Despondent over losing his job, a man drank all night at a bar. While driving home, he noticed a car following him and, in his intoxicated state, concluded he was being followed by robbers. In fact, a police car was following him on suspicion of drunk driving. In his effort to get away, the man sped through a stop sign and struck and killed a pedestrian. He was arrested by the police.

The man is prosecuted for manslaughter. What verdict should the jury render?

- A. Acquittal, because he honestly believed he faced an imminent threat of death or severe bodily injury.
- B. Acquittal, because his intoxication prevented him from appreciating the risk he created.
- C. Conviction, because he acted recklessly and his apprehension of danger was not reasonable.
- D. Conviction, because he acted recklessly and in fact was in no danger.

Explanation:

In most jurisdictions, manslaughter is divided into two types:

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

Involuntary manslaughter – an **unintentional killing** committed during an unlawful act *or* with **criminal negligence**—the substantial failure to act as a reasonable person would act under similar circumstances (sometimes called recklessness)

Mistake of fact is a **defense** to manslaughter (and other general intent crimes) when the defendant's **honest, reasonable, but mistaken belief** negates the requisite mental state (ie, mens rea).

Here, the man sped through a stop sign and unintentionally killed a pedestrian. He acted recklessly (ie, with criminal negligence) since a reasonable person would not have driven while intoxicated and run a stop sign. And though he honestly believed that robbers were pursuing him and that he needed to escape this threat of harm, his mistaken belief was *unreasonable* since it was brought about by his intoxication—not his pursuers (the police). Therefore, the jury should convict the man of involuntary manslaughter **(Choice A)**.

(Choice B) Voluntary intoxication is a defense to specific intent crimes when it prevents the defendant from forming the requisite intent. But it is not a defense to crimes requiring a lesser mens rea (eg, involuntary manslaughter). So though the man's voluntary intoxication may have prevented him from appreciating the risk he created, it is no defense here.

(Choice D) Although the man acted recklessly and was not actually in danger, his honest but mistaken belief that he was in danger could have been a defense had that belief been reasonable.

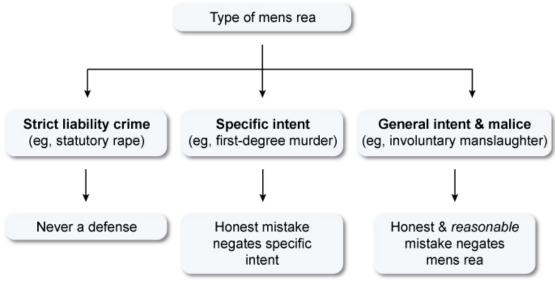
Educational objective:

Mistake of fact is a defense to non-specific intent crimes (eg, manslaughter) when the defendant's honest, *reasonable*, but mistaken belief negates the requisite mental state.

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Applicability of mistake-of-fact defense



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