

A state statute provides as follows: "The maintenance of any ongoing enterprise in the nature of a betting parlor or bookmaking organization is a felony."

A prosecutor has evidence that a woman has been renting an office to a man, that the man has been using the office as a betting parlor within the meaning of the statute, and that the woman is aware of this use.

Which of the following additional pieces of evidence would be most useful to the prosecutor's effort to convict the woman as an accomplice to the man's violation of the statute?

- A. The man has paid the woman the rent in bills that are traceable as the proceeds of gambling activity.
- B. The woman charges the man considerably more in rent than she charged the preceding tenant, who used the office for legitimate activities.
- C. The woman has personally placed bets with the man at the office location.
- D. The woman was previously convicted of running a betting parlor herself on the same premises.

Explanation:

Exclusions from accomplice liability

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

A person who aids or encourages another (ie, the principal) before or during a crime can only be convicted as an **accomplice** if those acts were **intended to further the principal's criminal aim**. Mere knowledge that the principal intends to commit a crime is not enough to prove the intent necessary for accomplice liability. But such **intent can be inferred** from evidence that the person has a **personal stake** in the commission of the crime.

Here, the woman knew that the man was using the office she rented to him as an illegal betting parlor. And her intent to aid or encourage his crime could be inferred from evidence that she personally benefits from his operation by charging him considerably higher rent than she charged the preceding tenant. Therefore, this evidence would be most useful to the prosecutor's effort to convict the woman as the man's accomplice.

(Choice A) Evidence that the man's rent payments are traceable to gambling activity would not show that the woman *intended* to further his crime.

(Choice C) Although maintaining a betting parlor requires more than one participant (operator and customer), the statute only imposes liability on one participant (operator). So evidence that the woman acted as a customer (an exempted necessary party) by placing bets at the office would exclude her from accomplice liability.

(Choice D) The woman's prior conviction of running a betting parlor on the same premises would be irrelevant since it would not show that she intended to help the man with *his* criminal enterprise.

Educational objective:

An accomplice must aid or encourage the principal with the *intent* to further the principal's criminal aim. Such intent can be inferred when the accomplice has a personal stake in the crime being committed.

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