

14-202. Felony murder; essential elements.

For you to find the defendant _____ (*name of defendant*) guilty of felony murder, which is first degree murder, [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 _____ (*name of defendant*) [committed]² [attempted to commit] the crime of _____³ (*name of felony*) [under circumstances or in a manner dangerous to human life]⁴;

2. _____ (*name of defendant*) caused⁵ the death of _____ (*name of deceased*) during [the commission of]² [the attempt to commit] _____ (*name of felony*);

3. _____ (*name of defendant*) intended to kill or knew that [his] [her] acts created a strong probability of death or great bodily harm;

[4. The defendant did not act as a result of sufficient provocation;]⁶

5. 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. Use applicable alternative or alternatives.

3. Unless the court has instructed on the essential elements of the felony or attempted felony, these elements must be given in a separate instruction. To instruct on the elements of an uncharged offense, UJI 14-140 NMRA must be used.

4. Use bracketed phrase unless the felony is a first degree felony.

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

6. This element is to be given only when provocation is an issue. In that circumstance UJI 14-221A NMRA, voluntary manslaughter; lesser included offense of felony murder, should be given.

[As amended, effective March 15, 1995; as amended by Supreme Court Order No. 14-8300-005, effective for all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 21-8300-025, effective for all cases pending or filed on or after December 31, 2021.]