

A defendant was charged with battery, defined as at common law. At trial, an expert witness testified for the defense that the defendant, an athlete, was under the influence of a performance-enhancing drug at the time he committed the battery and that he would not have done so had he not been so influenced. The defendant asked for an instruction to the effect that if the jury believed that he was influenced by the drug at the time of the crime and would not have committed it otherwise, it had to acquit him.

Which of the following circumstances would most aid the defendant's argument in favor of such an instruction?

- A. Evidence that the defendant is addicted to this drug and has an overwhelming urge to consume it.
- B. Evidence that the defendant's coach, who gave him the drug, told him it was only an aspirin.
- C. Evidence that the victim of the assault taunted the defendant about his use of the drug immediately before the assault.
- D. Expert testimony that a reasonable person, on consuming this drug, may experience uncontrollable rages.

## Explanation:

An **intoxication defense** can be raised if the defendant was intoxicated when the charged crime was committed due to either of the following:

**Involuntary intoxication** – the **unknowing or forcible ingestion** of an intoxicating substance is a **defense to any crime** if it placed the defendant in the 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 a **defense to specific intent crimes** if it prevented the defendant from forming such intent.

Here, the defendant requested an instruction that the jury acquit him if it believed that he was influenced by the performance-enhancing drug when he committed the battery and would not have done so otherwise. Since battery is a general intent crime, that instruction would only be proper if the intoxication was *involuntary*. Therefore, evidence that the defendant's coach tricked him into taking the drug by telling him that it was aspirin would support such an instruction.

**(Choice A)** Voluntary intoxication is never a defense to general intent crimes like battery. And evidence that the defendant was addicted to the drug would not make his ingestion involuntary (ie, unknowing or forcible) for purposes of criminal law. Therefore, this evidence would not support an intoxication instruction.

**(Choice C)** The fact that the victim taunted the defendant about his use of the drug immediately before the crime would not serve as a defense to a battery charge or support an intoxication instruction.

**(Choice D)** Expert testimony that the drug causes uncontrollable rage would not support an intoxication instruction since voluntary intoxication—regardless of the intoxicant's effects—is no defense to battery.

## Educational objective:

Involuntary intoxication is a defense to *any* crime if it placed the defendant in the mental state required for an insanity defense. And voluntary intoxication is a defense to *specific intent* crimes if it prevented the defendant from forming the required intent.

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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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