

NOTE: This is an excerpt of BNR's Criminal Law Exam Writing Template. This is provided as a sample of our course materials.

BAR NONE REVIEW WRITING TEMPLATE – CRIMINAL LAW

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CRIMINAL LAW

Inchoate Crimes

<p style="text-align: center;"><u>Solicitation</u></p> <p>Inciting another to commit any felony or misdemeanor involving breach of the peace.</p> <p>Here, _____. Thus, _____.</p> <p style="text-align: center;"><u>Merger</u></p> <p>Solicitation merges into <u>conspiracy</u>, <u>attempt</u> and the <u>completed target crime</u>.</p> <p>Here, _____. Thus, _____.</p>	<p style="text-align: center;"><u>Conspiracy</u></p> <p>An agreement between two or more persons for an unlawful purpose.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;"><u>Minority</u></td> <td style="width: 50%; text-align: center;"><u>Majority</u></td> </tr> <tr> <td>A minority of jurisdictions ground liability upon mere agreement.</td> <td>A majority of jurisdictions require an agreement PLUS an overt act in furtherance of the conspiracy.</td> </tr> <tr> <td></td> <td style="text-align: center;"><u>Agreement</u></td> </tr> <tr> <td></td> <td style="text-align: center;">Here, _____. Thus, _____.</td> </tr> <tr> <td></td> <td style="text-align: center;"><u>Act In Furtherance</u></td> </tr> <tr> <td></td> <td style="text-align: center;">Here, _____. Thus, _____.</td> </tr> </table> <p style="text-align: center;"><u>Merger</u></p> <p>Conspiracy is a separate crime, and does NOT merge with the target crime. A defendant can be guilty of BOTH conspiracy and the target crime, or either one. (This is even more important when discussing withdrawal, because it may limit the renouncing party's liability.)</p> <p style="text-align: center;"><u>DEFENSES</u></p> <p style="text-align: center;"><u>Withdrawal</u></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;"><u>Minority</u></td> <td style="width: 50%; text-align: center;"><u>Majority</u></td> </tr> <tr> <td>In a minority of jurisdictions, one could not withdrawal from liability for the conspiracy itself, but could withdraw from co-conspirators subsequent crimes.</td> <td>A majority of jurisdictions allow co-conspirator to withdraw from the conspiracy by renouncing the conspiracy and thwarting the success of the target crime.</td> </tr> <tr> <td></td> <td style="text-align: center;"><u>Renunciation</u></td> </tr> <tr> <td></td> <td style="text-align: center;">Renunciation must be made to all co-conspirators.</td> </tr> <tr> <td></td> <td style="text-align: center;">Here, _____. Thus, _____.</td> </tr> <tr> <td></td> <td style="text-align: center;"><u>Thwarting the Target Crime</u></td> </tr> <tr> <td></td> <td style="text-align: center;">The renouncing party must attempt to stop the commission of the target crime. One acceptable way is notifying the police or the intended victim, such that the crime is stopped or avoided.</td> </tr> <tr> <td></td> <td style="text-align: center;">Here, _____. Thus, _____.</td> </tr> </table>	<u>Minority</u>	<u>Majority</u>	A minority of jurisdictions ground liability upon mere agreement.	A majority of jurisdictions require an agreement PLUS an overt act in furtherance of the conspiracy.		<u>Agreement</u>		Here, _____. Thus, _____.		<u>Act In Furtherance</u>		Here, _____. Thus, _____.	<u>Minority</u>	<u>Majority</u>	In a minority of jurisdictions, one could not withdrawal from liability for the conspiracy itself, but could withdraw from co-conspirators subsequent crimes.	A majority of jurisdictions allow co-conspirator to withdraw from the conspiracy by renouncing the conspiracy and thwarting the success of the target crime.		<u>Renunciation</u>		Renunciation must be made to all co-conspirators.		Here, _____. Thus, _____.		<u>Thwarting the Target Crime</u>		The renouncing party must attempt to stop the commission of the target crime. One acceptable way is notifying the police or the intended victim, such that the crime is stopped or avoided.		Here, _____. Thus, _____.	<p style="text-align: center;"><u>Attempt</u></p> <p>Performance of an act that would be a crime if successful.</p> <p>Here, _____. Thus, _____.</p> <p style="text-align: center;"><u>Merger</u></p> <p>Attempt merges with the target crime, so a defendant is only liable for Attempt OR the target crime, not both.</p> <p>Here, _____. Thus, _____.</p>
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Accomplice Liability

Accomplice liability is a form of vicarious liability whereby multiple defendants can be guilty of the same crime or crimes, even if they did not individually commit the specific criminal acts.

<u>Principal</u>		<u>Accessory</u>	
Principal is <u>present at the scene of the crime</u> , and may be found guilty of the target crime, as well as any other foreseeable criminal acts committing at the same time.		Accessory is <u>NOT present at the scene of the crime</u> , but may be found guilty of “Aiding and abetting,” and <i>may</i> also be found guilty of the target crime.	
<u>First Degree</u>	<u>Second Degree</u>	<u>Before the Fact</u>	<u>After the Fact</u>
That person, or persons, who actually perform the criminal acts or aid in their performance. (e.g. collecting bags of money inside the bank.)	That person, or persons, who aids, abets, facilitates or encourages the principal in the first degree. (e.g. get-away driver or lookout.)	That person, or persons, who aid or assist in the commission of the crime with the <u>intent</u> the crime succeeds. May be guilty of BOTH aiding and abetting, AND the target crime.	That person, or persons, who have knowledge of a past crime and then aid or assist a criminal after the commission of the crime with the knowledge
Here, _____. Thus, _____.			

Crimes Against the Person

<u>Assault</u>	<u>Battery</u>	<u>False Imprisonment</u>	<u>Kidnapping</u>	<u>Mayhem</u>	<u>Homicide</u>
Assault is either an attempt to commit a battery or the intentional creation of a reasonable apprehension in the mind of the victim of imminent bodily harm. Here, _____. Thus, _____.	Intentional or criminally negligent application of unlawful force to the person of another. Here, _____. Thus, _____.	Unlawful confinement of a person without his valid consent. <u>Unlawful Confinement</u> <u>Person</u> <u>Without Consent</u> Here, _____. Thus, _____.	Unlawful confinement of a person that involves some movement of the victim or concealment of the victim in a secret place. Here, _____. Thus, _____.	Maiming or disfiguring another with malice. <u>Maim/Disfigure</u> <u>Malice</u> Here, _____. Thus, _____.	<See infra.>

Crimes Against Property

<u>Larceny</u>	<u>Embezzlement</u>	<u>False Pretenses</u>	<u>Robbery</u>	<u>Extortion</u>	<u>Receiving Stolen Property</u>	<u>Malicious Mischief</u>
Larceny is the trespassory taking and carrying away of another’s personal property with the intent to permanently deprive.	Embezzlement is the fraudulent conversion of personal property of another by someone in lawful possession.	False pretenses is obtaining title to personal property of another by an intentional false statement	Robbery is a taking of personal property of another from the other’s person or presence by force or by	Extortion is obtaining personal property by means of threats to do harm.	Receipt of stolen property consists of receiving possession and control of stolen personal	Malicious mischief is the malicious destruction of, or damage to, property of another.

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<p><u>Taking</u></p> <p><u>Carrying Away</u></p> <p><u>Personal Property</u></p> <p><u>Of Another</u></p> <p><u>Intent to Permanently Deprive</u></p> <p>Here, ____. Thus, ____.</p> <p><u>Larceny by Trick</u></p> <p>Where the victim is tricked, by a misrepresentation of fact, into giving up possession of property with intent to permanently deprive.</p> <p>Here, ____. Thus, ____.</p> <p><u>Larceny by Conversion</u></p> <p>Conversion of personal property by a person in lawful possession with specific intent to defraud.</p> <p>Here, ____. Thus, ____.</p> <p><u>Larceny by Continuing Trespass</u></p> <p>Defendant who wrongfully takes property without the intent to permanently deprive, but later decides to keep it, is guilty of larceny when he decides to keep it. However, if the original taking was not wrongful, and he later decides to keep it, it is not larceny.</p> <p>Here, ____. Thus, ____.</p>	<p><u>Fraudulent</u></p> <p><u>Conversion</u></p> <p><u>Personal Property</u></p> <p><u>Another</u></p> <p><u>Lawful Possession</u></p> <p>Here, ____. Thus, ____.</p>	<p>of past or existing fact with the intent to defraud the other.</p> <p><u>Title</u></p> <p><u>Personal Property</u></p> <p><u>Another</u></p> <p><u>Intentional False Statement</u></p> <p><u>Intent to Defraud</u></p> <p>Here, ____. Thus, ____.</p> <p><u>Forgery</u></p> <p>Forgery is the making or altering a writing with apparent legal significance so that it is false.</p> <p>Here, ____. Thus, ____.</p> <p><u>Uttering</u></p> <p>Uttering is the offering as genuine of an instrument known to be false with the intent to defraud.</p> <p>Here, ____. Thus, ____.</p>	<p>threats of immediate death or physical injury, with the intent to permanently deprive.</p> <p><u>Taking</u></p> <p><u>Personal Property</u></p> <p><u>Another</u></p> <p><u>Person or Presence</u></p> <p><u>By Force/Threat of Force</u></p> <p><u>Intent to Permanently Deprive.</u></p> <p>Here, ____. Thus, ____.</p>	<p><u>Obtaining Personal Property</u></p> <p><u>Threats</u></p> <p>Here, ____. Thus, ____.</p>	<p>property known to have been obtained in a manner constituting a criminal offense by another person with the intent to permanently deprive the owner of his interest in it.</p> <p><u>Receiving Possession & Control</u></p> <p><u>Stolen Personal Property</u></p> <p><u>Known</u></p> <p><u>By Another</u></p> <p><u>Intent to Permanently Deprive</u></p> <p>Here, ____. Thus, ____.</p>	<p><u>Malicious</u></p> <p><u>Destruction or Damage</u></p> <p><u>Property of Another</u></p> <p>Here, ____. Thus, ____.</p>
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