

## **Burglary**

Jason should be charged with burglary because he had the requisite intent. Burglary requires that a person (1) break and (2) enter a (3) habitation of another with the (4) intent to commit a felony, theft or assault therein. "Breaking" constitutes any form of forcible entry, including pushing open a partially open door. Here, Jason pushed open Tina's door, thus breaking into her home. "Entry" requires physical entry by any part of the burglar's body or a tool under his control. A habitation is the home of another person. Jason entered the habitation of another by walking into Tina's home.

**Because** Jason had the intent to steal Tina's wine when he entered her home, he had intent to commit a felony. Burglary only requires that Jason had the intent to commit a crime; not that he actually committed a crime. That Jason did not in fact take the wine or that he accidentally spilled the wine does not provide a defense in this case. When he entered the home, Jason intended to steal the wine by drinking it. The intent is further demonstrated by his act of opening the wine. Finally, the crystal wine stopper and the wine spill are not relevant to the burglary charge because the intent element was satisfied the moment Jason stepped through the door. Jason's actions, regardless of actually taking something, satisfy all of the elements of burglary.

## **Larceny of the Wine Stopper**

Jason should not be charged with larceny of the wine stopper because he did not have the requisite intent. Larceny requires the (1) unlawful (2) taking of (3) another's property with the (4) intent to permanently deprive the owner. In this case, Jason took the crystal wine stopper without Tina's permission, thus unlawfully taking it. The wine stopper was Tina's property and Jason had no legal right to it. However, **because** Jason intended to return the wine stopper, he did not intend to permanently deprive Tina of her property. **Because** he did not intend to permanently deprive Tina of her property, Jason is not guilty of larceny of the wine stopper.

## **Larceny of the Wine**

Jason should be charged with larceny of the wine **because** his actions constituted a taking. The wine belonged to Tina and was thus the property of another. **Because** Jason did not have Tina's permission to take the wine, his "taking" is unlawful. Jason took the wine by simply opening it.

When he opened the wine, he altered the character of the wine and took its value from Tina. Jason intended to open the wine (it was no accident) and has already completed the crime of larceny by fundamentally altering the wine and removing its value. His intent was to permanently deprive Tina of the wine by drinking it, but he also deprived her of the wine by simply opening it. That he spilled the wine certainly caused a deprivation, but it was accidental. The larceny of the wine was completed when he opened the wine, without permission, with the intent to permanently deprive Tina of its contents.

## *Linking Elements/Analysis*

### **Burglary (Issue – intent)**

Jason should be charged with burglary **because** he had the requisite intent. Burglary requires that a person that a person (1) break and (2) enter a (3) habitation of another with the (4) intent to commit a felony, theft or assault therein. "Breaking" constitutes any form of forcible entry, including pushing open a partially open door. Here, Jason pushed open Tina's door, thus breaking into her home. "Entry" requires physical entry by any part of the burglar's body or a tool under his control. A habitation is the home of another person. Jason entered the habitation of another by walking into Tina's home.

**Because** Jason had the intent to steal Tina's wine when he entered her home, he had intent to commit a felony. Burglary only requires that Jason had the intent to commit a crime; not that he actually committed a crime. The fact that Jason did not in fact take the wine or that he accidentally spilled the wine does not provide a defense in this case. When he entered the home, Jason intended to steal the wine by drinking it. The intent is further demonstrated by his act of opening the wine. Finally, the crystal wine stopper and the wine spill are not relevant to the burglary charge because the intent element was satisfied the moment Jason stepped through the door. Jason's actions, regardless of actually taking something, satisfy all of the elements of burglary.

### **Larceny of the Wine Stopper (Issue – intent)**

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### **Larceny of the Wine (issue – taking)**

Jason should be charged with larceny of the wine because his actions constituted a taking. The wine belonged to Tina and was thus the property of another. Because Jason did not have Tina's permission to take the wine, his "taking" is unlawful. Jason took the wine by simply opening it. When he opened the wine, he altered the character of the wine and took its value from Tina. Jason intended to open the wine (it was no accident) and has already completed the crime of larceny by fundamentally altering the wine and removing its value. His intent was to permanently deprive Tina of the wine by drinking it, but he also deprived her of the wine by simply opening it. That he spilled the wine certainly caused a deprivation, but it was accidental. The larceny of the wine was completed when he opened the wine, without permission, with the intent to permanently deprive Tina of its contents.

(C)IRAC

**Conclusion**

**Issue**

**Rule**

**Analysis**

**Conclusion**

**Burglary (Issue – intent)**

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When Jason entered the habitation, he had the intent to steal Tina's wine; therefore he had intent to commit a theft. Burglary only requires that Jason had the intent to commit a crime; not that he actually committed a crime. The fact that Jason did not in fact take the wine or that he accidentally spilled the wine does not provide a defense in this case. When he entered the home, Jason intended to steal the wine by drinking it. The intent is further demonstrated by his act of opening the wine. Finally, the crystal wine stopper and the wine spill are not relevant to the burglary charge because the intent element was satisfied the moment Jason stepped through the door. Jason's actions, regardless of actually taking an item, satisfy all of the elements of burglary.

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