California Criminal Law

CASES AND PROBLEMS

FIFTH EDITION

2025 SUPPLEMENT

Steven F. Shatz

Scott W. Howe

Amy Flynn

CAROLINA ACADEMIC PRESS
Durham, North Carolina

Carolina Academic Press
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
E-mail: cap@cap-press.com
www.cap-press.com

2025 TEACHER'S UPDATE

to

CALIFORNIA CRIMINAL LAW: CASES AND PROBLEMS
(5th Edition)

by Steven F. Shatz, Scott Howe and Amy Flynn

Dear Colleague,

The following material updates our Teacher's Manual. We hope you find this material useful, and we welcome your comments, questions and suggestions. The authors can be contacted as follows: Steve Shatz at shatzs@usfca.edu, Scott Howe at swhowe@chapman.edu and Amy Flynn at amflynn@usfca.edu.

Steven F. Shatz
Scott Howe
Amy Flynn

CHAPTER 1 – INTRODUCTION

Powell v. Texas (p. 101)

In *City of Grants Pass, Oregon v. Johnson*, 603 U.S. 520 (2024), the Supreme Court held that the enforcement of generally applicable laws regulating camping on public property when applied to the homeless does not constitute "cruel and unusual punishment" prohibited by the Eighth Amendment. Citing *Powell*, the Court declared that the Cruel and Unusual Punishments Clause focuses on what punishment a government may impose after a criminal conviction, not on whether a government may criminalize particular behavior in the first place. The Court concluded that the punishments Grants Pass imposes for the offenses in question did not qualify as cruel and unusual. The city imposes only limited fines for first-time offenders, an order temporarily barring an individual from camping in a public park for repeat offenders, and a maximum sentence of 30 days in jail for those who later violate an order. The Court also rejected the argument that *Robinson* could apply to limit the criminalization of the conduct. The Court concluded that the Grants Pass, public-camping ordinances do not criminalize mere status. The public-camping laws prohibit actions undertaken by any person, regardless of status. Further, the Court rejected the argument that it should extend *Robinson* to prohibit the enforcement of laws that proscribe certain acts that are in some sense "involuntary." The Court noted that it had already rejected that argument in *Powell.*

CHAPTER 3 – MENTAL STATE (MENS REA)

Note and Problems (p. 144)

In *People v. Lattin,* 107 Cal.App. 5th 596 (2024), the Court concluded that there is no brightline rule in California that, unless it is used as a club or bludgeon, a gun must be loaded for an assault with it to occur. Proof that a firearm was unloaded can be a complete defense to charges of assault. However, if ammunition is available, there is a jury question whether the defendant possessed the means to load the gun and shoot immediately, or whether he was too many steps away from inflicting injury to have the present ability to commit assault. *See id.* at 244-45. The court concluded that there was sufficient evidence to support Lattin's conviction for assault with an unloaded shotgun because he had ready access to ammunition and could have quickly loaded it. *See id.* at 260.

Notes and Problems (p. 164)

There have been many recent cases from California concerning whether various state and federal statutes regulating the possession of weapons infringe the Second Amendment, as interpreted in *N.Y. State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022) (striking down New York law requiring persons to show "proper cause" to obtain a license to carry a handgun in public for self-defense), and *United States v. Rahimi*, 602 U.S. 680 (2024)(prosecution under a federal statute that prohibits individuals subject to a domestic violence restraining order from possessing a firearm does not violate the Second Amendment). *See, e.g.*, People v. Gomez, 110 Cal.App.5th 419 (2025) (state prohibition on being a felon in possession of a firearm did not violate Second Amendment, but evidence was insufficient to support conclusion that flaregun, on the facts, met the statutory definition of a firearm); People v. Bey, 108 Cal.App.5th 144 (2025) (state prohibition on possession of firearm by felon did not violate Second Amendment);

Mountain View Police Dept. v. Krepchin, 106 Cal.App.5th 480 (2024) (gun-violence-restraining-order statute, under which defendant was subject to three-year prohibition on possessing firearm or ammunition, did not violate the Second Amendment); People v. Anderson, 104 Cal.App.5th 577 (2024) (convictions for felon in possession of firearm and related offenses did not violate Second Amendment); People v. Alexander, 91 Cal.App.5th 469 (2023) (state prohibition on being a felon in possession of a firearm and ammunition did not violate Second Amendment); People v. Mosqueda, 97 Cal.App.5th 399 (2023) (good cause requirement for issuance of state concealed carry license for handgun violated Second Amendment); Nguyen v. Bonta, 720 F.Supp.3d 921, 2024 WL 1057241 (S. Dist. Cal. 2024) (state law limiting purchase of firearms to every 30 days violated the Second Amendment); Fouts v. Bonta, 718 F.Supp.3d 1276, 2024 WL 751001 (S. Dist. Cal. 2024) (state prohibition on possessing or carrying a "billy" violated the Second Amendment); United States v. Perez-Garcia, 96 F.4th 1166 (9th Cir. 2024) (federal Bail Reform Act's condition of release prohibiting possessing firearms pending criminal trial did not violate the Second Amendment).

CHAPTER 4 – HOMICIDE: INTENTIONAL KILLINGS

Notes and Problems (p. 258)

In *People v. Lopez*, 99 Cal.App.5th 1242 (2024), the Court of Appeals held that the passage of S.B. 1437 did not abrogate the doctrine of transferred intent. Petitioner had aided and abetted a co-defendant who shot multiple times into a parked van with the premeditated intent to kill an intended victim but killed an unintended victim. Defendant acted as an aider and abettor to the shooter and had his own premeditated intent to kill the intended victim. The Court held that malice was, therefore, not imputed to him through the natural and probable consequences doctrine and that S.B. 1437 did not render invalid his conviction for first-degree, premeditated murder.

CHAPTER 5– HOMICIDE: UNINTENTIONAL KILLINGS

Problem 38 (p. 295)

In *People v. Zemek*, 93 Cal.App. 5th 313 (2023), the source case for the problem, the Court upheld Defendant's conviction for first degree murder, finding sufficient evidence that she acted with the premeditated intent to kill and proximately caused Victim's death.

People v. Armitage (p. 292)

In *People v. Jones*, 105 Cal.App.5th 83 (2024), the Court upheld defendant's conviction for first degree murder for the beating death of an adult victim, who died approximately one week after the attack once life support, which could have sustained victim for several years, was

withdrawn pursuant to his family's request. Doctors had predicted that the victim might be profoundly disabled or might improve, but, at best, would need assistance with the daily tasks of living and would probably never be able to eat on his own. The Court found that, given the severe nature of Defendant's attack, it was reasonably foreseeable that the victim would die. The Court also determined that the removal of life support was not so unusual and did not produce harm so far beyond the risk created by Defendant's actions that it would be unfair to hold him responsible for murder. The Court concluded that Defendant proximately caused the victim's death and that the removal of life support was only a dependent intervening cause.

Problem (p. 270)

Students might be presented with the following additional problem:

Defendant was driving her car at over 100 m.p.h. on a freeway while under the influence of an excessive amount of oxycodone. A highway patrol officer gave chase, but Defendant did not stop for more than 40 miles, until she tried to pass a truck and struck a guardrail. After coming to rest, her car was blocking two lanes of traffic. As a result, the CHP had the freeway shut down on the side where Defendant crashed. Highway patrol officers on the scene ordered Defendant to exit her car numerous times for about 45 minutes but received no response. All the airbags had been deployed in Defendant's car, and the officers saw only minimal movement within it. About 30 minutes after the crash and a half-mile away, at the tail end of the stopped traffic, Jeremy S—a driver operating an 18-wheel semi-trailer truck at excessive speed while distracted looking for his sunglasses—rearended another vehicle and ended up killing a driver in another stopped vehicle. Several minutes later, officers pulled Defendant from her vehicle. Although highly impaired, she was able to walk with assistance. She appeared oriented to time, place and situation. Defendant is charged, among other things, with second-degree murder on a theory of implied malice (P.C. § 187, subd. (a)). What are the arguments as to her guilt?

Defendant would argue that she is not guilty because she was not the proximate cause of the death and because she did not act with implied malice. Defendant would argue that, because the high probability of death created by Defendant's dangerous driving had dissipated by the time of the fatal accident to the point that it was no longer foreseeable, she was not the proximate cause of the death. The actions of Jeremy S., who was driving in a criminally negligent fashion, were an independent, superseding cause. Defendant would also argue that to the extent that danger remained from her failure to exit the car, she did not appreciate the danger and, thus, did not act with conscious disregard for human life. The prosecution will respond that the fatal accident was sufficiently foreseeable due to Defendant's dangerous driving, subsequent crash, and blocking of traffic, that she is the proximate cause of the death. Also, Defendant cannot use her intoxication on oxycodone to deny her awareness of the danger at any point in the events, given that implied-malice murder is a general intent crime.

(source: *People v. Superior Court (Chagolla)*, 102 Cal.App.5th 499 (2024) – insufficient evidence that Defendant acted with conscious disregard for human life; concurring opinion concluding that Defendant did act with conscious disregard until sometime after she stopped, but that her conduct up to that point was not the proximate cause of the death)

Problem (p. 278)

Students might be presented with the following additional problem:
Defendant's two-month old son was killed by blunt force by Father, Defendant's romantic partner, in a bedroom while Defendant sat with her mother on the living room sofa. Defendant knew that Father used methamphetamine and that he had not wanted the child to be born. Father had assaulted her during the pregnancy to try to abort the fetus. After Victim's birth, Defendant and Father lived together and shared caretaking responsibilities. Several times, Defendant heard a "bang" –like a cell phone dropping on a table--when Father was alone with Victim in another room and then heard Victim cry. Each time, Father made an excuse, such as that he had accidentally kicked the bassinette or bumped into other furniture. Defendant took Victim to three "well-baby" visits with a nurse practitioner, who said he seemed fine, except at the last one when he had minor swelling in one leg. In fact, Victim had already suffered broken ribs and other internal injuries due to Father's abuse. On the day of Victim's death, Defendant and her mother, while seated on the sofa, heard another bang. However, Victim did not cry, and Defendant did not check on Victim until an hour later, at which point she noted that he was in a medical emergency. Father had left the house. Victim, therefore, called 911. The responding medics did not observe any physical injuries, but at the hospital, Victim started exhibiting bruises, and x-rays and a CT scan revealed extensive injuries to his ribs and skull, from which he later died. During an interview with the police, Defendant admitted that she had seen Father treat Victim roughly on several occasions, such as by bumping his head into things, squeezing him "too tight," and pushing down on his chest "enough to probably break a rib." However, she said she always intervened in those situations, and she "really didn't know" Victim was being injured prior to the fatal encounter. Defendant is charged, among other things, with second-degree murder on a theory of implied malice (P.C. § 187, subd. (a)). What are the arguments as to her guilt?

Defendant would argue that she is not guilty because she had no reason to know to any substantial degree of certainty that Father would commit a life-endangering act while she sat on the sofa with her mother. Nor was she aware that remaining on the couch for an hour endangered Victim's life. Father's prior acts known to her had appeared at most to amount to minor, nonlethal abuse. The prosecution would argue that Defendant knew her failure to protect Victim from Father endangered his life. Defendant knew of Father's drug use, his wish not to have the child, and his effort to abort her pregnancy. She had also repeatedly witnessed his rough treatment of Victim, such as bumping Victim's head and his abusive squeezing of Victim. Defendant also was aware of the several prior possible assaults by Father against Victim when she was not in the room.

(source: *People v. Collins*, 17 Cal.5th 293 (2025) – insufficient evidence that Defendant subjectively appreciated that her failure to act was life endangering)

People v. Sears (p. 323)

In *People v. Oyler,* 17 Cal.5th 756 (2025), the Court upheld defendant's capital convictions for felony murder after five firefighters died battling a wildfire that he started. Based on the jury's finding of other special circumstances, the Court rejected as harmless any error in the trial court's failure to instruct that an arson-murder special circumstance required proof of defendant's specific intent to commit arson. However, the Court confirmed that, as the Court stated in *Sears*, a felony murder conviction requires proof of a specific intent to commit the felony although the felony is a general intent crime: "But while arson is a general intent crime, when a felony murder conviction is predicated on arson, the People must prove that the defendant acted with the specific intent to commit arson." *Id.* at 829

CHAPTER 7 – HOMICIDE: THIRD PARTY KILLINGS

Problem 50 (p. 354)

In *People v. Carney*, 14 Cal.5th 1130 (2023), the Court upheld convictions for first degree murder of defendants who participated in a gun battle although there was conclusive evidence that neither of them fired the fatal shot that killed a bystander. Applying *Sanchez'*s "substantial concurrent cause" analysis, the Court found that each of the defendant's conduct was a proximate cause of the bystander's death.

CHAPTER 9 – INCHOATE CRIMES

People v. Johnson (p. 476)

In *People v. Hinojos*, 111 Cal.App.5th 19 (2025), The court found that the gang enhancement under section 186.22(b)(1) could be applied to the underlying gang conspiracy conviction because the enhancement requires proof of additional elements that are not always present in every gang conspiracy violation. The court also found that the defendant, a non-life prisoner, could be convicted of gang conspiracy to commit assault by a life prisoner under section 182.5, even though he could not have committed the underlying offense (assault by a life prisoner under section 4500) himself, as he was not a life prisoner at the time of the offense. The defendant argued this violated the principle from *People v. Roberts*, 139 Cal.App.3d 290 (1983) that non-life prisoners cannot conspire to commit crimes specific to life prisoners when the Legislature has created a separate penalty for different prisoner classifications. The court rejected *Roberts* and held that a non-life prisoner can be convicted of gang conspiracy to commit assault by a life prisoner. The court distinguished precedent cases explaining that the exception to general conspiracy liability applies only to crimes that inherently require the cooperation of two or more persons where the Legislature has already accounted for different participant roles. The court noted that assault by a life prisoner is not "susceptible to the legislative parsing illustrated in these precedent cases, setting forth different levels of culpability depending on each participant's particular role in a single criminal transaction." Since assault by a life prisoner can be committed by a single actor, sections 4500 and 4501 (assault by a non-life prisoner) represent

separate offenses for different defendant classes, not different participant roles in a cooperative crime.

People v. Mayers (p. 505)

In *People v. Bueno*, 83 Cal.App.5th 44 (2022), the Court upheld the felony conviction of an inmate on the charge of conspiracy to violate P.C. § 4576 (a misdemeanor), prohibiting possession with intent to deliver or actual delivery of a cell phone to a prison inmate. Bueno analogized the scenario to cases involving drug sales, in which, in federal court in the Ninth Circuit, the "buyer-seller rule" precludes the purchaser from being convicted for a conspiracy to sell drugs to himself. Alternatively, he argued that the existence of a separate statute punishing with only a loss of credits an inmate who possesses a cell phone rendered Wharton's Rule applicable. However, the Court rejected both arguments. The Court noted that California courts have not adopted the "buyer-seller rule," but that, in any event, it would not apply where the parties have conspired together in a prearranged plan to obtain and deliver the contraband item, which Bueno did in this case. Further, the Court rejected the application of Wharton's Rule because Bueno had done much more than merely possess the cell phone. He had actively participated in a collaborative plan to ensure that another person would bring a cell phone into the prison. The Court found no legislative intent to preclude a conspiracy charge for such conduct.

People v. Canizales (p. 439)

In *People v. Ibarra*, 106 Cal.App.5th 1070 (2024), the Court overturned a conviction for attempted murder, finding that there was insufficient evidence to support a jury instruction on the kill-zone theory where the defendant was not aware of the victim's presence. The case arose on the following facts. Victim 1 owned rural property, with a shed on it, that he used for growing marijuana. Victim 2 worked for him. On the date of the crimes, Victim 1 was asleep in the shed and Victim 2 was outside drinking a beer when a truck entered the property. After the truck stopped, Ibarra and at least one other person got out wearing black clothes and blacks ski masks that covered their faces. Recognizing danger, Victim 2 ran into the shed and shut the door. A few seconds later, Ibarra and the other assailant started shooting into the shed. Both victims were wounded while inside, but were able to escape through a back window and flee. Although Ibarra had seen Victim 2 run into the shed, there was no evidence that Ibarra knew that Victim 1 was inside at the time of the shooting. The Court rejected the use of the kill-zone instruction in these circumstances. The Court declared that "it is not possible to intend to kill someone in the vicinity of a target if the attacker has no knowledge that the person is present." *Id.* at 1079.

CHAPTER 10 – CRIMES AGAINST THE GOVERNMENT

People v. Pic'l. (p. 517)

In *People v. Reynoza*, 15 Cal.5th 982 (2024), the Court applied the rule of lenity in interpreting a provision of the witness dissuasion statute, P.C. § 136.1(b)(2), which makes it a crime to attempt to dissuade a victim or witness from "[c]ausing a complaint. . . to be sought and prosecuted, and assisting in the prosecution thereof." Defendant was found guilty based on actions that occurred entirely after the complaint had been filed. The Court concluded that the

provision was equally susceptible to conjunctive and disjunctive constructions. It therefore applied the rule of lenity, favoring the interpretation more favorable to the defendant, and concluded that the statute does not permit a conviction to rest solely on proof of dissuasion after an already-filed complaint.

In *People v. Copeland*, 109 Cal.App.5th 534 (2025), the Court held that the term "witness" as used in P.C. § 136 does not include a prospective witness in a yet-to-be-filed civil suit. The Court noted that the term "witness" is defined in section 136, subdivision (2) to include: "any natural person, (i) having knowledge of the existence or nonexistence of facts relating to any crime, or (ii) whose declaration under oath is received or has been received as evidence for any purpose, or (iii) who has reported any crime to any peace officer, prosecutor, probation or parole officer, correctional officer or judicial officer, or (iv) who has been served with a subpoena issued under the authority of any court in the state, or of any other state or of the United States, or (v) who would be believed by any reasonable person to be an individual described in subparagraphs (i) to (iv), inclusive." The Court determined that in the civil context, subdivision (v) does not introduce a prospective, forward-looking definition of "witness." It simply covers an individual that any reasonable person would believe currently falls into categories (i) through (iv) even if, in reality, they do not. In a civil context, categories (ii) and (iv) could be relevant. Thus, category (v) would additionally cover an individual a reasonable person would believe had been subpoenaed or submitted a declaration under oath even if they actually had not. However, in *Copeland*, no reasonable person would have believed there was a pending civil suit at the time of Defendant's conduct, or that the person who received the Defendant's messages had already been subpoenaed or had given a declaration under oath.

CHAPTER 13 – ACCOMPLICE AND CORPORATE VICARIOUS LIABILITY

Note and Problems (p. 664)

With S.B. 1437's elimination of the natural and probable consequences doctrine as a theory with which to prosecute accomplices for unintended killings, prosecutors have turned to prosecuting accomplices for second degree murder as direct aiders and abettors of implied malice killings. Defendants have argued that, just as one cannot be guilty of *attempt* to commit an unintentional murder (*People v. Collie*, p. 438) or *conspiracy* to commit an unintentional murder (*People v. Swain*, p. 485), so one cannot be guilty of *aiding and abetting* an unintentional murder. However, the Court of Appeal disagrees. In several recent cases, the court has held that the mens rea that must be personally harbored by the direct aider and abettor is knowledge that the perpetrator intended to commit *the act*, intent to aid the perpetrator in the commission of *the act*, knowledge that *the act* is dangerous to human life, and acting in conscious disregard for human life. See, *e.g.*, *People v. Powell*, 63 Cal.App.5th 689 (2021); *People v. Glukhoy*, 77 Cal.App.5th 576 (2022); *People v. Wertz*, 90 Cal.App.5th 1093 (2023).

People v. Cooper (p. 666)

In *People v. Gaines,* 93 Cal.App.5th 91, 121-31 (2023) the Court held that Defendant could be convicted and separately punished for attempted murder and assault as a principal and for being an accessory after the fact to the same crimes by the co-defendant. Defendant 's attempted murder and assault convictions were based on his initial acts of driving the co-defendant to the scene of the shooting, positioning the vehicle to allow the co-defendant close access to the victims, and waiting as the co-defendant fired the gun. His accessory conviction was based on his later actions when he allowed the co-defendant back into the vehicle and drove away. The Court found that the separate convictions were proper because "(1) there was nothing inconsistent between conviction of [Defendant] as a principal to the attempted murder and assaults and his conviction as an accessory after the fact, (2) the elements of the offenses do not overlap, and (3) each conviction depended upon an entirely different intent and conduct." *Id.* at 131.

CHAPTER 14 - SCOPE OF VICARIOUS LIABILITY

People v. Clark (p. 704)

In *People v. Emanuel,* 17 Cal.5th 867 (2025), the Court applied the *Clark* test in the context of interpreting the felony-murder rule as amended by section 189, subdivision (e)(3). The facts were as follows. Defendant and his co-defendant set out to commit a robbery of a marijuana seller after agreeing to meet the seller on a street by a public park in the afternoon. Defendant was not armed, and he did not know his co-defendant was armed. The robbery attempt unfolded after a few minutes of conversation without a prolonged period of restraint. When the robbery started, victim refused to give up the marijuana and began to resist. Defendant then said, "Let's go" and stated to walk away, but the co-defendant hit the Victim in the head with a gun. Victim started fighting back and the co-defendant then shot him. Defendant said, "What the f--- you doing?" and then ran from the scene.

The Court concluded that Defendant had not shown reckless indifference. Many of the *Clark* factors were neutral or weighed against finding reckless indifference. The Court emphasized that participating in a "'garden-variety armed robbery,' i.e., one in which the only factor supporting a reckless indifference finding is that a participant was armed with a gun is insufficient without more to establish reckless indifference." *Id.* at 884. The Court found that Defendant had done little more. He had not carried a gun, and he did not have reason to know that the co-defendant would carry a gun or would likely use lethal force. The Court also emphasized that Defendant's statement, "Let's go," and his effort to walk away when the victim first resisted tended to show that Defendant "was unwilling to engage in further violence to accomplish the aims of the robbery." *Id.* at 896. Also, his failure to render aid was not, in conjunction with other factors, sufficient to establish reckless indifference. *Id.*

Problems (p. 713)

Students might be presented with the following additional problem:

Defendant, who was eighteen, joined his older brother's gang, which celebrated violent acts committed, "just for the fun of it." Defendant took part in some robberies and an arson. Then, one night, while Defendant was with his brother and other gang members at

a pool hall, he and his brother and another gang member decided to rob a driver in a nearby car waiting at the drive through of a fast-food restaurant. Defendant and the other gang member waited at some distance while his brother confronted the driver with a gun. The victim tried to drive away, but the brother shot multiple times into the car. Defendant and his brother pursued the car on foot until it crashed nearby. The brother gave the gun to defendant and rifled the victim's clothes for money, taking $200. The brothers split the cash evenly. Believing the Victim was dead, Defendant did not render or summon aid. Instead, he and his brother returned to the pool hall. Hit by five bullets, the victim died on the scene. Defendant is charged with first-degree murder (P.C. §§ 187-189). What are the arguments as to his guilt?

Defendant would argue that, while he was an accessory to a robbery, he is not guilty as an accessory to first-degree murder. He did actually kill or intend to kill. He also did not act as a major participant with reckless indifference. He was unarmed and did not supply the gun. There is also insufficient evidence Defendant knew his brother was armed or that brother intended to use a gun during the robbery. Defendant was also an unknown distance from the Victim at the time of the shooting. Defendant also failed to render aid because he assumed the Victim was dead. Further Defendant's youth and inexperience suggest that he could not have foreseen a shooting rather than a garden variety robbery. The prosecution will respond that Defendant previously had committed acts of violence with the gang. Also, Defendant actively participated in the robbery by chasing after the car and holding brother's gun. He also shared evenly with his brother in the proceeds and made no attempt to render or summon aid for the victim. Defendant's youth cannot overcome these indications of major participation and reckless indifference to human life.

(source: *People v. Mitchell*, 81 Cal.App.5th 575 (2022) – sufficient evidence that Defendant acted with reckless indifference to human life)

Problems (p. 727)

Under P.C. § 189, subd. (e), to be liable for felony murder, a person must be one of the following: (1) the actual killer; (2) although not the actual killer, a person who "with the intent to kill, aided, abetted . . . or assisted the actual killer in the commission of murder in the first degree"; or (3) a major participant in the underlying felony who acted with reckless indifference to human life. Lower courts have disagreed about the actus reus required under the second provision. What does it mean to assist the killer "in the commission of first degree murder?"

To clarify the debate and its practical importance, consider a hypothetical involving a bank robbery. Suppose that Adams and Boone decide to rob a bank. Adams enters the bank with a firearm and accidentally shoots and kills a bank teller during the robbery. Boone had an intent to kill, but he had not expressed it to Adams, and his role in the robbery is limited to keeping the getaway car running and watching the front door. Both Adams and Boone are caught and are charged with first-degree murder. Would Boone be guilty under the second provision?

There are two competing views of how to understand the second provision. On one view, guilt is established if an actor who had the intent to kill merely was engaged in committing the underlying felonies with "the killer" at the time the homicidal act took place. On this view,

Boone would be guilty. On the competing view, an actor who had the intent to kill is not guilty under the second provision unless he aided the killer in committing the killing. On this view, Boone is not guilty.

The majority and dissenting opinions in *People v. Morris*, 100 Cal.App.5th 1016 (2024), present respectively these competing positions. The California Supreme Court granted review. *See* People v. Morris, 551 P.3d 549 (Cal. 2024).

APPENDIX

Where there have been substantive amendments to statutes in the casebook Appendix, the current version of the statute or portion of the statute that was amended are set forth below:

§ 487 Grand theft is theft committed in any of the following cases:

> . . .
>
> (e) If the value of the money, labor, real property, or personal property taken exceeds nine hundred fifty dollars ($950) over the course of distinct but related acts, the value of the money, labor, real property, or personal property taken may properly be aggregated to charge a count of grand theft, if the acts are motivated by one intention, one general

§ 30605 Removed from code in 2025 after being found unconstitutional in *Miller v. Bonta*, 542 F.Supp.3d 1009 (S.D.Cal. 2021).