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VOLUNTARY INTOXICATION

"I Was Too Drunk to Know What I was Doing"

This is the latest in our series of articles covering the new laws enacted by the 1999 Florida legislature. Florida law has traditionally recognized voluntary intoxication as a defense to certain crimes. An example of this defense is where the perpretrator gets drunk and robs the victim at gunpoint. He then comes to court and maintains that he was too intoxicated to have formed the specific intention to rob the victim. He argues that he simply did not know what he was doing.

Even though the accused may have willingly ingested alcoholic beverages, in some cases his attorney argued successfully that the intoxication placed the accused in an unconscious or wholly incapacitated state, which made it impossible for the accused to have formed the requisite "criminal intent" to commit the offense. Where the defendant was too intoxicated to entertain or be capable of forming the necessary intent to commit a specific crime, Florida courts concluded that the criminal offense had not been perpetrated.

Florida court decisions down through the years established that voluntary intoxication was a defense to certain criminal offenses that the courts call "specific intent crimes." In the past, courts have found that crimes such as burglary, aggravated battery, battery on a police officer, theft, robbery, and first degree murder were crimes that required the perpetrator to possess the specific intention to commit the crime. Florida courts found that other criminal offenses such as resisting arrest without violence, and arson were the type of crimes that required only a general intent, and the defense of voluntary intoxication was not available to individuals charged with these crimes.

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The 1999 Florida legislature enacted into law new provisions which amend the Florida evidence code regarding the defense of voluntary intoxication in criminal cases. The new law provides that voluntary intoxication resulting from the consumption, ingestion, or other use of alcohol or other controlled substances is not a defense to any criminal offense. Further, the new law goes on to say that evidence of voluntary intoxication is not admissible in a criminal trial to show that the accused lacked the specific intent to commit a criminal offense or that the defendant was insane at the time of the offense. The new law carves out an exception when the substance in question is a controlled substance that the defendant took pursuant to a lawful prescription issued to the defendant by a licensed practitioner.

While this change in the evidence code has received little attention in the mainstream media, it represents a significant change in the criminal defendant's ability to maintain his innocence by suggesting that he was too drunk or too drugged up to intentionally commit the crime in question. It's constitutionality may be challenged in court.

This new law passed the Florida Senate and the Florida House of Representatives without a dissenting vote. The bill is identified as Committee Substitute for House Bill 421. Its provisions took effect October 1, 1999.

Individuals interested in the full text of this new legislation can secure a copy at the following web site: http://www.leg.state.fl.us/; or by contacting their state Senator or Representative.

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