

A man and a woman agreed that the woman would rob a bank and that the man would steal a car beforehand for the woman to use as a getaway vehicle. The man stole a car and parked it two blocks from the bank. He left the car key under the floor mat with a note saying that he wanted nothing more to do with the scheme. The next day, the woman robbed the bank and ran to the spot where the man had said he would leave the stolen car. She then escaped in the car and disappeared. She never shared any of the money with the man.

In a jurisdiction that has adopted the bilateral requirement for conspiracy, can the man properly be convicted of conspiring with the woman to rob the bank?

- A. No, because the man received no benefit from the robbery.
- B. No, because the man withdrew from the conspiracy.
- C. Yes, because the robbery was successful due in part to the man's actions.
- D. Yes, because there was an agreement to rob the bank and an overt act in furtherance of the agreement.

Explanation:

Conspiracy

	Agreement	Overt act
Majority view (modern & MPC)	Unilateral approach – at least one person specifically intends to enter agreement	At least one conspirator must commit overt act
Minority view (common law)	Bilateral approach – two or more persons specifically intend to enter agreement	Not required

MPC = Model Penal Code.

Conspiracy, at its core, is an **agreement** between two or more persons to commit a crime. Proof of an agreement depends on whether the prosecuting jurisdiction follows either:

the **bilateral** approach (minority rule) – requires proof that **two or more persons** entered the agreement with the *specific intent* to commit the target crime, so the defendant must be **acquitted** if other participants feigned agreement *or*

the **unilateral** approach (majority rule) – requires proof that **the defendant** entered the agreement with the *specific intent* to commit the target crime, so the defendant can be **convicted** even if other participants feigned agreement.

And most jurisdictions also require proof that at least one of the conspirators committed an overt act in furtherance of the conspiracy.

Here, there is proof of two guilty minds since the man *and* the woman agreed and specifically intended to rob a bank by having (1) the man steal a getaway vehicle and (2) the woman rob the bank. And they both committed overt acts in furtherance of their agreement when he stole the getaway car and she robbed the bank. As a result, the man can be convicted of conspiracy in this bilateral-approach jurisdiction (and any other jurisdiction).

(Choice A) A conspirator need not benefit from the target crime to be convicted of conspiracy.

(Choice B) A defendant can **withdraw** from a conspiracy *before* it is completed. But since the man attempted to withdraw *after* the conspiracy was completed—ie, after an agreement was formed and, if required, an overt act occurred—withdrawal is no defense.

(Choice C) The bank robbery was successful due in part to the man's overt act—stealing the getaway car. But he could be convicted even if the overt act had been completed by another conspirator or if the robbery had failed.

Educational objective:

The bilateral approach to conspiracy (minority rule) requires proof that two or more persons entered an agreement with the specific intent to commit a crime. But the unilateral approach (majority rule) only requires proof that the defendant entered an agreement with such intent.

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