

14-5130. Duress; nonhomicide crimes.¹

An issue in this case is whether the defendant was forced to _____²
[under threats] [or] [out of necessity]³. The burden is on the state to prove beyond a reasonable doubt that the defendant did not act under reasonable fear. A defendant acted under a reasonable fear when:

1. The defendant feared immediate great bodily harm to himself or another person if he did not commit the crime;
- [2. The defendant did not find himself in a position that compelled him to violate the law due to his own recklessness;
3. The defendant's illegal conduct was directly caused by the threat of harm]⁴; and
4. A reasonable person would have acted in the same way under the circumstances.

USE NOTES

1. For use when duress is a defense to any crime except homicide or a crime requiring an intent to kill. If this instruction is given, add to the essential elements instruction for the offense charged, "The defendant did not act under duress."
 2. Describe acts of defendant constituting the offense.
 3. Choose applicable alternative or alternatives. See committee commentary.
 4. Bracketed elements apply only when duress is raised as a defense to a strict liability crime.
- [As amended by Supreme Court Order No. 17-8300-012, effective for all cases pending or filed on or after December 31, 2017.]