

A man who believed that his wife was cheating on him with her gym trainer decided to kill the trainer. He loaded his handgun and set off for the trainer's house. Because he was anxious about committing the crime, the man first stopped at a bar, drank eight shots of hard liquor, and became intoxicated. He then left the bar and went to the trainer's house. When the trainer answered the door, the man shot and killed him. The man then passed out on the trainer's porch.

The man has been charged with murder in a jurisdiction that follows the common law.

Can the man raise an intoxication defense?

- A. No, because drinking at the bar was the proximate cause of the killing.
- B. No, because the man intended to commit the murder and drank to strengthen his nerve.
- C. Yes, because drinking at the bar was a foreseeable intervening cause of the killing.
- D. Yes, because the man's intoxication negated the specific intent required for murder.

Explanation:

A defendant may be able to raise an **intoxication defense** if he/she was intoxicated when the crime was committed due to either:

Involuntary intoxication – the unknowing or forcible ingestion of an intoxicating substance is a defense if it placed the defendant in the same mental state required for an [insanity defense](#).

Voluntary intoxication – the deliberate ingestion of a substance that the defendant knew or should have known has intoxicating effects is only a **defense to specific intent** crimes if the intoxication **prevented the defendant from forming** such intent.

At common law, murder is defined as the unlawful killing of another with [malice aforethought](#). Although voluntary intoxication is no defense if the defendant acted with *reckless* malice aforethought, it may negate a defendant's *specific intent* to kill. But such intent is **not negated** if the defendant **became intoxicated to commit** the crime.

Here, the man decided to kill the trainer because he thought that the trainer and his wife were having an affair (specific intent to kill). He had deliberately ingested eight shots of hard liquor at a bar before he went to the trainer's house (voluntary intoxication) and therefore was intoxicated when he killed the trainer. But since the man had become intoxicated to strengthen his nerve to commit the murder, intoxication is no defense **(Choice D)**.

(Choice A) Proximate causation exists when it was foreseeable that the defendant's conduct would kill the victim. Although common law murder requires proof that the defendant proximately caused the victim's death, it has no bearing on whether intoxication is a valid defense.

(Choice C) An *unforeseeable* intervening cause—an event that happens after the defendant acts but before harm occurs—may eliminate the proximate causation required for a crime. But a *foreseeable* intervening cause will not. And even if an unforeseeable intervening cause had occurred (eg, had a plane crashed into the trainer's home), it would not impact the man's ability to raise an intoxication defense. Instead, it would serve as a separate defense.

Educational objective:

Involuntary intoxication is a defense if it placed the defendant in the same mental state required for an insanity defense. Voluntary intoxication is a defense to specific intent crimes if the intoxication kept the defendant from forming such intent. But it is not a defense if the defendant became intoxicated to commit the crime.

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Intoxication defense

Type of crime	Definition	Voluntary	Involuntary
Specific intent	Act consciously performed for particular purpose	✓	✓
General intent	Act consciously performed		✓
Strict liability	Act performed		✓

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