

During an altercation between a man and his coworker at a company picnic, the man suffered a knife wound in his abdomen and the coworker was charged with assault and attempted murder. At his trial, the coworker seeks to offer evidence that he had been drinking at the picnic and was highly intoxicated at the time of the altercation.

In a jurisdiction that follows the common-law rules concerning admissibility of evidence of intoxication, how should the court rule on evidence of the coworker's intoxication?

- A. Admit the evidence subject to an instruction that it pertains only to the assault charge.
- B. Admit the evidence subject to an instruction that it pertains only to the attempted-murder charge.
- C. Admit the evidence without limitation.
- D. Exclude the evidence altogether.

## **Explanation:**

### **Specific intent crimes**

(criminal acts committed to purposely or knowingly cause a particular result)

Assault

Murder requiring premeditation or deliberation

Burglary

Inchoate crimes – solicitation, conspiracy, attempt

Theft crimes – larceny, robbery, embezzlement, false pretenses, forgery, receiving stolen property, extortion

Mnemonic: **AMBIT**

**Voluntary intoxication** is the deliberate ingestion of a substance that the defendant knows, or should know, tends to have intoxicating effects. At common law (and in most jurisdictions), voluntary intoxication is a **defense to specific intent crimes** if it **prevented** the defendant from **forming the required intent**.

Here, the coworker is on trial for both:

assault – which requires proof that the defendant specifically intended\* to commit battery *and*

*attempted murder* – which requires proof that the defendant specifically intended to kill the victim.

Since these are both specific intent crimes, the coworker may offer evidence of his voluntary intoxication to establish that the intoxication prevented him from forming the required intent for either charge. Therefore, the court should admit evidence of the coworker's intoxication without limitation (**Choices A, B & D**).

\*By contrast, "fear of harm" assault (a general intent crime) may be proven by showing that the defendant intentionally placed the victim in apprehension of imminent bodily harm.

### **Educational objective:**

When a defendant is charged with a specific intent crime, evidence of voluntary intoxication may be offered to show that the intoxication prevented the defendant from forming the required intent.

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