

A woman and her friend were engaged in a heated discussion over the relative merits of their favorite professional football teams when the woman said, "You have to be one of the dumbest persons around." The friend punched the woman in the face. The woman then drew a knife and stabbed her friend in the stomach. Other persons then stepped in and stopped any further fighting. Despite the pleas of the other persons, the friend refused to go to a hospital or to seek medical treatment. About two hours later, he died as the result of a loss of blood.

The woman was charged with murder. At trial, medical evidence established that if the friend had been taken to a hospital, he would have survived. At the end of the case, the woman moves for a judgment of acquittal or, in the alternative, for an instruction on the elements of voluntary manslaughter.

How should the court rule on the woman's motions?

- A. Deny both motions.
- B. Deny the motion for acquittal, but instruct on manslaughter because the woman acted with criminal negligence.
- C. Deny the motion for acquittal, but instruct on manslaughter because there is evidence of adequate provocation.
- D. Grant the motion for acquittal.

Explanation:

A motion for acquittal should be granted if there is insufficient evidence to support any element of the charged crime. Murder requires evidence that the defendant acted with **malice aforethought** and caused the unlawful killing of another. **Causation** must be both:

actual – (1) the unlawful result would not have occurred **but for** the defendant's conduct *or* (2) when multiple causes exist, the defendant's conduct was a substantial factor in causing that result *and*

proximate – the unlawful result was a **foreseeable consequence** of the defendant's actions.

An **intervening cause**—ie, an event that happens after the defendant acts but before harm occurs—will **break the chain of proximate causation** if the event was **unforeseeable**.

Here, the woman actually and proximately caused her friend to die by stabbing him with malice aforethought. And though the friend's refusal to seek medical treatment is an intervening cause—and the friend would have survived had he gone to the hospital—that refusal was *foreseeable*. Therefore, it did not negate proximate causation and the motion for acquittal should be denied **(Choice D)**.

However, the court should instruct the jury on **voluntary manslaughter** if a reasonable jury could find that the defendant **intentionally killed** the victim:

in response to **adequate provocation**—an act that would cause sudden and intense passion in a reasonable person—and

in the **heat of passion**—before a reasonable person could, and the defendant did, cool off from the provocation.

Here, the woman intentionally stabbed the friend while impassioned by his punch. And since a reasonable jury could find that the punch was adequate provocation, the court should give an instruction on voluntary manslaughter **(Choice A)**.

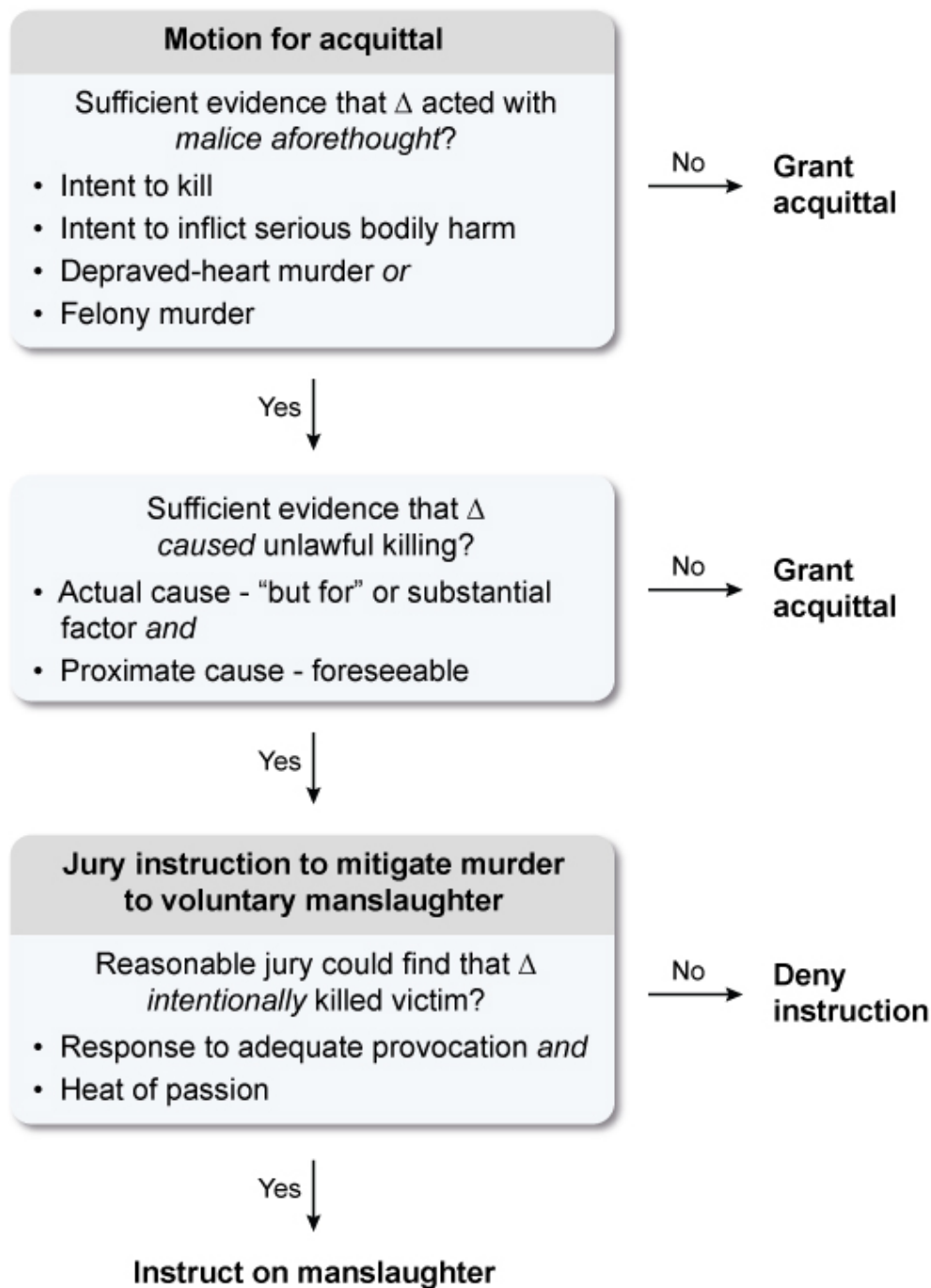
(Choice B) Murder can be mitigated to involuntary manslaughter if the defendant acted with criminal negligence. But here, the woman acted with malice aforethought—not mere criminal negligence—when she *intentionally* stabbed the friend. Therefore, an involuntary-manslaughter instruction is inappropriate.

Educational objective:

Murder requires proof of actual (but for) and proximate (foreseeable) causation. An unforeseeable intervening cause eliminates proximate causation, but a *foreseeable* intervening cause (eg, a victim's refusal to seek medical treatment) does not.

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Δ = defendant