

A landlord decided to destroy his dilapidated building in order to collect the insurance money. He hired a man to burn down the building. The man broke into the building and carefully searched it to make sure no one was inside. The man failed, however, to see a person experiencing homelessness asleep in an office closet. The man started a fire. The building was destroyed, and the person experiencing homelessness died from burns a week later. Two days after the fire, the landlord filed an insurance claim in which he stated that he had no information about the cause of the fire.

The landlord is charged with felony murder of the person experiencing homelessness.

If the landlord is found guilty, it is because the death of the person experiencing homelessness occurred in connection with which felony?

- A. Arson.
- B. Burglary.
- C. Conspiracy.
- D. Fraud.

Explanation:

Accomplice liability arises when a person intentionally aids, encourages, or solicits another (principal) to commit a crime with the intent that the crime be completed. An accomplice is liable to the same extent as the principal for the **encouraged crime** and any crimes that occur as a **natural and probable** (ie, foreseeable) **consequence of that crime**.

Here, the landlord became an accomplice when he hired the man to burn down his building (ie, solicited arson). The landlord did not encourage the commission of felony murder—the killing of another during the commission, or attempted commission, of an **inherently dangerous felony** like arson. But he still could be found guilty of felony murder since the person experiencing homelessness died from burns caused by that fire (foreseeable consequence of arson).

(Choice B) Burglary is an inherently dangerous felony that requires proof of a (1) trespassory entering of another's property (2) with the specific intent to commit a crime therein. Although the man intended to commit arson in the landlord's building, he did not trespass because the landlord consented to his entry (no burglary).

(Choice C) Criminal conspiracy occurs when (1) two or more persons enter an agreement with the specific intent to commit a crime and (2) one of the conspirators commits an overt act in furtherance of that agreement. Although the landlord and the man conspired to commit arson, the felony murder conviction must be based on an inherently dangerous felony—not their conspiracy.

(Choice D) Fraud requires proof that the defendant made a false representation with the specific intent to permanently obtain the victim's property. But since fraud is not an inherently dangerous felony, it can never be the basis for felony murder.

Educational objective:

An accomplice is someone who intentionally aids, encourages, or solicits another to commit a crime with the intent that the crime be completed. As a result, an accomplice is liable for the encouraged crime and any crimes that occur as a natural and probable consequence of that crime.

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Accomplice liability
(accomplice liable for encouraged and foreseeable crimes)

