

Voluntary Intoxication Is Not a Complete Defense Under the Dram Shop Act

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In *Gray v. D&F, Inc. d/b/a The Sandstone*, Case No. 29A04-1002-CT-113, the Indiana Court of Appeals was asked to decide whether a trial court properly granted summary judgment to a bar on a claim under the Dram Shop Act, I.C. § 7.1-5-10-15.5, because the plaintiff was voluntarily intoxicated. The Court reversed.

Gray spent a long day at the Sandstone bar. He ate lunch and drank alcohol throughout the day. There is a dispute as to precisely how much alcohol Gray consumed, but Gray bought drinks for himself and friends, and friends bought drinks for Gray. It is undisputed, however, that Gray continued to consume alcohol until the bar closed at approximately 1:00 a.m. the following morning. The bartender on duty that night was Gray's girlfriend. After leaving the bar, Gray decided to drive his motorcycle. As he went through an intersection, Gray struck a curb and lost control of his motorcycle. Gray wrecked the motorcycle and was injured as a result, but there were no other injuries or damages to any third party.

Gray sued Sandstone under the Dram Shop Act and Sandstone moved for summary judgment because Gray was voluntarily intoxicated. The trial court granted that motion, concluding that Gray's voluntary intoxication precluded any recovery. Gray appealed.

On appeal, the Court held that the statute was clear:

[A]n adult consumer who is voluntarily intoxicated may assert a claim of damages for personal injury against the provider who furnished an alcoholic beverage that contributed to the consumer's voluntary intoxication if: (1) the provider had actual knowledge that the consumer was visibly intoxicated at the time the beverage was furnished, and (2) if the consumer's intoxication was a proximate cause of the injury or damage alleged.

While's fault would still need to be allocated under the comparative fault act, the trial court improperly granted summary judgment to the bar.

In this opinion, the Court spoke at length about the trial court's public policy concerns if the law allowed people who were voluntarily intoxicated to bring claims based on their intoxication. Despite these concerns, the Court held that the statutory language was clear. This decision makes it nearly impossible for a Dram Shop Act defendant to win on summary judgment based on the voluntary intoxication of the plaintiff.

Lessons:

1. Voluntary intoxication is not a complete defense to an action under the Dram Shop Act.