

CASEBRIEFS

The Understanding Video Lecture Series™

**Introduction to Defenses and Self
Defense**

Defenses

- Self Defense
 - Insanity
 - Mistake
-
- These are AFFIRMATIVE defenses, not to be confused with defending on the grounds that an element is not met. Also, not to be confused with a mitigating circumstance.

Self Defense

- Reasonable
- Belief
- Life is in
- Imminent Danger



Let's try a hypo

Plumber came to repair man and wife's leaky sink. Man was away on a business trip and wife was home alone. Wife let plumber in the house, answering the door dressed in a sexy negligee. She offered plumber a glass of champagne, which he accepted. Man arrived home unexpectedly and accused plumber of having an affair with wife. Man's charges enraged plumber. Plumber smashed the bottom off the champagne bottle on the kitchen counter, and rushed toward man with the jagged glass. Man pulled out a gun and shot plumber in the chest, killing him instantly.

Answer - Self Defense

If man is charged with murder, should he be found guilty?

- No – he has a claim of self defense. A broken bottle could certainly be deadly and it seemed reasonable to think that the plumber was charging him



Professors Enraged

Barry was a professor of engineering at State University. He was attending the state fair with his daughter and her family when the children asked to be taken to the Candy Playground exhibition. Having no interest in a playground where everything is made from candy, Barry wandered alone through the outdoor booths, arriving at last at the display of “Esmerelda the Psychic.” Esmerelda was purporting to bend silverware using only her psychic power, and became visibly annoyed when Barry announced in a loud stage whisper that he had seen The Amazing Abu do the same spoon-bending as a sleight-of-hand trick on the Tonight Show the night before. Esmerelda’s anger grew as Barry similarly deflated her Incredible Floating Ball and the piece de resistance, Esmerelda’s Surgery Without Instruments. Incensed beyond control, Esmerelda rose and extended her arms towards Barry, intoning, “I shall use my psychic powers to burst the blood vessels of your brain!” Barry drew a pistol from his waistband and shot Esmerelda in the head, killing her.

At Barry’s trial for the criminal homicide of Esmerelda, Barry testified that he shot Esmerelda because he believed it was necessary to prevent Esmerelda from killing him by psychically bursting the blood vessels in his brain.

The jury believes Barry's testimony. Barry should be convicted of:

It depends

- We know the JURY believes his testimony, but do they find his belief reasonable? If they think his belief was reasonable, then it's self defense. If they believe him, but don't find his belief reasonable, it's voluntary manslaughter.



Hockey gone wrong

A dad was watching his son's pee wee hockey game when he became incensed at a call by the ref that he thought was extremely unfair and cruel, aimed at being blatantly mean to his son's team. At the end of the game, the dad went onto the ice and confronted the ref on his mean spirited behavior. They had a heated argument. The ref finally had to call security to remove the dad so that the next game could take place. A half-hour later, the dad returned to the ice with a hockey stick and began arguing with the ref again, right in the middle of the game. The dad then beat the ref with the hockey stick, killing him.

At the dad's trial for the criminal homicide of the ref, the dad testified that during the second argument, the ref seized him by the throat and that he believed that in order to avoid being choked to death, he had to use the hockey stick to kill the ref.

Answer Choices

In the following scenarios, if the jury makes the stated finding, which is the LEAST likely outcome for the dad's trial:

- A. Conviction for premeditated and deliberate first-degree murder, if the jury believes the dad's testimony.
- B. Conviction of no crime, if the jury believes the dad's testimony and finds that his beliefs were reasonable.
- C. Conviction of no crime, but only if the jury finds that the dad's life was in actual danger.
- D. Conviction of voluntary manslaughter, if the jury believes the dad's testimony.

Answer - C

- Life doesn't have to be in ACTUAL danger, just a reasonable belief that it is



Sibling Rivalry

A sister lived with her brother, who was a drug addict and often became violent and physically abusive of his sister when he was under the influence. The sister was always living in fear of her brother, not knowing when he was using and when he would become violent. One night, while home in the family room, the sister heard her brother on the front porch making loud, obscene and abusive remarks. The sister was convinced that her brother was under the influence of drugs, and terrified she would be beaten. Because of this she locked the door and took out a gun. When her brother found the door to be locked, he kicked it down and as soon as he burst through the door, his sister shot him in the chest. The shot killed him instantly. The truth was, the brother was not high at the time, merely agitated, and actually had no intent to hurt his sister. At trial, the sister presented the above facts and asked the judge to instruct the jury on self-defense.

How should the judge instruct the jury with respect to self defense?

Answer Choices

- A. Give the self-defense instruction, because it expresses the defense's theory of the case.
- B. Give the self-defense instruction, because the evidence was sufficient to raise the defense.
- C. Deny the self-defense instruction, because the sister was not in imminent danger from her brother.
- D. Deny the self-defense instruction, because the sister used excessive force.

Answer - B

- Let's look at C and D – those are both questions for the jury, or if you were writing an essay. It is up to the fact finder to decide if her belief was reasonable, and if she used excessive force.

One last hypo

Father came home and found Student threatening his son with a butcher knife. Father had no idea that Student and his son were rehearsing for a school play. Father grabbed a baseball bat and lunged toward Student. Student stabbed Father with the very real and sharp knife he had taken from the kitchen drawer to use as a prop. Father later died from the knife wound.

Answer Choices

If Student is charged with murder, should he be found guilty?

(A) Yes, because his actions prompted an understandable response from Seth.

(B) Yes, because his actions resulted in Father's death.

(C) No, because a baseball bat is a deadly weapon.

(D) No, because Father's behavior invited Student's reaction.

Answer - C

- Even though Dad had thought that student was putting his son in danger, Student had a reasonable belief that HIS life was in danger from dad.

