

## Larceny

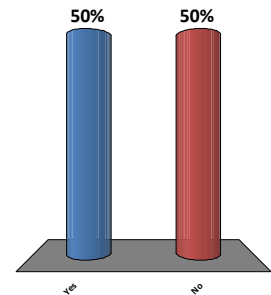
- Takes
- Personal property
- In the possession of another
- Carries it away
- Without consent
- With intent to deprive permanently
- Knowing not entitled

## Larceny: Taking

- Is there a taking where A reaches into B's pocket, grabs B's cell phone, and throws it on the ground?

## Larceny: Taking

- A. Yes
- B. No



## Larceny: Taking

- Yes. *State v. Mason*, \_\_ N.C. App. \_\_, 730 S.E.2d 795 (2012) (sufficient evidence of a taking on these facts; “even if something is forcibly removed or surrendered by a victim for a short amount of time, such an act still constitutes a taking”).

## Larceny: Personal Property

- A opens up B's air conditioning unit and steals the copper coil. The unit is bolted to a cement slab that is poured in the ground. Did A take B's personal property?



### Larceny: Personal Property

A. Yes  
B. No

A bar chart with two bars. The left bar is blue and labeled 'Yes' with '50%' above it. The right bar is red and labeled 'No' with '50%' above it. Both bars are on a grey base.

### Larceny: Personal Property

- Yes. G.S. 14-83.1 (abolishing real property/personal property distinction for purposes of larceny; “[a]ny person who shall . . . take and carry away . . . any property that is affixed to real property . . . shall be guilty of larceny”).

### Larceny: Personal Property

A line graph titled 'Copper Price' with a subtitle '12 USD/ton' and '18 Sep '14'. The y-axis is labeled 'Copper Price (USD/ton)' and ranges from 0 to 5. The x-axis shows dates from 1990-3 to 2014-1. The price starts around 1.5 in 1990, fluctuates, and then rises sharply starting around 2004, peaking near 4.5 in 2009 before declining. The source 'InfoMine.com' is noted at the bottom.

### Larceny: Describing the Property

- Is it sufficient to describe the property taken as follows: the defendant “did steal, take, and carry away various items of merchandise, the personal property of Computer Shop of Statesville, Inc.”?

### Larceny: Describing the Property

A. Yes  
B. No

A bar chart with two bars. The left bar is blue and labeled 'Yes' with '50%' above it. The right bar is red and labeled 'No' with '50%' above it. Both bars are on a grey base.

### Larceny: Describing the Property

- No. *State v. Pennell*, \_\_ N.C. App. \_\_, 746 S.E.2d 431 (2013), rev'd on other grounds, \_\_ N.C. \_\_, 758 S.E.2d 383 (2014) (allegation was too general and therefore fatally defective). See also *State v. Justice*, \_\_ N.C. App. \_\_, 723 S.E.2d 798 (2012) (“merchandise” was “too general” a description of items taken when charging larceny from a merchant).

### Larceny: Carrying Away

- A goes to B's back patio to steal B's gas grill. Just as A lifts up the grill, B comes home and yells at A to stop. A sets the grill back down and runs away. Is the element of carrying away satisfied?

### Larceny: Carrying Away

- A. Yes
- B. No

Response	Percentage
A. Yes	50%
B. No	50%

### Larceny: Carrying Away

- Yes. State v. Carswell, 296 N.C. 101 (1978) (moving window air conditioning unit four to six inches was a "removal" sufficient to satisfy the requirement of asportation or carrying away).

### Larceny: Entity Capable of Owning Property

- In a case involving the theft of church property, is it sufficient to allege that the defendant stole the "personal property of Andy Stephens [pastor] and Manna Baptist Church"?

### Larceny: Entity Capable of Owning Property

- A. Yes
- B. No

Response	Percentage
A. Yes	50%
B. No	50%

### Larceny: Entity Capable of Owning Property

- No. State v. Campbell, \_\_ N.C. App. \_\_, 759 S.E.2d 380 (2014) (unpublished) (indictment was defective because of failure to allege that the church was an entity capable of owning property ).

### Larceny: Intent to Deprive Permanently

- A takes a flatbed truck that belongs to a business and drives it away from the business's parking lot. An employee sees A drive away and calls the police, who stop A shortly thereafter. A initially claims to work for the business but eventually admits that he doesn't. Which is the better charge, larceny or unauthorized use?

### Larceny: Intent to Deprive Permanently

- A. Larceny
- B. Unauthorized Use

Charge	Percentage
Larceny	50%
Unauthorized Use	50%

### Larceny: Intent to Deprive Permanently

- Larceny. State v. Allen, 2014 WL 3824319 (N.C. Ct. App. Aug. 5, 2014) (unpublished) (sufficient evidence of intent to deprive permanently on these facts).

### Felony Larceny

- Misdemeanor larceny plus:
  - Items worth >\$1,000
  - From the person
  - Committed pursuant to breaking/entering
  - Of an explosive
  - Of a firearm
  - From the State Archives
  - Habitual larceny

### Felony Larceny Based on Value

- To prove that a vehicle is worth more than \$1,000, is it sufficient to show that the vehicle is operable?

### Felony Larceny Based on Value

- A. Yes
- B. No

Response	Percentage
Yes	50%
No	50%

### Felony Larceny Based on Value

- No. *State v. McRae*, \_\_ N.C. App. \_\_, 752 S.E.2d 731 (2014) (although the State's evidence showed that the victim was in her vehicle at a Burger King, the State introduced no evidence of the vehicle's value and so the evidence was insufficient to establish felony larceny).

### Felony Larceny from the Person

- A goes to Harris Teeter and places her purse in the child seat of a grocery cart. She stops the cart in aisle 7 and turns to look at a jar of pickles. As she looks, B walks by and takes her purse, which is about arm's length away from A. Has B committed felony larceny from the person?

### Enter Question Text

- A. Yes
- B. No

Response	Percentage
Yes	50%
No	50%

### Felony Larceny from the Person

- Yes. *State v. Sheppard*, \_\_ N.C. App. \_\_, 744 S.E.2d 149 (2013) (emphasizing that “the victim’s purse was within reach of the victim and the victim immediately realized the larceny as it occurred”).

### Felony Larceny Pursuant to Breaking/Entering

- A smashes the driver's window of B's car. A does not open the door, but reaches into the vehicle and steals \$1.41 in assorted coins from B's change holder. Has A committed felony larceny pursuant to breaking/entering?

### Felony Larceny Pursuant to Breaking/Entering

- A. Yes
- B. No

Response	Percentage
Yes	50%
No	50%

### Felony Larceny Pursuant to Breaking/Entering

□ No. G.S. 14-72(b)(2) makes larceny a felony if committed "pursuant to a violation of G.S. 14-51, 14-53, 14-54, 14-54.1, or 14-57."

- Burglary by breaking out of a dwelling
- Breaking or entering a building
- Breaking or entering a motor vehicle is G.S. 14-56
- Breaking or entering a place of religious worship
- Burglary w/ explosives
- Burglary (dwellings and other buildings)

### Felony Larceny Pursuant to Breaking/Entering

□ A has a detached garage. He leaves his garage door open while working in the back yard. B walks into the garage, takes A's bicycle, and rides off. Has B committed felony larceny pursuant to breaking/entering?

### Felony Larceny Pursuant to Breaking/Entering

A. Yes  
B. No

Response	Percentage
Yes	50%
No	50%

### Felony Larceny Pursuant to Breaking/Entering

□ Yes. G.S. 14-54 criminalizes breaking or entering, so the fact that the door was open is immaterial. And even a detached garage is a building within the meaning of the statute. State v. LaSalle, \_\_ N.C. App. \_\_, 716 S.E.2d 876 (2011) (unpublished).

### Felony Larceny of a Firearm

□ A and B are hunting deer, each with his own rifle. They lean their rifles against a tree while they eat lunch. C comes by and steals the rifles. How many counts of felony larceny of a firearm are appropriate?

### Felony Larceny of a Firearm

A. One  
B. Two

Response	Percentage
One	50%
Two	50%

### Felony Larceny of a Firearm

- One. State v. Boykin, 78 N.C. App. 572 (1985) (ruling that “the Legislature has not clearly stated an intention to impose multiple punishments when [multiple firearms are] stolen in a single transaction”)

### Habitual Misdemeanor Larceny

- A has the following criminal convictions:

Date	Court	Conviction
6/11/08	Dillon Co. (SC) Circuit Ct.	Simple Larceny
9/9/10	Durham Co. Super. Ct.	F Larceny > \$1000
2/22/12	Durham Co. Dist. Ct.	MDM Larceny
2/22/12	Alamance Co. Dist. Ct.	MDM Larceny

If A commits a larceny, may A properly be charged with habitual misdemeanor larceny?

### Habitual Misdemeanor Larceny

- A. Yes
- B. No

A bar chart with two bars. The left bar is blue and labeled 'Yes' with '50%' above it. The right bar is red and labeled 'No' with '50%' above it. The bars are on a grey base.

### Habitual Misdemeanor Larceny

- Yes. G.S. 14-72(b)(6) requires at least four prior convictions of felony or misdemeanor larceny, or any “substantially similar offense,” committed in North Carolina or another jurisdiction. When multiple convictions are imposed in a single session of court, only one counts, except when the convictions are based on offenses that took place in different counties.

### Larceny from a Merchant

- G.S. 14-72.11
- Elements
  - Larceny
    - One of the following
      - Value >\$200 and through federally mandated exit door with appropriate sign
      - By removing/destroying/deactivating an antishoplifting or inventory control device
      - By using bogus UPC code to obtain merchandise at a lower price
      - Of infant formula >\$100

### Larceny from a Merchant

- The loss prevention manager at a department store tells you that she was patrolling the parking lot when she noticed A in his car, pulling apart antitheft devices that were attached to merchandise from the store. Is this sufficient evidence to charge larceny from a merchant?

### Larceny from a Merchant

A. Yes  
B. No

Response	Percentage
Yes	50%
No	50%

### Larceny from a Merchant

- Yes. *State v. Manns*, 2014 WL 2743191 (N.C. Ct. App. June 7, 2014) (unpublished) (affirming conviction on similar facts; the defendant argued that “she made no attempt to remove, destroy, or deactivate the anti-theft devices until after the larceny had been completed,” but the court seemed to conclude that the removal of devices may take place after the taking and carrying away of the property).

### Organized Retail Theft

- G.S. 14-86.6
- Punishes conspiring to steal >\$1,500 of property from retail establishments over a 90-day period and taking the property to a fence for sale

### Organized Retail Theft

- A and B decide to steal Crest Whitestrips and deliver them to C, who sells pharmacy products out of his trunk. A and B steal as follows:

Date	Location	Retail Price	Price C Pays
July 11, 2014	Target	\$280	\$70
July 14, 2014	Walmart	\$320	\$80
July 27, 2014	Costco	\$400	\$100
August 8, 2014	Target	\$240	\$60
August 9, 2014	Costco	\$320	\$80
<b>Totals</b>		<b>\$1560</b>	<b>\$390</b>

May A and B properly be charged with organized retail theft?

### Organized Retail Theft

A. Yes  
B. No

Response	Percentage
Yes	50%
No	50%

### Organized Retail Theft

- Yes.
  - May combine thefts from different retailers.
    - The statute refers to “multiple retailers.”
  - Costco is a retailer.
    - State v. Baca*, 331 P.3d 971 (N.M. Ct. App. 2014) (describing Costco as “a retail store”).
  - Value is the retail price, not what C pays.
    - The statute defines the value as “[t]he retail value of the item as advertised by the . . . retail establishment, to include all applicable taxes.”



### Specialized Theft Statutes

Which of the following items is not the subject of a specialized theft statute?

### Specialized Theft Statutes

- A. Milk crates
- B. Motor fuel
- C. Ginseng
- D. Dogs
- E. Wigs
- F. Porta potties

Item	Percentage
Milk crates	17%
Motor fuel	17%
Ginseng	17%
Dogs	17%
Wigs	17%
Porta potties	17%

### Specialized Theft Statutes

Wigs. See G.S. 14-72.4 (milk crates, Class 2 misdemeanor); G.S. 14-72.5 (motor fuel, Class 1 misdemeanor); G.S. 14-79 (ginseng, Class H felony); G.S. 14-81 (dogs, Class I felony); G.S. 14-86.2 (~~porta potties~~ chemical or portable toilets, Class 1 misdemeanor).

### Larceny by Employee

A works as a janitor for the Durham Bulls. During a game, steals a t-shirt and a baseball cap from a concession shop as he empties the trash in the shop. Has A committed larceny by employee?

### Larceny by Employee

- A. Yes
- B. No

Response	Percentage
Yes	50%
No	50%

### Larceny by Employee

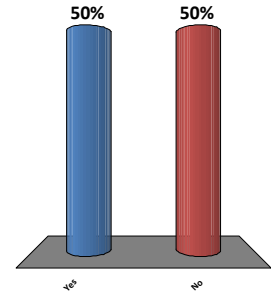
No. Although the statutory name for this offense is "larceny by employee," G.S. 14-74, it applies only to employees who are entrusted with property and misappropriate it. A was not entrusted with the merchandise. State v. Lovick, 42 N.C. App. 577 (1979).

### Obtaining Property by False Pretenses

- A tells his uncle, B, that he is a stock market investor, and that if B will loan him \$10,000, A will repay the \$10,000 with 10% interest in one year. Over the next several years, B lends A additional money to invest. A loses the money and when B demands repayment, A eventually admits that he is unable to repay B. Has A committed the crime of obtaining property by false pretenses?

### Obtaining Property by False Pretenses

- A. Yes
- B. No



### Obtaining Property by False Pretenses

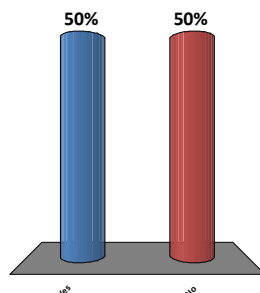
- No. State v. Braswell, \_\_ N.C. App. \_\_, 738 S.E.2d 229 (2013) (vacating the defendant's conviction because there was no evidence that the defendant made any false statements when he said that he would invest his uncle's money; the defendant did invest the money, just not successfully; there was no evidence that he misappropriated the funds).

### Identity Theft

- A is detained after attempting to shoplift at a Best Buy. An officer comes to the store to issue a citation. A gives the officer a false name and date of birth. The officer queries an electronic database and obtains a SSN consistent with the name and date of birth given by A; the SSN is placed on the citation. Has A committed the offense of identity theft?

### Identity Theft

- A. Yes
- B. No



### Identity Theft

- Yes. State v. Sexton, \_\_ N.C. App. \_\_, 734 S.E.2d 295 (2012) (noting that the statute requires that the defendant "obtains, possesses, or uses" identifying information, such as a SSN, and ruling that there was "sufficient evidence that Defendant did obtain, possess, or use [the victim's] [SSN] when [the officer] issued Defendant a citation that contained [the SSN].").

### Breaking/Entering

- A breaks into his ex-girlfriend's house on a Sunday morning as she is reading the newspaper. He glares at her menacingly and says "I just wanted you to know that I can come and get you any time I want to." Then he leaves. Is the better charge misdemeanor B/E or felony B/E?

### Breaking/Entering

- A. Misdemeanor
- B. Felony

Charge	Percentage
Misdemeanor	50%
Felony	50%

### Breaking/Entering

- Felony. As of 2013, G.S. 14-54 has been amended to make it a felony to "break[]or enter[] any building with intent to terrorize or injure an occupant of the building."

### Burglary

- A and B "case" a house one night, determine that the occupants are not present, then enter the back yard and throw bricks through a window. Before they can go inside the house, they are apprehended. Have A and B committed second-degree burglary (burglary of an unoccupied house)?

### Burglary

- A. Yes
- B. No

Answer	Percentage
Yes	50%
No	50%

### Burglary

- No. Burglary requires breaking and entering. When a breaking is done using a tool, the fact that the tool crosses the threshold of the residence does not by itself constitute an entry. State v. Lucas, \_\_ N.C. App. \_\_, 758 S.E.2d 672 (2014).

