

Voluntary Intoxication

Voluntary Intoxication defense instruction:

“The evidence has raised the issue of voluntary intoxication in relation to the offense(s) of (state the alleged offense(s)). I advised you earlier that one of the elements of the offense(s) of (state the alleged offense(s)) is that the accused (entertained the premeditated design to kill) (had the specific intent to _____) (knew that _____). In deciding whether the accused (entertained such a premeditated design) (had such a specific intent at the time) (had such knowledge at the time) you should consider the evidence of voluntary intoxication.

The law recognizes that a person's ordinary thought process may be materially affected when (he) (she) is under the influence of intoxicants. Thus, evidence that the accused was intoxicated may, either alone, or together with other evidence in the case cause you to have a reasonable doubt that the accused (premeditated) (had the specific intent to _____) (knew _____).

On the other hand, the fact that a person may have been intoxicated at the time of the offense does not necessarily indicate that (he) (she) was unable to (premeditate) (have the specific intent to _____) (know that _____) because a person may be drunk yet still be aware at that time of (his) (her) actions and their probable results.

In deciding whether the accused (entertained a premeditated design to kill) (had the specific intent to _____ at the time of the offense) (knew that _____ at the time of the offense) you should consider the effect of intoxication, if any, as well as the other evidence in the case. (In determining the possible effect on the accused of (his) (her) prior use, if any, of intoxicants, you should consider (here the military judge may specify significant evidentiary factors bearing on the issue and indicate the respective contentions of counsel for both sides).)

The inability to remember because of intoxication, sometimes called "alcoholic amnesia" or "blackouts," is not in itself a defense. It is, however, one of the factors you should consider when deciding the extent and the effect, if any, of the accused's intoxication.

(Alcoholism is recognized by the medical profession as a disease involving a compulsion toward intoxication. As a matter of law, however, intoxication from drinking as a result of the compulsion of alcoholism is regarded as voluntary intoxication. Alcoholism is not in itself a defense and the above instructions apply whether or not the accused was an alcoholic.)

The burden of proof is on the prosecution to establish the guilt of the accused. If you are convinced beyond a reasonable doubt that the accused in fact (entertained the premeditated design to kill) (had the specific intent to _____) (knew that _____), the accused will not avoid criminal responsibility because of voluntary intoxication.”