

A brother knew that his sister was suffering from an advanced form of bone cancer and had approximately six months to live. The brother also knew that his sister was considering ending her life if her condition became unbearable. The brother decided to hasten his sister's death with a slow-acting poison so he could collect as the beneficiary of her life insurance policy. The poison caused the sister such severe nausea that she skipped her next scheduled chemotherapy appointment. The bus that the sister usually took to attend chemotherapy crashed that day, leaving no survivors.

Three days later, the sister was in unbearable pain from the poison. Believing that the pain was caused by her progressing cancer, the sister decided to end her own life with an overdose of pain medication. An autopsy conclusively established that the sister had enough poison in her system to cause intense pain but that the poison would not have killed her for another week. The coroner determined that the overdose had been the actual cause of her death. The coroner also predicted that the sister's bone cancer would have caused her death within the year.

The applicable jurisdiction does not classify suicide as a crime.

Can the brother properly be found guilty of common-law murder based on these facts?

- A. No, because the brother's conduct actually extended the sister's life.
- B. No, because the pain medication was the actual cause of the sister's death.
- C. Yes, because a trier of fact could find that the brother's conduct was the actual and proximate cause of the sister's death.
- D. Yes, because an act that accelerates impending death is a legal cause of that death.

Explanation:

Criminal homicide occurs when a person **causes the death** of another person while acting with the requisite mens rea—e.g., common-law murder (the most serious type of homicide) requires an intent to kill or other **malice aforethought**. **Causation** requires proof of both:

actual causation – (1) the victim would not have died but for the defendant's conduct *or* (2) when multiple causes exist, the defendant's conduct was a **substantial factor** in causing the victim's death *and*

proximate causation – the death was a **foreseeable** consequence of the defendant's actions.

Here, the sister died by an intentional overdose of pain medication (**Choice B**). But her brother had previously poisoned her to collect as the beneficiary of her life insurance policy (intent to kill). The poison was a substantial factor in her death because it caused her unbearable pain that made her decide to end her life (actual causation), and it was foreseeable that the poison would kill her (proximate cause). And since a trier of fact could find that the brother actually and proximately caused the sister's death, he can properly be found guilty of common-law murder.

(Choice A) The brother's conduct actually extended the sister's life since the poison caused her such severe nausea that she skipped her next scheduled chemotherapy appointment and avoided the fatal bus crash. But he can still be found guilty of common-law murder since his conduct actually and proximately caused her death.

(Choice D) An act that accelerates impending death is a proximate (i.e., legal) cause of that death only if the death was a foreseeable consequence of the defendant's actions. However, actual causation must also be established for the brother to be found guilty of common-law murder.

Educational objective:

Criminal homicide occurs when a person causes another's death with the requisite mens rea. Causation must be actual ("but for" or substantial factor) *and* proximate (foreseeable consequence).

Criminal liability for murder

