolen property when she took the figurine--the facts state that she decided she was "entitled to something extra" on her way from the homeowner's door to her truck, and then she grabbed the figurine from the homeowner's front lawn and took it. It is unknown whether she intended to benefit herself or someone else at that point (i.e. whether she intended to keep the figurine or sell it or just throw it out of her truck window immediately), and whether she intended at that moment to impede the homeowner from recovering the figurine (or whether she intended to return it to him shortly after). Though, because she took the figurine as compensation for a tip she felt she deserved, it is reasonably likely that she intended to sell the figurine at the moment when she took it, thereby benefiting herself and another person and impeding recovery by the owner. In any case, once she offered the figurine for sale to her assistant, the requisite level of intent was clearly present. The woman intended to benefit from the sale by making \$10, and impeded recovery by the owner by handing the figurine over to someone else. Therefore, the woman did commit theft of the figurine under State A's criminal statute.

2. The woman's assistant likely did commit criminal possession of stolen property. At issue is whether the woman's assistant had the requisite level of intent to be criminally liable for the crime of criminal possession of stolen property as it is defined in State A. The facts indicate that the woman told the assistant that she would sell the figurine to her "cheap," for \$10 when the assistant knew by looking at the price tag that the figurine cost \$200. The woman also told the assistant not to ask where she got the figurine, which in addition to the woman's comment not to ask where she got it from would have signaled to a reasonable person in the assistant's position that the woman did not obtain it legally. Here, though the assistant did not know specifically that the woman stole the figurine, the assistant reasonably should have known that the woman stole it, given the woman's comments to the assistant and the alarmingly low price she asked for it. The assistant also intended to benefit herself by possessing the stolen property, as indicated by her comment to the woman that she can sell it for a hefty profit. Accordingly, the assistant committed criminal possession of stolen property.

### **Question MEE 2 – February 2022 – Selected Answer 2**

1(a). Did the woman commit armed robbery of the \$100 cash  
Under State A's statute an individual will be guilty of armed robbery if they unlawfully take and carry away the property of another with the intent to permanently deprive the owner of the property and in the course of that theft the person is carrying a dangerous weapon and either uses force, violence, or assault (2) puts the victim in fear of serious injury. A dangerous weapon according to the statute is any (1) firearm, (2) device that was designed for uses as a weapon and capable of producing death or great bodily harm, or (3) device that is being used in a manner likely to produce death or great bodily harm.

Here the woman went over to the homeowners home to collect the \$100 for the work that she had done previously. Additionally she was carrying her pruning shears as she walked over to the homeowners house but she had them down to her side and pointing at the ground when she rung the doorbell. Her initial communication was "where's the money." However, given all those facts the woman still did not commit armed robbery. This is because she lacked the intent to unlawfully take the property of the homeowner since the woman reasonably believed that she was in fact owed that amount for her services. Additionally, the woman had the shears at her side when she approached the homeowner and therefore did not use force, violence, or assault to get the money. She did put the homeowner in fear of serious injury however, it was not the woman's intent to place the homeowner in fear of serious injury as evidenced by the fact that the shears were at her side and pointing at the ground. Further the shears would not be deemed to be a dangerous weapon because the it was neither a

firearm, a device designed for use as a weapon, or a device that was being used in a manner to produce death or great bodily harm.

1(b). Did the woman commit theft of the figurine

Under State A's statute for theft as noted above however the woman would likely be found to have committed theft of the figurine. Here, the woman grabbed the bronze garden figurine from the homeowner's front lawn with the specific intent to permanently deprive the owner of the property. Therefore even though she decided that she was entitled to something extra such reasoning does not negate the fact that she unlawfully took the figurine.

1(c). Did the woman commit criminal possession of the figurine as stolen property

Under State A law a person commits criminal possession of stolen property when the person possesses property that the person knows or reasonably should know is stolen property with the intent either (1) to benefit that person or a person other than an owner thereof or (2) to impede the recovery by the owner. Here the woman is guilty because she knew that she unlawfully stole the property from the homeowner.

2. Did the woman's assistant commit criminal possession of stolen property

Under State A law a person commits criminal possession of stolen property when the person possesses property that the person knows or reasonably should know is stolen property with the intent either (1) to benefit that person or a person other than an owner thereof or (2) to impede the recovery by the owner. Here the assistant was offered the figurine by the woman who stated that she would sell it to her for cheap and "don't ask where I got it." Additionally the assistant noted that there was a \$200 price tag attached to the bottom of the figurine but still paid \$10 knowing that those were in high demand and stating that "I bet I can sell it for a hefty profit." Given her own statements it would be clear that she reasonably should have known that the property was stolen and that now she would benefit from it.

### **Question MEE 2 – February 2022 – Selected Answer 3**

#### **CRIMINAL LAW**

1.

#### **ARMED ROBBERY OF THE \$100 CASH**

a. The woman did not commit armed robbery of the \$100 cash. In state A, Armed Robbery is theft of property in the course of carrying a dangerous weapon using force, violence, or assault or putting the victim in fear of serious injury. Common law mens rea requirements apply in this jurisdiction. Robbery is a specific intent crime.

The underlying crime of theft (larceny) embedded within the description of the offense of robbery in this jurisdiction is also a specific intent crime at common law. There is nothing in the fact pattern showing the woman had the requisite specific intent to commit unlawfully take and carry away the property from the person or custody of another (the homeowner). The woman was under the accurate impression that she was in fact owed \$100 for services rendered, which she factually was. Hypothetically, even if the woman was guilty of theft, she still did not satisfy the mens rea requirement of the specific intent crime of robbery. Moreover, the woman did not violate part 1 of the Armed Robbery statute, as she did not use force, violence or assault. While she may have put the victim in fear of serious injury inadvertently, she did not do so with the requisite common mens rea of specific intent. Even if the woman is seen as committing a theft in this fact pattern and qualifies as having put the homeowner in fear of serious injury, per the second element of State A's Armed Robbery statute, the woman still did not have the requisite mens rea of specific intent to commit the specific intent crime of robbery. Moreover, the woman also did not satisfy the Dangerous Weapon element either. The shears are not a firearm or a device designed for use as a weapon producing death or great bodily harm. The woman also did not wield or otherwise use or threaten use of the shears in a manner that likely to produce death or great bodily harm. For all of the reasons stated herein with regards to the relevant statutes of State A, the pertinent common law mens rea requirements, and the facts in this fact pattern, the woman did not commit armed robbery of the \$100 cash.

### **THEFT OF THE FIGURINE**

b. However, the woman did commit theft of the figurine. The woman violated the elements of State A's Theft Statute. The woman unlawfully took and carried away the property of the homeowner from the homeowner's custody by stealing the figurine from the homeowner's front lawn. The fact that the woman decided she was entitled to something extra as a lack of the homeowner's tipping is immaterial. The woman had no legal right in the property and she had no legitimate, legal reason to believe that she did. Therefore, the woman has the requisite common law mens rea of the specific intent crime of larceny (known as Theft in State A). In light of the facts at hand, the woman violated the elements of State A's Theft (Larceny) statute while having the requisite common law mens rea of the specific intent crime of larceny (Theft in state A). Therefore, the woman did in fact commit Theft of the figurine.

### **CRIMINAL POSSESSION OF THE FIGURINE AS STOLEN PROPERTY**

c. The woman guilty of the crime of Criminal Possession of Stolen Property per the language of State A's relevant statute provided. The woman knew that the property (figurine) was stolen because she stole the figurine. She exhibited intent to benefit

herself by selling it to her assistant and for the benefit of her assistant by providing her an opportunity to sell the stolen figurine for a profit. The woman also factually impeded the recovery by the owner by not possessing after stealing it, and then selling the stolen figurine to her assistant. The fact pattern does not mention any laws in State A that might lead to merger of the offense of what could reasonably be perceived as the lesser crime of Criminal Possession of Stolen Property into the greater offense of Theft. Therefore, the woman is guilty of the criminal possession of the figurine as stolen property.

## **WOMAN'S ASSISTANT COMMISSION OF CRIMINAL POSSESSION OF STOLEN PROPERTY**

2.

It is highly likely that woman's assistant will be found guilty of the commission of the crime of criminal possession of stolen property. Per State A's Criminal Possession of Stolen Property statute, a person is guilty if she knew or reasonably should know the property is stolen property with the intent either to benefit that person or a person other than an owner thereof or to impede the recovery by an owner. In light of the woman and her assistant's communication wherein the woman state to her assistant, "I'll sell you this cheap. How about \$10? Just don't ask where I got it." Moreover, per the facts in the pattern, the figurine looked new and the assistant noticed a \$200 price tag attached to the bottom of the figurine. The requisite intent required for violation of this statute is contained within the statute itself. The woman's assistant, in light of all of the relevant aforementioned facts, reasonably should have known that the property was stolen. Moreover, the woman's assistant also showed the intent to benefit herself when she stated, "Wow, that's a great deal. These things are in high demand, and I bet I can sell it for a hefty profit." This statement also serves to further bolster the fact that the woman's assistant should have known the property was stolen. In light of the assistant's communication with the woman, she should have at least inquired as to where the figurine came from. The assistant should have known the figurine was stolen property, and she intended to sell it in order to benefit herself. The woman's assistant meets all of the requirements to be found guilty of the crime of Criminal Possession of Stolen Property.