

INTOXICATION NEGATING AN ELEMENT OF THE OFFENSE¹
(N.J.S.A. 2C:2-8a)

There is evidence in this case concerning the use by the defendant of (intoxicant) (prior to and) on the day in question.

Generally a defendant is not relieved of criminal responsibility because he/she is found to have acted under the influence of an intoxicating beverage (or drugs). The general assumption is that every person is normal and is possessed of ordinary faculties. The State need not prove that the defendant was sober.

You may consider the evidence as to defendant's consumption of alcoholic beverages (or drugs, if appropriate) in determining whether he/she was intoxicated to such a degree that he/she was incapable of acting (purposely or knowingly).

Therefore, once there is some evidence of defendant's intoxication, the State must prove beyond a reasonable doubt that such intoxication did not render defendant incapable of acting (purposely or knowingly).

Intoxication under our law means a disturbance of mental or physical capacities resulting from the introduction of substances into the body. [N.J.S.A. 2C:2-8e(1)].

In considering the question of intoxication, you should carefully distinguish between the condition of mind which is merely excited by intoxicating-drink (or drugs) and yet capable of acting with (purpose or knowledge), and the condition in which one's mental faculties are so prostrated as to deprive one of (his/her) will to act and ability to reason, thereby rendering a person incapable of acting and thus preventing the person from committing the crime charged with the mental state required of either (purposely or knowingly).

This distinction is important because, as explained, whether or not the defense of intoxication applies is a factual determination to be made by you.

You may also consider, along with all the other evidence, the degree of intoxication in determining whether or not the defendant was capable of acting with (purpose or knowledge) to commit the crime charged.

You will recall that I explained to you the elements of (crime), one of those elements was that defendant had to act with (purpose or knowledge).

¹ **NOTE:** Self-induced intoxication can only reduce murder to aggravated manslaughter or manslaughter. See N.J.S.A. 2C:11-4b(1), State v. Stasio, 78 N.J. 467 (1979), and State v. Maik, 60 N.J. 203, 215 (1972).

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(DEFINE PURPOSELY OR KNOWINGLY)

If after considering all the evidence you have a reasonable doubt whether defendant's intoxication was such as to render (him/her) incapable of acting (purposely or knowingly), then you must acquit (him/her) of (crime).

If, however, the State has proven to you beyond a reasonable doubt that the defense does not apply, and that the State has proven all of the elements of (crime) previously defined for you beyond a reasonable doubt, then you must find the defendant guilty.