

One evening, a man had several drinks and then started to drive home. As he was proceeding down Main Boulevard, an automobile pulled out of a side street to his right. The man's car struck this automobile broadside. The driver of the other car was killed as a result of the collision. A breath-analysis test administered after the accident showed that the man satisfied the legal definition of intoxication.

If the man is prosecuted for manslaughter, which of the following arguments would give him the best chance for acquittal?

- A. Because of his intoxication, the man lacked the mens rea needed for manslaughter.
- B. Driving while intoxicated requires no mens rea and therefore cannot be the basis for misdemeanor manslaughter.
- C. The collision would have occurred even if the man had not been intoxicated.
- D. The other driver was contributorily negligent.

Explanation:

Criminal causation

Actual (factual) cause	Single cause – but for defendant's conduct, crime would not have occurred Multiple causes – defendant's conduct was substantial factor causing crime
Proximate (legal) cause	Crime was natural, probable & foreseeable consequence of defendant's conduct

There are two types of **manslaughter**:

Voluntary – an intentional killing mitigated by adequate provocation (ie, heat of passion) or, in some jurisdictions, other mitigating factors (eg, imperfect self-defense)

Involuntary – an unintentional killing that is caused by criminal negligence or occurs during the commission of an unlawful act (eg, misdemeanor manslaughter)

But to be convicted of manslaughter, the **defendant's conduct** must be the **actual (ie, but for) cause** and **proximate (ie, foreseeable) cause** of the **specified result**—the victim's death.

Here, the man's car struck a driver's vehicle, and the driver died as a result of the collision. The man would likely be charged with involuntary manslaughter since the collision occurred when he was driving under the influence of alcohol. But his unlawful act would not be the *actual* cause of the driver's death if the collision would have occurred even if the man had not been intoxicated. And since actual causation is required for a manslaughter conviction, this is the man's strong argument for acquittal.

(Choice A) Voluntary intoxication is a **defense** to a specific intent crime if the intoxication negated the requisite mens rea. But it is no defense to lesser intent crimes—eg, involuntary manslaughter stemming from criminal negligence (as seen here).

(Choice B) Any criminal act that is malum in se (ie, inherently wrong)—including driving while intoxicated—can serve as a basis for misdemeanor manslaughter, even if the criminal act requires no mens rea.

(Choice D) Even if the driver's negligence contributed to his death, the man could still be convicted of manslaughter if his drunk driving was a substantial factor in causing that death.

Educational objective:

Crimes that require a specific result (eg, homicide) require proof that the defendant's conduct was both the actual (ie, but for) and proximate (ie, foreseeable) cause of that result.

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