

In a tavern, an intoxicated woman threatened to slash a man with a broken beer bottle she was holding. Another customer, who had not been threatened by the woman, forcefully grabbed the woman and locked her in the tavern's storeroom until the police could arrive. In the process, although the customer used reasonable force, the customer badly sprained the woman's wrist.

Is the woman likely to recover in an action against the customer?

- A. No, because the customer's conduct was privileged as a defense of others.
- B. Yes, based on battery only.
- C. Yes, based on false imprisonment only.
- D. Yes, based on both battery and false imprisonment.

## Explanation:

### Defense of others

Defendant reasonably believes:

plaintiff is about to inflict harmful or offensive contact upon person—ie, third party or plaintiff's own self

person has, or would have had, right of self-defense *and*

defendant's action is necessary to protect person

The **privilege** to use reasonable force in the **defense of others** exists when the defendant **reasonably believes** that:

the plaintiff is **about to inflict** harmful or offensive **contact** upon a third party

the third party has the right of **self-defense** *and*

the defendant's action is **necessary to protect** the third party.

Here, the customer was *privileged* to grab the woman and lock her in the tavern's storeroom (reasonable force) to defend the man because the customer reasonably believed that:

the woman was *about to slash* the man with the broken beer bottle in her hand

the man had the *right of self-defense* and

action was *necessary to protect* the man from the woman.

Since the customer had the right to use reasonable force in defense of the man, the woman will not recover in an action against the customer.

**(Choices B & D)** **Battery** occurs when a defendant intends to create contact (or imminent apprehension of contact) and causes harmful or offensive contact with the plaintiff. Although the customer committed battery when he intentionally grabbed the woman and sprained her wrist, the customer is not liable because he was privileged to use reasonable force in the defense of another.

**(Choices C & D)** False imprisonment occurs when the defendant intentionally confines the plaintiff within fixed boundaries and the plaintiff is aware of the confinement or harmed by it. Here, the customer falsely imprisoned the woman when he intentionally locked her in the storeroom, but the customer is not liable because his conduct was privileged.

### Educational objective:

A defendant is privileged to use reasonable force in the defense of others when the defendant reasonably believes that (1) the plaintiff is about to inflict harmful or offensive contact upon a third party, (2) the third party has the right of self-defense, and (3) the defendant's action is necessary to protect the third party.

### References

Restatement (Second) of Torts § 76 (Am. Law Inst. 1965) (defense of others).

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