

CR1305 Assault Against a Military Servicemember in Uniform.

(DEFENDANT'S NAME) is charged [in Count _____] with committing Assault Against a Military Servicemember in Uniform [on or about (DATE)]. You cannot convict [him] [her] of this offense unless, based on the evidence, you find beyond a reasonable doubt each of the following elements:

1. (DEFENDANT'S NAME):
2. Intentionally, knowingly, or recklessly
 - a. [attempted, with unlawful force or violence, to do bodily injury to (VICTIM'S NAME); or]
 - b. [committed an act with unlawful force or violence that
 - i. caused bodily injury to (VICTIM'S NAME); or
 - ii. created a substantial risk of bodily injury to (VICTIM'S NAME); or]
 - c. [threatened to commit any offense involving bodily injury, death, or substantial property damage, and acted with intent to place (VICTIM'S NAME) in fear of imminent serious bodily injury, substantial bodily injury, or death; or]
 - d. [made a threat, accompanied by a show of immediate force or violence, to do bodily injury to (VICTIM'S NAME);]
3. [(DEFENDANT'S NAME):
 - a. [has been previously convicted of a class A misdemeanor or a felony violation of Assault Against a Peace Officer or Assault Against a Military Servicemember in Uniform;]
 - b. [caused substantial bodily injury;]
 - c. [used a dangerous weapon; or]
 - d. [used means or force likely to produce death or serious bodily injury]]
4. (VICTIM'S NAME) was on orders and acting within the scope of authority granted to the military servicemember in uniform; and
5. [The defense of _____ does not apply.]

After you carefully consider all the evidence in this case, if you are convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant GUILTY. On the other hand, if you are not convinced that each and every element has been proven beyond a reasonable doubt, then you must find the defendant NOT GUILTY.

References

Utah Code § 76-5-102.4(2)(b)

Committee Notes

If the case requires instruction on more than one subpart under element 3, practitioners are advised to use separate elements instructions or a special verdict form (SVF1301), as these subparts result in different levels of offense.

Depending on the facts of the case, practitioners should carefully consider removing element 3.a. from this elements instruction and instead use a special verdict form in a bifurcated proceeding.