

14-634. Consensual possession defense.¹

In evaluating the elements of sexual exploitation of children (possession) [as charged in Count ____]², it is a defense to the crime that a teenager possessed depictions of another teenager, consensually created and consensually possessed. If you find the following elements satisfied, you must find the defendant not guilty:

1. The defendant was under the age of eighteen (18) when the defendant possessed the depiction(s);
2. The depicted child was aged fourteen (14) to eighteen (18) at the time the image was captured;
3. The depicted child knowingly and voluntarily consented to the image=s creation; and
4. The depicted child knowingly and voluntarily consented to the defendant=s possession of the image.

USE NOTES

1. For use with UJI 14-631 NMRA when the consensual possession defense defined in NMSA 1978, Section 30-6A-3(B) is in issue.

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

[Adopted by Supreme Court Order No. 19-8300-016, effective for all cases pending or filed on or after December 31, 2019.]