

Criminal Defense Lawyers: Reducing Murder to Manslaughter

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Reducing murder to manslaughter is a task that presents itself in many murder cases. Depending on your state or jurisdiction you may be able to reduce murder to manslaughter by eliminating the element of "malice." Classically, this is where the defendant acts by being provoked into a sudden quarrel or into a state of mind known as the "heat of passion." The mental state of "heat of passion" is not just one emotion. It can be anger, jealousy, or any other agitated state of mind in the normal range of human behavior.

If a person is intentionally killed but the defendant was provoked or was in the heat of passion due to some provocative circumstance of the alleged victim, the killing is said to be mitigated to voluntary manslaughter. The defendant cannot just set up his or her own standard of conduct. The situation causing the heat of passion must be such that a reasonable person under the circumstances would have been provoked to act out of passion rather than logic. The classic example given in law schools is where a person comes home unexpectedly and finds their spouse in bed with another person. This is the type of act that could cause any reasonable person to act out of passion and emotion rather than logic.

Usually these cases happen in times of great stress and emotion and a psychologist or psychiatrist should be employed to see if any factors of the mental state of the defendant or victim can be used to reduce the offense to manslaughter. How mental state factors can be used depend upon the laws of the jurisdiction in which the case is being tried.

If it can be shown that the killing was unintentional, but reckless, in some states the case can be reduced to involuntary manslaughter. Involuntary manslaughter carries a significantly lower penalty than voluntary manslaughter. Sometimes what looks like a murder, an intentional killing, is really an accident under extremely stressful circumstances. Note that in some states an unintentional killing, if extreme enough, can be murder. Generally that type of act must be more than recklessness. Typically, to make an unintentional act murder there must exist a callous disregard for human life. In some states those types of acts are called "depraved heart murders."

As an example, a female was charged with murder when she stabbed her husband in the chest with a steak knife. They were in the kitchen making dinner and got into an argument. Because the knife hit a major artery near the heart, he died within minutes. The defendant told two different stories about what happened. She said it was an accident and she didn't mean to kill him. She was prosecuted for murder and taken to trial.

The defense noticed that the location and angle of the wound seemed odd for an intentional stabbing. The blade went in at an angle rather than vertical. This didn't seem consistent with how a person intentionally stabbing another would have stabbed. Also, the blade went right between the ribs in a soft area of cartilage. It seemed unlikely that a non professional could have known this vulnerability and hit it so precisely.

The defense retained a well-known pathologist who totally agreed and testified that all of the circumstances were consistent with an accident and inconsistent with patterns of known stabbings. A psychiatrist also testified to the woman's exaggerated startle response because of beatings from a prior relationship. The defense theory was that she accidentally stabbed her boyfriend when he quickly advanced towards her in the argument. She over-reacted and, without consciously knowing it, thrust her knife hand forward. The knife went through the butter-soft cartilage and pierced the artery. The jury found her not guilty of murder and found her guilty of involuntary manslaughter. Had she not been under the influence of drugs, the jury might have found the act to be a pure accident and totally excused her.

To show that a killing is either voluntary manslaughter or involuntary manslaughter, a thorough investigation, analysis, and reconstruction is mandated. Even if the act was not the type that would justify reducing a murder to manslaughter, the fact that the defendant was in the heat of passion could eliminate premeditation and deliberation and reduce the degree of the murder. William F. Nimmo is a highly regarded San Diego criminal defense attorney who has successfully defended residents statewide for nearly three decades. He has been a San Diego criminal trial lawyer of the year and has been awarded the Directors' Award for Excellence by the San Diego Criminal Defense Bar Association. See <http://www.nimmolawgroup.com/> for more information.