

A defendant was on trial for murder, which the jurisdiction defines as a homicide with malice aforethought. Three witnesses testified for the state that the defendant approached the victim in a bar, engaged in a brief conversation with him, and then, without warning, drew a gun and shot the victim in the stomach. One witness for the state testified that just before the defendant drew his gun and shot the victim, the victim twice kicked the defendant in the groin. The state's evidence clearly established that the victim died as a result of the gunshot wound.

The defendant did not testify or offer any evidence. The defendant requested that the jury be instructed on voluntary manslaughter based upon heat of passion from adequate provocation. The state argued that murder should be the only form of homicide submitted.

Should the court instruct on voluntary manslaughter?

- A. No, because the defendant did not meet his burden of producing evidence of heat of passion from adequate provocation.
- B. No, because the weight of the evidence indicated that the victim did nothing amounting to adequate provocation.
- C. Yes, because a defendant is entitled, upon request, to an instruction on his theory of the case.
- D. Yes, because there was evidence that reasonably could support a jury finding of adequate provocation.

Correct

Collecting Statistics

02 mins, 04 secsTime Spent

2023Version

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 any offense of which a rational jury could convict the defendant. In a prosecution for murder—ie, the unlawful killing of another with **malice aforethought**—a jury instruction on **voluntary manslaughter** is warranted when a reasonable jury could find that the defendant **intentionally killed** the victim:

in response to **adequate provocation** – an act that would cause a sudden and intense passion in a reasonable person (eg, a serious battery) *and*

in the **heat of passion** – a reasonable person would not have cooled off in the time between the provocation and the killing, and the defendant did not cool off.

Here, the defendant shot the victim to death (intentional killing). But according to one of the state's witnesses, the killing occurred after the victim seriously battered the defendant by twice kicking him in the groin (adequate provocation) and presumably while the defendant was in the heat of passion (**Choice B**). Therefore, a rational jury could convict the defendant of voluntary manslaughter, and his request to charge the jury on this crime should be granted.

(Choice A) A request for a jury instruction on a lesser included offense should be granted if the evidence presented at trial supports that instruction. That is true even if the supporting evidence was produced solely by the prosecution (as seen here). Therefore, it would be improper for the court to impose a burden of production on the defendant and refuse his request for a voluntary-manslaughter instruction based upon a lack of production.

(Choice C) A defendant is not automatically entitled to an instruction on his/her theory of the case. An instruction should be granted only if the evidence reasonably supports the requested instruction—ie, if there is a factual and legal basis for the instruction.

Educational objective:

An intentional murder can be reduced to voluntary manslaughter if the defendant killed the victim in response to adequate provocation (ie, conduct that would cause sudden and intense passion in a reasonable person) and in the heat of passion (ie, no cooling off).

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