

MISTAKE OF FACT

COMMON LAW

A. General

1. Most mistake defenses involve an effort to show that a Mens Rea element was missing.
2. Critical question therefore is what Mens Rea element is required.

B. Methodology

1. Classify offense as Specific Intent, General Intent or Strict Liability
2. Apply certain specified rules

C. Specific Intent

An honest mistake of fact is a defense to a Specific Intent crime.

D. General Intent

An honest and reasonable mistake of fact is a defense to a General Intent crime. But the conduct must not be criminal if the facts were as the defendant believed them to be.

E. Mistake as to Actus Reus Elements of Specific Intent Crimes

Analysis:

1. Does the mistake show that the Specific Intent was not in fact entertained by the defendant?

Normal Rule: Honest mistake is a defense.

2. If the mistake does not show that the Specific Intent is lacking, then the normal general intent rule applies -- an honest and reasonable mistake is a defense.

F. Strict Liability

A mistake of fact is not a defense if it relates to an element for which strict liability is imposed.

MODEL PENAL CODE

A. General

1. MPC § 2.04(1)

- a. Ignorance or mistake negates Mens Rea
- b. Law provides that created state of mind is a defense

2. MPC § 2.04 (2)

- a. Not available if defendant would be guilty of another offense under his supposed facts.
- b. Offense reduced to what he supposed
- c. Determine Mens Rea requirement

B. Mistakes that Negate Mens Rea

MPC § 2.04(1): Ignorance or mistake negates Mens Rea

C. Mistakes that Establish a State of Mind Constituting a Defense

MPC § 2.04(1)(b) “the law provides that the state of mind established by such ignorance or mistake constitutes a defense”