

A hair technician agreed to implant synthetic hair into the scalp of her customer. The customer explained to the hair technician that he often broke into people's houses to take jewelry and that he wanted to avoid leaving his own hair at the scene as incriminating evidence. The technician, knowing that a great deal of the synthetic hair would fall out due to implant rejection, that the strands would still have the customer's DNA at the root, and that the procedure would be no help at all in hiding forensic evidence, said nothing. The technician completed the procedure and charged her regular hourly rate. The next night, the customer broke into a house and stole a diamond ring. He later was convicted of burglary based on hair evidence he left behind.

The jurisdiction follows the Model Penal Code rule regarding accomplice liability.

Should the hair technician be convicted of burglary as an accomplice?

- A. No, because she did not break into the house and steal the ring.
- B. No, because she did not have the requisite intent for accomplice liability.
- C. Yes, because she failed to notify legal authorities in a timely manner.
- D. Yes, because she knew that the customer broke into houses regularly.

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.

An **accomplice** (i.e., accessory) to a crime is **fully liable** for the principal's conduct. But in most jurisdictions and under the Model Penal Code, accomplice liability will only be imposed if the accomplice has a **dual intent**:

the specific intent to **aid or encourage the principal** before or during the crime *and* the specific intent that the **principal commit the crime**.

Mere knowledge that another person intends to commit a crime is not enough to impose accomplice liability.

Here, the hair technician implanted synthetic hair into her customer's scalp. After the procedure, the customer was convicted of burglary for breaking into a house and stealing a ring. But even though the hair technician knew that the customer broke into houses regularly, there is no indication that she had the specific intent to aid or encourage the customer or the specific intent that he commit the crime **(Choice D)**. And since the hair technician did not have the requisite intent for accomplice liability, she should not be convicted of burglary as an accomplice.

(Choice A) The fact that the hair technician did not break into the house and steal the ring means that she cannot be convicted of burglary as a *principal*. But she could have been convicted as an *accomplice* had she possessed the requisite intent (not seen here).

(Choice C) The hair technician had no duty to notify legal authorities in a timely manner that the customer often broke into people's houses to take jewelry. Therefore, she cannot be convicted of burglary as an accomplice for failing to do so.

Educational objective:

In most jurisdictions and under the Model Penal Code, a conviction based on accomplice liability requires proof that a person (1) intentionally aided or encouraged the principal before or during the crime and (2) intended that the principal commit the crime. Mere knowledge that another person intends to commit a crime is not enough.

References

Model Penal Code § 2.06(3) (defining accomplice liability).