

# ADA ELLIOTT - LARCENY/ROBBERY

The victim was visiting Albuquerque to see his former girlfriend. First, however, he met a prostitute and they went to a motel. The motel room had a front room connected to a back room. She instructed him to remove his clothing.

He put his clothing on a chair in the front room. He had between \$1500 and \$1600 in his coat pocket. They had sexual intercourse in the back bedroom. While so engaged, he heard noises that she said were probably the neighbors. After intercourse, she went into the front room and the victim stayed in bed for a few minutes. When he got up and went into the front room to get dressed, he noticed that his coat was not in the same position as he had left it.

When he turned around, the prostitute was pointing a gun at him. A man came out from the back bedroom and she handed the gun to him. They left and the victim chased after them.

The male offender was convicted of Armed Robbery and Conspiracy. The Court of Appeals reversed the conviction.

THIS IS NOT A ROBBERY!!

For robbery, the use or threatened use of force must be the means by which the property is removed from the victim's possession. NMSA 1978, Section 30-16-2.

Here, the victim's money was removed by stealth. The use of force to retain property or to facilitate escape does not satisfy the force element of robbery. State v. Lewis (1993).

