

A youth and two of his friends were members of a teenage street gang. While they were returning from a club late one evening, their car collided with a car driven by an elderly woman. After an argument, the youth attacked the elderly woman with his fists and beat her to death. The youth's two friends watched, and when they saw the woman fall to the ground, they urged him to flee.

The youth was eventually apprehended and tried for manslaughter, but the jury could not decide on a verdict.

If the youth's companions are subsequently tried as accomplices to manslaughter, should they be acquitted or convicted?

- A. Acquitted, because the youth was not convicted of the offense.
- B. Acquitted, because they did not assist or encourage the youth to commit the crime.
- C. Convicted, because they made no effort to intervene.
- D. Convicted, because they urged him to flee.

Explanation:

Parties to a crime

Modern view	Common law	Definition	Liability
Principal	Principal (first degree)	Performs criminal act with requisite intent or uses innocent agent to commit criminal act	Target & foreseeable crimes
Accomplice	Principal (second degree)	Present at crime & aids/encourages principal with intent that principal commit crime	
	Accessory before the fact*	<i>Not</i> present at crime but aids/encourages principal with intent that principal commit crime	
Accessory after the fact		Knows principal has committed felony & helps principal avoid arrest or conviction	Independent crime

*Common law liability requires conviction of principal.

A person becomes an **accomplice** by (1) **intentionally aiding or encouraging** another (ie, the principal) **before or during a crime** (2) with the specific intent that the crime be completed. But **mere presence** at the scene of a crime does not amount to aid or encouragement and is therefore **insufficient** to make a person an accomplice.

Here, the friends were tried as accomplices to **manslaughter** after the youth beat the elderly woman to death in front of them. Although the friends urged the youth to flee *after* the beating was over, they did not aid or encourage the youth *before or during* this crime—they only watched. And since mere presence at a crime scene does not establish accomplice liability, the friends should be acquitted.

(Choice A) In most jurisdictions, an accomplice can be convicted even if the principal was never tried for, or convicted of, the aided/encouraged crime. So, the fact that the youth (principal) was never convicted does not immunize the friends. But they should be acquitted since they did not aid or encourage the youth's crime.

(Choice C) Criminal liability only arises from a failure to act (ie, omission) if a person had a **legal duty** to act and could have reasonably done so. Since the friends were mere

bystanders with no duty to intervene on the woman's behalf, the fact that they made no effort to do so is irrelevant.

(Choice D) Persons who aid a principal *after* a crime has been completed (ie, accessories after the fact) are liable for a separate offense (eg, harboring a fugitive)—not the offense committed by the principal (eg, manslaughter). And merely urging the youth to flee is not sufficient **post-crime assistance** to establish such liability.

Educational objective:

An accomplice intentionally aids or encourages the principal before or during a crime with the specific intent that the crime be completed. But mere presence at a crime scene does not make a person an accomplice.

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