

14-2821. Aiding or abetting accessory to felony murder.¹

The defendant _____ (*name of defendant*) may be found guilty of felony murder [as charged in Count _____],² even though the defendant did not commit the murder if the state proves to your satisfaction beyond a reasonable doubt each of the following elements:

1. The defendant _____ (*name of defendant*) intended that another person commit the felony of _____ (*name of felony*);

2. Another person committed [or] [attempted]³ the felony of _____ [under circumstances or in a manner dangerous to human life];³

3. The defendant _____ (*name of defendant*) helped, encouraged, or caused the felony of _____⁴ (*name of felony*) to be committed [or attempted];

4. During the [commission] [attempted commission] of the felony _____ (*name of deceased*) was killed;

5. The defendant _____ (*name of defendant*) helped, encouraged, or caused⁵ the killing to be committed;

6. The defendant _____ (*name of defendant*) intended the killing to occur or knew that the defendant was helping to create a strong probability of death or great bodily harm; and

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

USE NOTES

1. For use if the evidence supports liability as an aider or abettor or co-conspirator regardless of whether conspiracy is charged, for felony murder.

2. Insert the count number to which this instruction is applicable if more than one count is submitted to the jury on any theory.

3. Use applicable alternatives.

4. The essential elements of this felony or these felonies must also be given unless they are otherwise covered by the instructions. To instruct on the elements of an uncharged offense, UJI 14-140 NMRA must be used.

5. UJI 14-251 NMRA must also be used if causation is in issue.

[As amended, effective March 15, 1995; as amended by Supreme Court Order No. 17-8300-012, effective for all cases pending or filed on or after December 31, 2017; as amended by Supreme Court Order No. 20-8300-004, effective for all cases pending or filed on or after December 31, 2020.]