

Accomplice As A Matter of Law

Under our law, (*specify*) is an accomplice because there is evidence that he/she participated in [and was convicted of,] a crime based upon conduct involved in the allegations here against the defendant.

Our law is especially concerned about the testimony of an accomplice who implicates another in the commission of a crime, particularly when the accomplice has received, expects or hopes for a benefit in return for his/her testimony.

Therefore, our law provides that a defendant may not be convicted of any crime upon the testimony of an accomplice unless it is supported by corroborative evidence tending to connect the defendant with the commission of that crime.¹

In other words, even if you find the testimony of (*specify*) to be believable, you may not convict the defendant solely upon that testimony unless you also find that it was corroborated by other evidence tending to connect the defendant with the commission of the crime.²

The corroborative evidence need not, by itself, prove that the defendant is guilty.³ What the law requires is that there be evidence, apart from the testimony of the accomplice, that tends to connect the defendant with the commission of the crime charged in such a way as may reasonably satisfy you that the accomplice is telling the truth about the defendant's participation in that crime.⁴

1. CPL 60.22(1). See *People v. Morhouse*, 21 N.Y.2d 66 (1967); *People v. Cunningham*, 48 N.Y.2d 938 (1979); *People v. Gasper* 52 N.Y.2d 970 (1981); *People v. Smith*, 55 N.Y.2d 945 (1982); *People v Besser*, 96 N.Y.2d 136 (2001).

2. Further, if applicable, the jury should be instructed: The testimony of one accomplice cannot be used to corroborate the testimony of another. *People v. O'Farrell*, 175 N.Y. 323 (1903); *People v. Mullens*, 292 N.Y. 408 (1944).

3. See *People v. Breeland*, 83 N.Y.2d 286 (1994).

4. See *People v. Moses*, 63 N.Y.2d 299 (1984); *People v. Gasper*, 52 N.Y.2d 970 (1981).