

14-2404. Retaliation against a witness.

For you to find the defendant guilty of retaliation against a witness [as charged in Count _____]¹, the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

[1. The defendant knowingly engaged in conduct that caused:
[[bodily injury to _____ (*name of person*)] [or]
[damage to the tangible property of _____ (*name of person*)

[OR]

[1. The defendant knowingly threatened:
[bodily injury to _____ (*name of person*)] [or]
[damage to the tangible property of _____ (*name of person*)];

2. The defendant engaged in the conduct with the intent to retaliate against _____ (*name of witness*) for providing any information to a law enforcement officer relating to:

[the commission or possible commission of _____ (*name of felony*)²;] [or]

[a violation of conditions of probation;] [or]

[a violation of conditions of parole;] [or]

[a violation of conditions of release pending judicial proceedings;]

3. This happened in New Mexico on or about the _____ day of _____, _____.

USE NOTES

1. Insert the count number if more than one count is charged.

2. Unless the court has instructed on the essential elements of the felony or attempted felony, these elements must be given in a separate instruction, generally worded as follows: "In New Mexico, the elements of the crime of _____ (*name of felony*) are as follows:

_____ (*summarize elements of the felony*)". See *State v. Perea*, 1999-NMCA-138, 128 N.M. 263, 992 P.2d 276.

[Approved, effective October 1, 2001.]