

# The differentiation of theft from related offenses

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## **Abstract**

*The article is devoted to the analysis of criminal law, namely, the delimitation of theft and related offences. In criminal law theory, the embezzlement of funds is determined, just as the form of theft is determined by the method of its commission; therefore, theft, fraud, misappropriation or embezzlement are forms of theft. In the practice of criminal proceedings, the delimitation of theft is one of the problematic issues and causes many errors. Judicial practice materials and analysis of statistical data indicate that the activity of the courts to combat these crimes does not fully meet the requisites; therefore, some courts make mistakes in qualifying the actions of perpetrators, including the delimitation of theft and related categories of crimes, and so on.*

## INTRODUCTION.

First of all, theft must be delimited from robbery (Article 161 of the Criminal Code of the Russian Federation) and robbery (Article 162 of the Criminal Code of the Russian Federation).

The main immediate objects of robbery and theft coincide. The facultative immediate objects of these crimes differ. So, during a robbery (clause "g" part 2 of article 161 of the Criminal Code of the Russian Federation), such relations are those that ensure the inviolability of the person (physical or mental), and according to clause "c" part 2 of article 161 of the Criminal Code of the inviolability of the home. There is only one optional direct object of theft - this is the inviolability of the home (paragraph "a", part 3 of article 158 of the Criminal Code of the Russian Federation).

Differentiation of theft from other forms of larceny.

The most significant signs of delimiting robbery from theft are present on the objective side of these crimes. Above, we called the theft signs - the seizure of another's property, etc. According to its objective features, theft is characterized by such a seizure of property from

the possession of another person, which is carried out secretly, unnoticed, and therefore without the knowledge or in addition to the will and consent of the victim. This provides the opportunity for unhindered possession of the stolen. The method of seizure during robbery is the openness of theft. Theft and robbery thus differ in the manner in which the property is seized.

The main thing in delimiting robbery from theft is the subjective criterion (the conviction of the offender himself of the secrecy or openness of the larceny committed). The perpetrator's recognition of the open method of encroaching on someone else's property speaks of the special impudence and social danger of the criminal's personality.

Unlike a thief, a robber does not rely on the absence or non-management of eyewitnesses to the crime, but on the suddenness and audacity of his actions, the quick disappearance from the scene of the crime, the confusion and confusion of the eyewitnesses, caused by fear of probable violence

When delimiting robbery from theft, the issue of escalating theft into robbery is important (paragraph 5 of Resolution No. 29).

The courts were given an explanation that if during the theft the actions of the perpetrator are discovered by the owner or other owner of the property or by other persons, however, the perpetrator, realizing this, continues to commit unlawful seizure of the property or its retention, the offense should be qualified as robbery.

On October 27, 2014, the Kirov District Court of Astrakhan convicted R. of guilty of attempting to openly steal someone else's property. It follows from the verdict that R., being in the trading floor of the store, taking advantage of the fact that no one was watching his actions, secretly stole property from the counter by free access, hid it in his left trouser pocket, and then passed the cash register terminal and left the store. The seller, who was in the trading floor, called R. and asked him to stop. R., wanting to bring his criminal intent to the end, realizing that his actions are open in nature, not responding to the seller's legitimate demands to stop and return the stolen, tried to escape from the scene of the crime. He ran out of the store, but could not bring his criminal intent to the end, as he was detained by store employees.

On October 22, 2014, L. was convicted by the Soviet District Court of Samara for attempting to openly steal someone else's property.

The verdict indicates that L. was in the trading floor of the store. Passing by the stalls with goods, L. suddenly conceived the secret theft of another's property in his favor, with a mercenary purpose. After making sure that no one was watching his actions, he secretly, using free access for the purpose of personal enrichment and the seizure of other people's property, took a console from his window. After that L. with the stolen property left the trading floor through the fire exit and tried to escape from the scene of the crime without paying for the goods and planning to subsequently dispose of the stolen property at his discretion. At this time, criminal acts became apparent to guard A., who asked L. to stop. However, L., realizing that his actions began to be open, and wanting to bring his criminal