

14-5184. Defense of another; deadly force by defendant.¹

An issue in this case is whether the defendant acted while defending another person.

The defendant acted in defense of another if

1. There was an appearance of immediate danger of death or great bodily harm² to _____³ as a result of _____⁴; and
2. The defendant believed that _____³ was in immediate danger of death or great bodily harm from _____ (*name of victim*) and _____⁵ to prevent the death or great bodily harm; and
3. The apparent danger to _____³ would have caused a reasonable person in the same circumstances to act as the defendant did.

The burden is on the state to prove beyond a reasonable doubt that the defendant did not act in defense of _____³. If you have a reasonable doubt as to whether the defendant acted in defense of another, you must find the defendant not guilty.

USE NOTES

1. For use in nonhomicide cases when the defense theory is based on a reasonable ground to believe a design exists to commit a felony; a reasonable ground to believe a design exists to do great bodily harm; or a defense of spouse or other member of the family, a necessary defense against any unlawful action. If this instruction is given, add to the essential elements instruction for the offense charged, "The defendant did not act in defense of _____"³.

2. The definition of great bodily harm, UJI 14-131 NMRA, must be given if not already given.

3. Give the name of the person in apparent danger, if known, and the relationship to defendant, if any. More than one person may be included.

4. Describe the unlawful act, felony, or act which would result in death or some great bodily harm as established by the evidence. Give at least enough detail to put the act in the context of the evidence.

5. Describe the act of defendant, e.g. "struck Richard Roe," "choked Richard Roe."

[As amended, effective January 1, 1997; as amended by Supreme Court Order No. 18-8300-012, effective for all cases pending or filed on or after December 31, 2018.]