R. v J.F.D, M.S.H., C.R.S. (2005):

Mr. Ewart and his family were asleep on board their vintage Chris Craft boat, which was moored at a marina. The family was awakened by a fire at about 4:00 am and scrambled out the windows to safety. The replacement value of the boat was approximately $250,000.

Witnesses testified that they heard the sound of flares going off and one landing on the Ewart’s boat, igniting the plastic cover. Three teenagers were observed leaving the marina and police were directed to the pot they had last been seen. A police tracking dog led them to the three teens hiding in the bushes a short distance from the marina. Each of the three teens had gunpowder residue on their hands while one, J.F.D., had a flare in his pocket.

The three teens were accused of willfully discharging a flare gun that set fire to a vessel, thereby committing mischief causing actual danger to life, contrary to section 430 (2) of the *Criminal Code*. The trial Judge noted that the three had acted in concert in vandalizing, breaking into, and stealing items from boats in the marina. It was found that it was not possible to determine beyond a reasonable doubt which one of the accused fired the flare gun at the Ewart’s vessel. Because the accused acted in concert from a common motive, it was not necessary to prove who had discharged the flare that caused the damage. As a result, all three were found guilty as principals, or as aiders and abettors. A subsequent appeal was dismissed.

Analysis Questions:

1. List the evidence that supported holding all three accused guilty of the offence of mischief according to section 430 (2) of the *Criminal Code.* From the list, select two pieces of evidence you consider the most crucial in establishing the guilt of the defendants. Explain your choices.
2. Do you think the Crown should have tried to determine who fired the flare at the Ewart boat in order to give that teen a harsher sentence? Give two reasons to support your point of view.