

A jurisdiction has the following decisional law on questions of principal and accomplice liability:

**CASE A:** The defendant, a hardware store owner, sold several customers a device which detects police radar and enables speeders to avoid detection. When one of the devices broke down and the speeder was arrested, he confessed that he often sped, secure in the knowledge that the device would warn him of police radar in the vicinity. Held: The defendant is guilty as an accomplice to speeding.

**CASE B:** The defendant told a friend that the defendant had stored some stereo equipment in a self-storage locker. He gave the friend a key and asked her to pick up the equipment and deliver it to the defendant's house. The friend complied and removed the equipment from the locker using the key. In fact, the equipment belonged to the defendant's neighbor, whose locker key the defendant had found in the driveway. Held: The defendant is guilty as a principal to burglary.

**CASE C:** A city council member accepted a bribe from the defendant in exchange for his vote on the defendant's application for a zoning variance. A statute prohibits the taking of bribes by public officials. Held: The defendant is not guilty as an accomplice to the city council member's violation of the bribery statute.

**CASE D:** The defendant, an innkeeper, sometimes let his rooms to prostitutes whom he knew to be using the rooms to ply their trade. He charged the prostitutes the same price as other guests at his inn. Held: The defendant is not guilty as an accomplice to prostitution.

A college student purchased narcotics from a man whom the student believed to be a drug dealer but who was in fact an undercover police agent. The student has been charged as an accomplice to the sale of narcotics.

Should the student be convicted or acquitted of this crime?

- A. Convicted on the authority of Case A.
- B. Convicted on the authority of Case B.
- C. Acquitted on the authority of Case C.
- D. Acquitted on the authority of Case D.

## Explanation:

### Exclusions from accomplice liability

<b>Member of protected class</b>	Members of class criminal statute was designed to protect are immune from liability (eg, statutory rape)
<b>Exempted necessary party</b>	When crime requires multiple participants but criminal statute only imposes liability on one, others are immune from liability (eg, sale of narcotics)
<b>Withdrawal</b>	No liability if accomplice voluntarily withdraws before crime becomes unstoppable by:  repudiating encouragement undoing or neutralizing assistance notifying authorities or otherwise preventing crime

A defendant can be convicted as an **accomplice** to a crime if he/she intentionally helped or encouraged the principal before or during the crime with the specific intent that the principal complete that crime. But a person who would otherwise be an accomplice is **exempt from liability** when:

the crime requires **more than one participant** (eg, bribery requires an offeror and recipient) *but*

the criminal **statute** only imposes **liability on one participant** (eg, only the recipient—not the offeror).

Here, a student purchased drugs and was charged as an accomplice to the sale of narcotics—an offense that requires two participants (a seller and a purchaser). But only a seller can be liable for the sale of narcotics, just as only an official can be liable for taking a bribe in Case C. Therefore, the student is exempt from accomplice liability and should be acquitted of this crime.

**(Choice A)** In Case A, a hardware store owner (accomplice) sold a device that helped speeders (principals) avoid detection. He was not exempt from accomplice liability since—unlike here—the law did not limit criminal liability to a certain participant.

**(Choice B)** Case B addresses the defendant's *principal* liability for a **burglary** carried out by an innocent agent (the friend)—a person who was tricked or forced into committing a criminal act. But this case is inapplicable here because the student was not a principal to the unlawful sale of narcotics—he was merely the buyer.

**(Choice D)** As Case D shows, mere knowledge that the principal intends to use a person's aid—particularly aid involving the *sale* of goods or services—to commit a crime does not make that person an accomplice. An accomplice must have some greater interest in the

commission of that crime (eg, selling at a higher price). Since the student *purchased* drugs, this authority does not apply.

**Educational objective:**

When a crime requires at least *two* participants but the criminal statute only imposes liability on *one* participant, all other participants are exempt from accomplice liability.

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