Voluntary Manslaughter in Pennsylvania

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Voluntary manslaughter consists of an unlawful killing of a human being without malice, either express or implied, but committed under the immediate influence of sudden passion. Voluntary manslaughter is so nearly related to murder, it becomes necessary to distinguish it clearly. The difference is this: Wherever a homicide results from a sudden transport of passion or heat of blood, if upon sufficient provocation, and without malice or upon sudden combat, it will be manslaughter; if without such provocation, or the blood has time to cool, or if there is evidence of malice, it will be murder. Therefore, in order to reduce an intentional blow or wounding, resulting in death, to voluntary manslaughter, there must have been legally adequate provocation, the killing must have been committed in a state of rage or passion without time to cool, placing the prisoner beyond control of his reason, suddenly impelling him to act. If any of these be lacking, if there be passion without a sufficient cause of provocation, or provocation without passion, or there be time to cool, the killing will be murder.

The act which kills, must, in order to reduce the killing to manslaughter, be the result of some provocation. The vast majority of murders are, however, the result of provocations. What are the characteristics of the provocation which make the killing mere manslaughter? In order that a killing which would otherwise be murder may be reduced to voluntary manslaughter there must have been legally adequate provocation. In Commonwealth v. Paese the court stated:

“What is sufficient provocation for this purpose has not been exactly defined, and is probably incapable of exact definition, for it must vary with the myriad shifting circumstances of men's tempers and quarrels. It is a concession to the infirmity of human nature, not an excuse for undue or abnormal irascibility, and, therefore, to be considered in view of all the circumstances. It is usually said that the sufficiency of the provocation is for the court. And such is the general rule, but it must not be taken too broadly, but applied to cases where the facts are undisputed or clearly established . . . While, therefore, the sufficiency of the provocation is in general for the court, it may in some cases be so combined with questions of fact as to be for the jury.”

The provocation must be of such a character as would naturally arouse the passion of an ordinary or reasonable man to the necessary degree; and it should be real or so evident as to vindicate the assumption of its reality. A slight provocation will not be sufficient, since the provocation must be proportionate to the manner in which accused retaliated; and therefore, if the offender on a slight provocation, attacked the victim with violence out of all balance to the provocation and killed him, the crime is murder, even though there was no prior intent to deprive him of life.

2 Ibid.
Generally the nature and character of the wrongful act which incited the action determine whether the accused is guilty of murder or manslaughter. The courts define legally adequate provocation and determine whether specific acts relied upon by the defendant satisfy this definition and constitute legally adequate provocation. In other words, it is for the jury to decide what the facts are, and for the court to say what effect shall be given them. Therefore, it is possible to compute a list of the acts which are legally adequate provocation.

Many times the provocation consists in blows or wounds, unlawfully inflicted by the deceased. Personal violence inflicted on the accused may constitute legally adequate provocation, provided it is of such a nature or caused under such circumstances as be reasonably calculated to arouse passion, and provided the slaying is due to passion so aroused and not to malice. A trivial or slight assault and battery wholly disproportionate to the vehemence of the requital will not constitute an adequate provocation. However, in order to lessen the grade of the homicide, the attack need not be so violent as to put the defendant in impending danger of death or of great bodily harm as might reasonably cause death.

A killing committed under an apprehension that one's life is in danger is, if the apprehension is reasonable, excusable as done in self-defense, if the apprehension exists, but is not reasonable, it is manslaughter only.8

The usual illustration of voluntary manslaughter is found where the killing results from mutual combat, or the heat of passion arising therefrom, even though the prisoner may not have attempted to withdraw from the conflict, provided the killing was not due to malice, but to the heat of blood excited by the struggle.

Serious injury immediately inflicted or threatened to wife or husband, child or servant, in prisoner's presence, might be sufficient on account of the relationship of the parties to mitigate the killing to manslaughter. However, vehemence of this nature, though committed in the defendant's home, in his absence, and shortly after its occurrence related to him will not be enough to reduce the homicide to mere manslaughter.

In Commonwealth v. Aiello4 on an indictment for murder, the evidence tended to reveal that on the day the killing occurred the deceased had engaged in several fights, and the defendant had interfered to prevent decedent's getting injured. After a brief interval the deceased struck at the prisoner, but the prisoner refused to engage in fisticuffs, and the parties then separated. The deceased then went to the defendant's home while he was away, roughly handled the prisoner's son, struck a guest, and just missed striking the prisoner's wife. He then returned to his own house. The defendant after an absence of about one hour and a half, and after he had heard what had happened at his own house, approached the deceased, drew a knife, and stabbed him. It was held that the evidence was sufficient to sustain a conviction of murder in the first degree.

8 Commonwealth v. Colandro, 231 Pa. 343, 80 A. 571 (1911).
An attack on the person and safety of a friend or companion is not a sufficient provocation to reduce the crime to voluntary manslaughter. It is felt by the courts in this situation that the relationship of the parties is not close enough to allow them to lessen the punishment.

If the defendant finds the deceased in the very act of committing adultery with the defendant's wife, this is a circumstance of provocation and justification which will reduce the homicide to voluntary manslaughter. The mere fact that the deceased has, at some recent time, committed adultery with the defendant's wife, a fact of which defendant has persuaded himself by his own inquiry, and by his wife's admission, will not form a provocation such as will reduce the killing to manslaughter. The reason the courts make this distinction is that a past event does not operate so vividly upon us as a present, and a narrated or inferred event does not excite our feelings so much as an observed event.

The law of Pennsylvania does not condone the passion and rage felt by a father toward one caught in adultery with his daughter; or by a son toward one caught in adultery with his mother; or by a brother toward one caught in adultery with his sister. In *Lynch v. Commonwealth*, the prisoner, who lived with his married sister, on returning home, heard the deceased, who was not her husband, in bed with his sister; took out his knife, forced the door of the room, entered it, and stabbed the deceased three times.

The court in its opinion said:

"Assuming all this to be true, does it amount in law to sufficient cause of provocation to reduce the killing to manslaughter? We are of opinion that it does not; that there is nothing in these circumstances, as they are claimed to exist by the prisoner, that would reduce the grade of the offense to voluntary manslaughter."

There have been numerous explanations of this decision, but the most recognized interpretation is that the only sexual acts that are sufficient provocation to reduce the homicide to voluntary manslaughter are those specific occasions where the killing results from the apprehension of the husband by the wife or the wife by the husband in the commission of adultery. This doctrine has been deprecated and repudiated by the majority of states which have had an occasion to do so. The Pennsylvania doctrine has remained the same throughout the years because of the long standing effect of the *Lynch* case. It seems improbable, however, that the above cited decision will continue to be the landmark for future decisions in this state. Since that opinion was handed down in 1874 there has become prevalent in this nation a rise of home life and closer family ties. Therefore, we have reached a point where rage and anger aroused upon such indignities are incidental to our way of life. Is the cause of a father, son, or brother so far removed from that of husband and wife that their conduct against society should not be mitigated? I

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think not. Each has done no more than he and many others would do time and time again should such cause present itself.

The arrest of a guiltless man for an offense, without warrant, is a great provocation. If in the delirium of rage, he loses all control over his acts and emotions and kills his assailant, his homicide will be but manslaughter.\(^7\) When a man is guilty, an attempted arrest is not sufficient provocation that will free his mind of malice, if he inflicts serious bodily harm.

In the opinion of *Brooks v. Commonwealth*\(^8\) the court stated:

"Conscious of his crime, he has no just provocation—he knows his violation of law, and that duty demands his capture. Then passion is wickedness, and resistance is crime. . . A sense of guilt cannot arouse honest indignation in the breast, and therefore cannot extenuate a cruel and wilful murder to manslaughter."

This principle is also applicable where a citizen in fresh pursuit of an offender who has committed a felony, attempts to arrest the malefactor without a warrant, and the latter deliberately and intentionally delivers a lethal blow.\(^9\) In this situation the prisoner intends to do either great bodily harm, or to kill, in order that he may escape, and, in either case, malice is to be presumed, and it is murder, not manslaughter.

A bare trespass on the land or other property of another is not a sufficient provocation to reduce to manslaughter, a homicide resulting from conduct on the part of the defendant which was likely to cause great bodily harm.

Likewise no words of dishonor, no matter how grievous, are provocation sufficient to discharge the party killing from the guilt of murder; nor are indecent provoking acts or gestures expressive of disgrace or reproach.\(^10\) No matter how exasperating the abuse, how difficult to tolerate, the law does not justify a person in repelling the injury which comes from words alone, by violence. The courts admit that abusive language may provoke as deeply as a blow in the face, but because too great a latitude should not be given to the taking away of human life, they refuse to extend it to the provocation of words.

The provocation must have been received from the person killed except where the wrong person or another person is killed by accident or mistake.

The provocation, in order to reduce the grade of the homicide, must produce a passion or feeling which urges toward the serious bodily hurt of the offender. Although it does produce the act, it must do so through the medium of certain approved qualities of emotion, and certain approved degrees of this emotion. This

\(^7\) Brooks v. Commonwealth, 61 Pa. 352 (1865).
\(^8\) Ibid.
feeling is described as heat of blood; as a "sudden passion;" as a "sudden heat or passion;" as rage or passion; the "heat of blood and passion;" a "sudden heat of passion;" a "sudden transport of passion." If there be passion without provocation, or provocation without passion, the homicide will not be mitigated.

There is no psychological instrument for measuring the degrees of the emotion or impulse. However, every degree is not enough. Many times we are told that the passion must place the prisoner "beyond control of his reason." The passion must "suddenly impel" to the act. The rage must be "uncontrollable almost, we might say," and in that "sudden heat" the killing must occur.

The term passion as used here means any of the emotions of the mind known as rage, anger, sudden resentment, or tenor rendering the mind incapable of cool reflection.

A prisoner shall escape the penalties of murder and be guilty only of manslaughter, only where the passion has been of a brief duration. The passion must be brief and sudden and may not be cumulative. The passion must be very ardent when it produces the volition, but it must not retain strength for more than a brief duration after the reception of the provocation. There is a so-called "cooling time," and this ostensibly means a time in which the particular passion of the particular person ought to have cooled, and this time is the time in which the like passion, under a similar provocation, of the "ordinary man" would have cooled.

In the case of Commonwealth v. Morrison the presiding judge said to the jury:

"The law fixes no exact period of time that may be called 'cooling time.' The human mind acts differently in different individuals. Passion subsides in some men's minds more quickly than in others. Some form a deliberate purpose sooner than others. Therefore, the law leaves it to the jury to determine that question under the facts and circumstances of each case, as it may arise."

It is reasonably clear that if, when the prisoner delivers the fatal blow, he is in fact cool and free from passion and rage, he cannot take advantage of the provocation in order to reduce the grade of the homicide. Such a blow, delivered in a

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13 Commonwealth v. Ware, 137 Pa. 465, 20 A. 806 (1890).
16 Green v. Commonwealth, 83 Pa. 75 (1876).
17 Commonwealth v. Drum, 58 Pa. 9 (1868).
18 Ibid.
19 Commonwealth v. Ware, 137 Pa. 465, 20 A. 806 (1890).
state of coolness, is calculated and intended to do serious bodily harm and, therefore, is malicious. The actual cooling of the defendant may be inferred from his intervening situation and conduct, and from the lapse of time since the reception of the provocation; his visiting a friend; his eating dinner; his listening to music.23

Do the peculiarities of an individual license him to a quicker or broader provocation? If we admit evidence that the prisoner is quick-tempered, violent, and revengeful, are these sufficient to reduce the grade of the offense? Certainly not. These characteristics ensue from a lack of self-discipline and a neglect of self-culture, that is inexcusable. Therefore, the personal peculiarities are not considered in determining what is legally adequate provocation or a reasonable cooling time, but are considered in determining whether there was passion.

On an indictment for murder a prisoner might be convicted of voluntary manslaughter. In Weston v. Commonwealth24 the learned judge pointed out to the jury:

"You will remember that you are not limited in your verdict to finding the defendant guilty of murder of the first or second degree, but that, if the facts and law warrant, you can find him guilty of voluntary manslaughter."

The Commonwealth of Pennsylvania has a statute which prescribes the penalty and punishment for a defendant which has been convicted of voluntary manslaughter. The appropriate Pennsylvania statute on this offense reads as follows:

"Whoever is convicted of voluntary manslaughter is guilty of a felony and shall be sentenced to pay a fine not exceeding six thousand dollars ($6,000), and to undergo imprisonment, by separate or solitary confinement at labor or simple imprisonment, not exceeding twelve (12) years, and in the discretion of the court, to give security for good behavior during life, or for any less time, according to the nature and enormity of the offense.

The district attorney may charge both voluntary and involuntary manslaughter in the same indictment, in which case the jury may acquit the party of one and find him guilty of the other charge."25

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25 Act of 1939, June 24, P.L. 872, § 703, 18 P.S. § 4703.