

A 22-year-old man went to a nightclub with a group of friends. The nightclub is known for its strict 18-and-up policy. While there, the man ran into a former coworker who introduced the man to her sister. Over the course of the night, the man and the sister danced and engaged in conversation. The sister told the man that she was 19 years old and attended the local university. Near closing time, the sister invited the man to her apartment. Unbeknownst to him, the sister was only 16 and had gotten into the club using a fake ID. Later that evening, the man had consensual sexual intercourse with the coworker's sister.

The age of consent in the jurisdiction is 17.

Is the man guilty of statutory rape?

- A. No, because the man did not knowingly engage in sexual intercourse with a minor.
- B. No, because the man's mistake of fact, under the totality of circumstances, was reasonable.
- C. Yes, because the man was negligent in failing to confirm the sister's age.
- D. Yes, because the man's commission of the requisite actus reus is sufficient for a finding of guilt.

Explanation:

Statutory rape arises when a defendant has sexual intercourse with a person under the age of consent. This is a **strict liability crime**, which means that it has **no mens rea requirement**. Instead, proof of the **actus reus** (here, intercourse with an underage person) is alone **sufficient** to support a conviction. As a result, the fact that the man did not *knowingly* engage in sexual intercourse with a minor does not absolve him of guilt (**Choice A**).

Additionally, **mistake of fact** is **never a defense** to a **strict liability crime** because this defense is predicated on the notion that the defendant's mistake negates the mens rea necessary to convict. So even though the coworker's sister misrepresented her age to the man, he cannot escape liability for statutory rape by establishing that he was **reasonably mistaken** about the **victim's age** (**Choice B**). Therefore, the man is guilty of statutory rape.

(Choice C) The man did not confirm the sister's age. But whether his failure to do so was negligent—or even reasonable—is irrelevant to this strict liability crime. All that matters is whether he committed the actus reus.

Educational objective:

Mistake of fact is never a defense to a strict liability crime—including statutory rape. Therefore, a defendant's reasonable mistake as to the victim's age will not serve as a defense to statutory rape.

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Applicability of mistake-of-fact defense



