

A woman and her friends were playing basketball at a local park when another group arrived. A man from the other group told the woman that she and her friends needed to get off the basketball court. The woman replied that she and her friends would leave when they were ready. The man began cursing at the woman and, while doing so, reached behind his back and toward his waistband to adjust his shorts. The woman then pulled a small pistol she carried for self-protection and shot the man, killing him. The woman was subsequently charged with murder.

At trial, the woman has requested a jury instruction on voluntary manslaughter. Which of the following facts, if true, would be a basis for granting the voluntary-manslaughter instruction?

- A. The woman became enraged when the man began cursing at her.
- B. The woman did not premeditate the shooting.
- C. The woman honestly believed it was necessary to shoot the man to defend herself.
- D. The woman only intended to scare the man by firing the shots in his direction but accidentally struck him.

## Explanation:

### Voluntary manslaughter

Type	Requirements
Heat of passion	Intentional killing committed: in heat of passion <i>and</i> in response to adequate provocation
Imperfect defense	Intentional killing committed either: with honest but unreasonable belief that deadly force was necessary to prevent serious bodily injury or death <i>or</i> when defendant started altercation that led to necessary use of deadly force

A court should instruct the jury on **voluntary manslaughter** if a reasonable jury could find that the defendant intentionally killed another under mitigating circumstances. This arises when the defendant killed the victim in a heat of passion generated by adequate provocation or while acting in **imperfect self-defense**. Imperfect self-defense occurs when the defendant either:

**honestly but unreasonably believed** that **deadly force** was necessary to **prevent serious bodily injury or death** *or*

started the altercation that led to the necessary use of deadly force.

As a result, the woman's honest belief that it was necessary to shoot the man to defend herself from serious bodily injury or death would provide a basis to instruct the jury on voluntary manslaughter. This is true even if that belief was unreasonable—as it likely was in this situation.

**(Choice A)** Mere insults do not constitute adequate provocation upon which to grant a voluntary-manslaughter instruction. Therefore, even if the woman became enraged when the man began cursing at her, that fact would not support her request.

**(Choice B)** Lack of premeditation is a defense to **first-degree murder** but, without more, it does not serve as a basis to instruct a jury on voluntary manslaughter. The defendant must also establish that the killing was committed in the heat of passion or was the result of imperfect self-defense.

**(Choice D)** Voluntary manslaughter is an *intentional* killing committed under mitigating circumstances, so the fact that the woman *accidentally* struck the man would not justify this instruction. But this fact may support an **involuntary-manslaughter** instruction since it shows that the woman unintentionally killed the man.

**Educational objective:**

Murder may be reduced to voluntary manslaughter if the defendant acted in imperfect self-defense. This occurs when the defendant (1) honestly but unreasonably believed that deadly force was necessary to prevent serious bodily injury or death or (2) started the altercation that led to the necessary use of deadly force.

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