UTAH JUDICIAL COUNCIL
STANDING COMMITTEE ON MODEL UTAH CRIMINAL JURY INSTRUCTIONS
MEETING AGENDA

December 3, 2025 – 12:00 p.m. to 1:30 p.m.

Via Webex

12:00	Welcome and Approval of October Minutes		Tab 1	Judge Welch
	Review CR1014 & CR1015 in Roadmap		Tab 2	Judge Welch
	Update: Public Comments to SVF1450 and CR1012 (none received)			Judge Welch
	Proposed CR541 & CR542 Ignorance or Mistake of Fact/Law		Tab 3	
	Special Verdict Form request re Lesser-Included Offenses		Tab 4	Judge Welch
1:30	Adjourn			

COMMITTEE WEB PAGE: https://www.utcourts.gov/utc/muji-criminal/

UPCOMING MEETING SCHEDULE:
Meetings are held via Webex on the first Wednesday of each month from 12:00 noon to 1:30 p.m. (unless otherwise specifically noted):

January 7, 2026
February 4, 2026
March 4, 2026
April 1, 2026
May 6, 2026
June 3, 2026
July 1, 2026
August 5, 2026
September 2, 2026
October – No Meeting
November 4, 2026
December 2, 2026

TAB 1

UTAH JUDICIAL COUNCIL
STANDING COMMITTEE ON MODEL UTAH CRIMINAL JURY INSTRUCTIONS
MEETING MINUTES

Via Webex
October 1, 2025 – 12:00 p.m. to 1:30 p.m.

DRAFT

Committee Members	Role	Present	Excused	Guests
Hon. Teresa Welch	District Court Judge [Chair]	•		
Hon. Christopher Bown	Justice Court Judge	•		
Dr. Jay Jordan	Linguist/Communications Professor		•	
Hon. Linda Jones	Emeritus District Court Judge		•	
Hon. Matthew Bates	District Court Judge		•	
Lacey Singleton	Defense Attorney	•		
Janet Lawrence	Defense Attorney		•	
Jeffrey Mann	Prosecutor	•		
Breanne Miller	Prosecutor	•		
Shannon Woulfe	Defense Attorney	•		
Freyja Johnson	Defense Attorney	•		
McKay Lewis	Prosecutor	•		
Nic Mills	Prosecutor	•		
Bryson King	Staff	•		

(1) WELCOME AND APPROVAL OF SEPTEMBER 2025 MINUTES

Judge Welch welcomed the Committee and invited a motion to approve the September meeting minutes. Breanne Miller moved to approve the minutes and Freyja Johnson seconded the motion. Without objection the motion carried and the minutes were approved.

(2) AGENDA ITEM 8: PROPOSED AMENDMENT TO SVF1450 – IMPERFECT SELF-DEFENSE

Judge Welch then turned the Committee's attention to SVF1450 and invited Jeff Mann to present proposed amendments. Jeff explained that the proposal corresponds with recent

emphasis by the appellate courts on the need for juror unanimity. He notes the current SVF1450 invites the jury to check alternative boxes stating either "We unanimously find . . ." or "We do not unanimously find . . ." "that the State has proved beyond a reasonable doubt that the defense of imperfect self-defense DOES NOT apply." The language of the second alternative can be confusing because it sounds like the jury is not unanimous in the finding. He proposes to replace the above language with the following: "We unanimously find that the State," with alternative "has" or "has not" boxes, "proven beyond a reasonable doubt that the defense of imperfect self-defense DOES NOT apply." McKay Lewis queried whether the defendant still has some burden to show that the defense applies. Jeff noted that, once a defendant makes a prima facie case for the defense, the defendant bears no burden and the State must prove the defense does not apply, as reflected in CR1452. McKay agreed and pointed out that special mitigation is different. Judge Bown asked whether the SVF should include a statement regarding perfect self-defense. Jeff referenced CR1453 regarding the interplay between perfect and imperfect self-defense and says that only imperfect self-defense needs to be addressed in the SVF. Judge Bown said he was persuaded. Jeff then moved to amend SVF1450 as outlined. Freyja seconded. No objection having been raised, the motion carried. Revised SVF1450 will be published and sent out for comment.

(3) AGENDA ITEM 3: PROPOSED CR1012 – IGNITION INTERLOCK DRIVER

Judge Welch moved on to draft instruction CR1012, which the Committee has been working on. Judge Bown suggested that language should be added to indicate that the driver was interlock restricted "on the date of the alleged offense." Lacey Singleton agreed. Others disagreed, including Breanne, McKay, and Jeff, who took the view that the language is already implied in the instruction by the fact that both an interlock restriction and operation of a vehicle must be shown for an interlock violation to be proven. Judge Welch called for a vote, which resulted in 3 supporting omitting the language and 2 voting to include it. Others abstained. Judge Welch said that the language at issue would be omitted based on the majority of the votes. McKay then moved to approve CR1012 for publication. Jeff seconded. There being no objections, the motion carried.

(4) AGENDA ITEM 4: PROPOSED CR541 & CR542 – IGNORANCE OR MISTAKE OF FACT / LAW

Judge Welch asked Freyja to review her proposed instructions for Ignorance or Mistake of Fact/Law. Freyja noted that Breanne had some feedback on certain aspects of the instruction, but that Breanne had to leave the meeting early, so her concerns will need to be addressed at another time. Freyja has completed her term of service on the Committee, so this will be her last meeting. She suggests that Nic Mills may be able to take over on these instructions. Judge Welch thanked Freyja for all of her work on the Committee.

(5) AGENDA ITEMS 5 - 7: PROPOSED CR1010, CR1010A & CR1011 – REFUSING A CHEMICAL TEST, DEFINITION OF DUI ADMONITION, REFUSAL AS EVIDENCE OF CONSCIOUSNESS OF GUILT

Judge Welch advised that the proposed instructions McKay has put together as to refusing a chemical test, the definition of a DUI admonition, and refusal as evidence of consciousness of guilt will be prioritized on the agenda for the next meeting, along with items Janet has been working on as shown on the DUI roadmap (Agenda Item 2). McKay suggested that Committee members review the referenced Code provisions for his instructions. He also expressed the view that refusing a chemical test is a strict liability offense, but noted that at a recent trial, the judge suggested that the defendant must at least be aware of the admonition. McKay does not think that's really an issue as no admonition would be issued, for example, if a defendant were not conscious and able to hear it.

(6) ADJOURN

The meeting adjourned at approximately 1:30 p.m.

TAB 2

Category 1 = Instruction exists and no amendments necessary

Category 2 = Instruction exists and amendments necessary

Category 3 = Instruction does exist, but instruction awaiting publication

Category 4 = Instruction does not exist

Proposed Order of DUI Instructions CR1000 Series:

CR1000 – DUI Instructions (Category 1)

CR1001 – Preamble to Driving Under the Influence Instructions (Category 1)

CR1002 – Actual Physical Control (Category 1)

CR1003 – Simple Driving Under the Influence Instruction (Category 2) (Nic Mills)

CR1004 – Enhanced Driving Under the Influence Instruction (Category 2) (Nic Mills)

CR1005 – Driving Under the Influence of Alcohol, Drugs, or Combination/Extreme DUI (Category 2) (Nic Mills)

CR1006 – Automobile Homicide (Category 1)

CR1007 – *No instruction (status is reserved on website)*

CR1008 – Driving with a Measurable Controlled Substance (Category 1)

CR1009 – Negligently Operating a Vehicle Resulting in Injury (Category 1)

CR1010 – Refusing a Chemical Test or Blood Draw (McKay Lewis) (Category 4)

CR1011 – Refusal as Evidence of Consciousness of Guilt (McKay Lewis) (Category 4)

CR1012 – Ignition Interlock (J. Bates) (Category 3)

CR1013 – Driving with Alcohol in Your System as an Alcohol Restricted Driver/Alcohol Restricted Driver (Breanne Miller) (Category 1)

CR1014 – Alcohol Restricted Driver - Defined (Janet Lawrence) (Category 4)

CR1015 – Driving a Motor Vehicle Under the Influence of Alcohol or Drugs When the Driving Privilege Has Been Suspended, Disqualified, or Revoked (Janet Lawrence) (Category 4)

CR1016 – Drinking an Alcohol Beverage While Operating a Motor Vehicle (Category 1)

CR1017 – Open Container in a Motor Vehicle (Category 1)

CR1017A – Definition of Passenger Compartment (Category 1)

Proposed DUI Special Verdict Forms

SVF1001 – Driving Under the Influence [Will Revise] (Nic Mills)

Placeholders:

CR??? **41-6a-504. Defense not available for driving under the influence violation.**

The fact that a person charged with violating Section 41-6a-502 is or has been legally entitled to use alcohol or a drug is not a defense against any charge of violating Section 41-6a-502. (Nic Mills)

CR??? 41-6a-526. Drinking alcoholic beverage and open containers in motor vehicle prohibited -- Definitions -- Exceptions. (Nic Mills)

CR??? 41-6a-518.1. Tampering with an ignition interlock system. (J. Bates)

Other Assignments:

CR??? Burglary (McKay Lewis) (Category 4)

CR??? Aggravated Burglary (McKay Lewis) (Category 4)

CR1320: Aggravated Assault (Breanne Miller) (Category 2)

TAB 3

CR541 Ignorance or Mistake of Fact

It is a defense to the charge of [list offense(s)] if the Defendant is mistaken or ignorant about a fact that disproves the mental state required for [list offense(s)]. ~~[Defendant] is not guilty of [list offense(s)] if [he/she] did not have the mental state required to commit the crime[s] because of [his/her] ignorance or mistake about a fact.~~

If you have reasonable doubt about whether [Defendant] had the mental state required for [offenses] due to [his/her] ignorance or mistake of fact, you must find [him/her] not guilty of [offenses].

[The defendant may be convicted of [lesser included offense] if [he/she] would be guilty of [lesser included offense] if the facts were as [he/she] believed them to be.]

References:

Utah Code section 76-2-304(1)

Committee Notes:

Ignorance or mistake of fact is an affirmative defense. Utah Code section 76-2-304(1).

If the evidence supports giving this instruction, the trial court must modify the elements instruction to include disproving this defense as an additional element. *See State v. Low*, 2008 UT 58; 192 P.3d 867. [See Note to CR502]

CR542 Ignorance or Mistake of Law

It is a defense to [list offense(s)] if the Defendant is mistaken or ignorant about a law that disproves the mental state required for [list offense(s)]:~~[Defendant] is not guilty of [list offense(s)] if~~

1. [Defendant] reasonably believed [his/her] conduct did not constitute an offense, and

2. [Defendant's] ignorance or mistake resulted from [his/her] reasonable reliance on:
   (a) An official statement of law contained in a written order or grant of permission from an administrative agency charged with the responsibility of interpreting the law in question;
   (b) A written interpretation of law contained in an opinion of a court of record; or
   (c) A written interpretation of the law made by a public servant charged with the responsibility for interpreting the law in question.

[The defendant may be convicted of [lesser included offense] if [he/she] would be guilty of [lesser included offense] if the law was as [he/she] believed it to be.]

References:

Utah Code section 76-2-304(2)

State v. Norton, 2003 UT App 88, 67 P.3d 1050

Committee Notes:

Ignorance or mistake of law is an affirmative defense. Utah Code section 76-2-304(2).

If the evidence supports giving this instruction, the trial court must modify the elements instruction to include disproving this defense as an additional element. *See State v. Low*, 2008 UT 58; 192 P.3d 867. [See Note to CR502]

The statement or interpretation of the law must be in writing for this defense to apply. Utah Code section 76-2-304(2); *see State v. Norton*, 2003 UT App 88, ¶ 15, 67 P.3d 1050.

West's Utah Code Annotated
Title 76. Utah Criminal Code
Chapter 2. Principles of Criminal Responsibility (Refs & Annos)
Part 3. Defenses to Criminal Responsibility

U.C.A. 1953 § 76-2-304

§ 76-2-304. Ignorance or mistake of fact or law

Currentness

(1) Unless otherwise provided, ignorance or mistake of fact which disproves the culpable mental state is a defense to any prosecution for that crime.

(2) Ignorance or mistake concerning the existence or meaning of a penal law is no defense to a crime unless:

(a) due to an actor's ignorance or mistake, the actor reasonably believed the actor's conduct did not constitute an offense; and

(b) an actor's ignorance or mistake resulted from the actor's reasonable reliance upon:

(i) an official statement of the law contained in a written order or grant of permission by an administrative agency charged by law with responsibility for interpreting the law in question; or

(ii) a written interpretation of the law contained in an opinion of a court of record or made by a public servant charged by law with responsibility for interpreting the law in question.

(3) Although an actor's ignorance or mistake of fact or law may constitute a defense to the offense charged, the actor may nevertheless be convicted of a lesser included offense of which the actor would be guilty if the fact or law were as the actor believed.

Credits
Laws 1973, c. 196, § 76-2-304; Laws 1974, c. 32, § 5; Laws 2025, c. 302, § 320, eff. May 7, 2025.

Notes of Decisions (9)

U.C.A. 1953 § 76-2-304, UT ST § 76-2-304
Current with laws of the 2025 General Session and Chapters 1 and 2 of the 2025 First Special Session. Some statutes sections may be more current, see credits for details.

End of Document

67 P.3d 1050
Court of Appeals of Utah.

STATE of Utah, Plaintiff and Appellee,
v.
Michael Allen NORTON, Defendant and Appellant.

No. 20020109–CA.
|
March 27, 2003.

Synopsis

Defendant was convicted in the District Court, Logan Department, Clint S. Judkins, J., of violating the Bail Bond Recovery Act, assault, and unlawful detention. Defendant appealed. The Court of Appeals, Pamela T. Greenwood, J., held that: (1) trial court was not required to allow defendant to argue a mistake of law defense; (2) Bail Bond Recovery Act was not applied as an unconstitutional strict liability offense against defendant; and (3) defendant's due process right to a fair trial was not violated when he was prohibited from testifying about his efforts to research the legality of revoking the victim's bail bond.

Affirmed.

West Headnotes (12)

[1] **Criminal Law** Statutory issues in general

A question of statutory interpretation is reviewed for correctness, granting no deference to the trial court's ruling.

1 Case that cites this headnote

[2] **Criminal Law** Questions of Fact and Findings

A trial court's findings of fact are reviewed under a clearly erroneous standard.

1 Case that cites this headnote

[3] **Criminal Law** Presentation of questions in general
Criminal Law Necessity of Objections in General

An appellate court may address an issue raised for the first time on appeal if plain error or exceptional circumstances is established.

2 Cases that cite this headnote

[4] **Criminal Law** Instructions

Challenges to jury instructions are reviewed under a correctness standard.

[5] **Criminal Law** Reception and Admissibility of Evidence

Criminal Law Evidence in general

The admissibility of evidence is reviewed for abuse of discretion or reasonability; even where error is found, reversal is appropriate only in those cases where, after review of all the evidence presented at trial, it appears that absent the error, there is a reasonable likelihood that a different result would have been reached.

1 Case that cites this headnote

[6] **Statutes** Language and intent, will, purpose, or policy

Statutes Plain Language; Plain, Ordinary, or Common Meaning

Statutes In general; factors considered

When interpreting a statute, the court's primary goal is to give effect to the legislative intent, as evidenced by the plain language, in light of the purpose the statute was meant to achieve; the court need look beyond the plain language only if it finds some ambiguity.

[7] **Criminal Law** Ignorance or mistake of law

Trial court was not required to allow defendant to argue a mistake of law defense in trial for assault and unlawful detention; the ignorance of law defense required that the official statement or interpretation of the law be in writing, and defendant did not rely on a written interpretation of the law, but rather on a casual and informal conversation with a prosecutor. U.C.A.1953, 76-2-304(2)(b)(ii), 76-5-102.

1 Case that cites this headnote

[8] **Criminal Law** Presentation of questions in general

The appellate court does not address issues raised for the first time on appeal unless specific grounds for doing so are presented to the appellate court.

2 Cases that cite this headnote

[9] **Criminal Law** Constitutional questions

Defendant failed to preserve for appeal his claim that the trial court's pretrial ruling rejecting his mistake of law defense resulted in application of the Bail Bond Recovery Act as an unconstitutional strict liability offense, by failing to raise that issue in the trial court. U.C.A.1953, 53-11-107, 76-2-304(2)(b)(ii).

[10] **Bail** Sureties

Bail Bond Recovery Act was not applied as an unconstitutional strict liability offense against defendant charged with two counts of violating Act; jury instructions defined the mental states of intentionally and knowingly, and instructed the jury that it needed to find defendant acted with one of those mental states, and the State argued at trial that defendant's conscious objective was to detain victim, spray him with pepper spray, tackle him, and return him to jail. U.C.A.1953, 53-11-107, 76-2-103(1), 76-2-304(2)(b)(ii), 76-5-102.

1 Case that cites this headnote

[11] **Criminal Law** Relevancy in General

Criminal Law Relevance

While relevant evidence is generally admissible, a trial court has broad discretion to determine whether proffered evidence is relevant, and the appellate court will find error in a relevancy ruling only if the trial court has abused its discretion. Rules of Evid., Rule 402.

[12] **Constitutional Law** Other particular kinds or items of evidence

Criminal Law Excuse or justification

Defendant's due process right to a fair trial was not violated when he was prohibited from testifying about his efforts to research the legality of revoking the victim's bail bond; defendant's testimony was only relevant to a mistake of law defense, and the trial court had properly determined that the mistake of law defense was not available to defendant. U.S.C.A. Const.Amend. 14; Rules of Evid., Rule 402.

Attorneys and Law Firms

***1051** Gary L. Bell, Salt Lake City, for Appellant.

Dean Saunders, Weber County Attorney's Office, Ogden, for Appellee.

Before JACKSON, P.J., GREENWOOD, and ORME, JJ.

OPINION

GREENWOOD, Judge:

¶ 1 Michael Norton (Defendant) appeals his conviction for two counts of violating the Bail Bond Recovery Act, Utah Code Ann. § 53–11–107 (2002); one count of Assault, in violation of Utah Code Ann. § 76–5–102 (1999); and two counts of Unlawful Detention, in violation of Utah Code Ann. § 76–5–304 (1999). Defendant contends: (1) the trial court erred in rejecting his mistake of law defense, (2) the Bail Bond Recovery Act was applied as an unconstitutional strict liability offense, and (3) the trial court's refusal to hear requested testimony violated his due process right to a fair trial. We affirm.

BACKGROUND

¶ 2 On March 10, 2000, Defendant, as an agent of "A+24 Hour Bail Bonds," posted a $50,000 bond for Deloy Lindley (Lindley), resulting in Lindley's release from jail. Lindley signed a written contract pledging his truck, a stock trailer, and a snowmobile as collateral for the bond. Lindley agreed to pay Defendant $5,000 within two weeks. If Lindley did not or could not pay, Defendant was to sell whatever collateral necessary to satisfy the debt.

¶ 3 On or about March 20, Lindley called Defendant and told him to sell the truck, because he did not have the $5,000. Defendant became concerned about the value of Lindley's collateral.

¶ 4 Defendant maintains that he then researched, on the Internet, the law about revoking a bond and also contacted the Cache County Attorney's Office. Defendant read Utah Code Ann. § 77–20–8.5 (1999), entitled "Sureties—Surrender of defendant—Arrest of defendant." This section referenced "Title 53, Chapter 10, Bail Bond Recovery." *Id.* § 77–20–8.5(3). However, the Bail Bond Recovery Act (the Act) had been renumbered as Chapter 11, because another Chapter 10 was enacted at the

same legislative session. *See id.* compiler's notes. Based on this change, Defendant alleges that he did not find or read the Act. Defendant also claims he spoke to a Deputy County Attorney about revoking Lindley's bond.

***1052** ¶ 5 Allegedly believing he could legally revoke Lindley's bond, [1] on April 4, 2000, Defendant went to Lindley's residence, handcuffed him, and returned him to jail. Two days later, Lindley was released by the court. [2] The judge who released Lindley commented that the "bail bondsman doesn't have any right to haul you off to jail." Apparently, Defendant made no effort to discover why the court had released Lindley, and never asked the court to revoke Lindley's bond.

1 At trial, Defendant testified that he believed he was making a legal citizen's arrest.

2 At some point after Lindley's release, Defendant called 911 requesting help from officers in returning Lindley to jail. Two sheriff's deputies met him for this purpose, but Lindley was not home.

¶ 6 On April 16, Defendant and a co-worker returned to Lindley's residence, handcuffed him, and took custody of him after spraying him with pepper spray and "tackling" him when he attempted to flee. Lindley testified that he was punched, kicked, and hit with a rock. Lindley also testified that Defendant told him he was going to kill him. Law enforcement officers intervened and took Lindley to the hospital because of the effects of the pepper spray and complaints of being beaten by Defendant and his co-worker.

¶ 7 It is undisputed that Defendant was not licensed as a Bail Recovery Agent or Bail Enforcement Agent, as required under the Act. *See id.* § 53–11–107 (2002). The State filed charges against Defendant for the two incidents of returning Lindley to jail in violation of the Act because Defendant was not properly licensed, two counts of Unlawful Detention, and one count of Assault.

¶ 8 During the course of the proceedings, Defendant submitted a pretrial motion arguing he should be permitted to assert a mistake of law defense. *See id.* § 76–2–304 (1999). After an evidentiary hearing, the court denied Defendant's motion. A jury trial was held November 14–15, 2001. During the jury trial, Defendant and his co-worker testified about their efforts to research the legality of revoking Lindley's bond. At the close of testimony, Defendant's counsel asked to recall Defendant; the request was denied. Defendant was found guilty on all counts and this appeal followed.

ISSUES AND STANDARDS OF REVIEW

[1] **[2]** ¶ 9 First, Defendant asserts the trial court erred when it ruled that Defendant was not entitled to assert a mistake of law defense under Utah Code Ann. § 76–2–304(2)(b)(ii) (1999). A question of statutory interpretation is reviewed "for correctness, granting no deference to the trial court's ruling." *In re W.C.P.,* 1999 UT App 35, ¶ 5, 974 P.2d 302. After hearing testimony on this issue, the trial court found that Defendant did not rely on a written interpretation of the statute. "A trial court's findings of fact are reviewed under a clearly erroneous standard." *Mule–Hide Prods. Co. v. White,* 2002 UT App 1, ¶ 11, 40 P.3d 1155.

[3] **[4]** ¶ 10 Second, Defendant argues the trial court erred in applying the Act as an unconstitutional strict liability offense. This issue is raised for the first time on appeal. An appellate court may address an issue raised for the first time on appeal if " 'plain error' " or " 'exceptional circumstances' " is established. *State v. Irwin,* 924 P.2d 5, 7 (Utah Ct.App.1996) (citations omitted). If neither applies, the court may decline to consider the issue. However, necessarily included in Defendant's argument is his claim that the jury was improperly instructed. Challenges to jury instructions are reviewed " 'under a "correctness" standard.' " *Cheves v. Williams,* 1999 UT 86, ¶ 20, 993 P.2d 191 (citation omitted).

[5] ¶ 11 Third, Defendant argues the trial court violated his due process right to a fair trial when it prohibited his further testimony. The admissibility of evidence is reviewed for "abuse of discretion or reasonability. '[E]ven where error is found, reversal is appropriate only in those cases where, after review of all the evidence presented at trial, it appears that "absent the

error, there is a reasonable likelihood that a different result would have been reached." ' " *Mule–Hide* ***1053** *Prods. Co.,* 2002 UT App 1 at ¶ 12, 40 P.3d 1155 (citations omitted).

ANALYSIS

I. Mistake of Law Defense

¶ 12 Defendant argues the trial court erred when it rejected his mistake of law defense. The State counters that, based on Utah Code Ann. § 76–2–304(2)(b)(ii) (1999), the trial court properly rejected the defense. At issue, therefore, is whether the trial court correctly interpreted section 76–2–304 when it concluded, "The ignorance of law defense requires that the official statement or interpretation of the law be in writing."

[6] ¶ 13 Because Defendant did not rely on a written interpretation of the law, the trial court held that the necessary elements of a mistake of law defense had not been shown and the defense was inapplicable. Utah's ignorance or mistake of law statute states:

> (2) Ignorance or mistake concerning the existence or meaning of a penal law is no defense to a crime unless:
>
> ....
>
> (b) His ignorance or mistake resulted from the actor's reasonable reliance upon:
>
> ....
>
> (ii) *A written interpretation* of the law contained in an opinion of a court of record or made by a public servant charged by law with responsibility for interpreting the law in question.

Utah Code Ann. § 76–2–304 (emphasis added). When interpreting a statute, the court's "primary goal ... is to give effect to the legislative intent, as evidenced by the plain language, in light of the purpose the statute was meant to achieve. [The court] need look beyond the plain language only if [it] find [s] some ambiguity." *State v. Lusk,* 2001 UT 102, ¶ 19, 37 P.3d 1103 (quotations and citation omitted). The language of section 76–2–304 clearly and unambiguously requires a written interpretation, by either a court of record or a public servant, in order for mistake of law to be an available defense.

[7] ¶ 14 The trial court heard testimony concerning Defendant's claim that mistake of law was an applicable defense. A Deputy Cache County Attorney testified about his conversation with a police officer, who had received a complaint from Defendant about Lindley's bond agreement. The Deputy Attorney testified, "To the best of my recollection, I didn't ever have a substantive conversation with [Defendant] individually about the issue of whether or not he could pick up Mr. Lindley." Accordingly, the court found that, while Defendant may have had a conversation about revoking bail with the Deputy Attorney, the conversation was casual and informal. The court also found the Deputy Attorney did not have all the relevant facts to make a formal interpretation of the law and did not reduce his statements to writing. The court held that section 76–2–304 requires a written interpretation of the law, and therefore the defense was not available to Defendant. We see no error in the court's conclusions.

¶ 15 Because Defendant did not rely on a written interpretation of the law, the trial court did not err when it held that the defense was inapplicable.

II. Bail Bond Recovery Act as an Unconstitutional Strict Liability Offense

[8] **[9]** ¶ 16 Defendant argues for the first time on appeal that the trial court's pretrial ruling rejecting his mistake of law defense resulted in application of the Act as an unconstitutional strict liability offense.[3] "We do not address issues raised for the first time on appeal unless specific grounds for doing so are presented to this court." *Utah Med. Prod., Inc. v. Searcy,* 958 P.2d 228, 233–34 (Utah 1998). Defendant also fails to argue that the trial court committed plain error or that exceptional circumstances exist. *See State v. Irwin,* 924 P.2d 5, 7 (Utah Ct.App.1996) (stating that an appellate court may address an issue raised for the first time on ***1054** appeal if " 'plain error,' " " 'exceptional circumstances,' " or, in some situations, ineffective assistance of counsel is established (citations omitted)).

[3] Defendant states that this issue was preserved for appeal during the March 30, 2001 evidentiary hearing, and during the November 14–15, 2001 jury trial. However, this argument is not mentioned in either of these hearings.

¶ 17 However, Defendant seems to also claim that the jury was improperly instructed to apply a strict liability standard. He maintains that the State was permitted "to carry its burden by simply showing the prohibited conduct occurred"; that had the jury been properly instructed, the State would have been required to carry its burden of proof of Defendant's mens rea.

¶ 18 Defendant's argument that he did not intend to violate the Act, and that the jury was not properly instructed as to his intent, is based on the " 'basic proposition that a person cannot be found guilty of a criminal offense unless he [or she] harbors a requisite criminal state of mind or unless the prohibited act is based on strict liability.' " *State v. W.C.P.,* 1999 UT App 35, ¶ 6, 974 P.2d 302 (alteration in original) (quoting *State v. Elton,* 680 P.2d 727, 728 (Utah 1984)). Utah Code Ann. § 76–2–101 (1999) states:

> No person is guilty of an offense unless his conduct is prohibited by law and:
>
> (1) He acts intentionally, knowingly, recklessly, with criminal negligence, or with a mental state otherwise specified in the statute defining the offense, as the definition of the offense requires; or
>
> (2) His acts constitute an offense involving strict liability.

Further, section 76–2–102 states that offenses "involve strict liability if the statute defining the offense clearly indicates a legislative purpose to impose criminal responsibility for commission of the conduct prohibited by the state without requiring proof of any culpable mental state." *Id.* § 76–2–102. In this case, there is no indication of legislative intent to impose strict liability for violation of the Act. Therefore, the culpable mental state required is "intent, knowledge, or recklessness." *Id.*

¶ 19 The trial court's jury instructions defined the mental states of intentionally and knowingly, and instructed the jury that it needed to find Defendant acted with one of these mental states. For instance, instruction number eight states:

> Before you can convict the Defendant ... of the crime of Operating as a Bail Enforcement Agent or Bail Recovery Agent Without a License, you must find from the evidence beyond a reasonable doubt all of the following elements of the crime: One, that said Defendant ... (c) *intentionally or knowingly,* without authority of law, (d) acted or assumed to act or represented himself to be licensed ... when, in fact, he was not licensed.

(Emphasis added.) Instructions ten and eleven define knowing and intentional.

¶ 20 Defendant confuses the intent to violate the law with the intent or requisite mental state to do the prohibited act. Only the latter is required—not a specific intent to violate the law. Under the instructions given, the jury could find that Defendant intended "to engage in the conduct or cause the result," as the definition of "intentional" requires. Utah Code Ann. § 76–2–103(1) (1999).

[10] ¶ 21 The jury was not instructed that the State did not have to prove the appropriate mental state. Rather, the jury instructions defined the requisite mental states. Moreover, the State argued at trial that Defendant's conscious objective was to detain Lindley, spray him with pepper spray, tackle him, and return him to jail. The jury was correctly instructed. Defendant's argument that the Act was applied as an unconstitutional strict liability offense thus fails.

III. Due Process Violation

[11] **[12]** ¶ 22 Finally, Defendant argues that his due process right to a fair trial was violated when he was prohibited from testifying about his efforts to research the legality of revoking the bond. "While relevant evidence is generally admissible ... a trial court has broad discretion to determine whether proffered evidence is relevant, and we will find error in a relevancy ruling only if the trial court has abused its discretion." *State v. Kohl,* 2000 UT 35, ¶ 17, 999 P.2d 7 (alteration in original) (quotations and citation omitted). Because the trial court properly held that the mistake of law defense was not available to Defendant, testimony relevant only to that defense was properly excluded. ***1055** *See State v. Harding,* 635 P.2d 33, 34 (Utah 1981) (stating where "there is no reasonable basis in the evidence to support the defense or its essential components, it is not error for the trial judge to ... refuse to instruct the jury as to the defense"); *see also* Utah R. Evid. 402 (stating "evidence which is not relevant is not admissible").

¶ 23 Moreover, despite the trial court's ruling that the mistake of law defense was not applicable, some testimony about Defendant's efforts to understand the law was received. Specifically, Defendant testified that he looked up the law regarding bond revocation on the Internet, and then called the Cache County Attorney's office. Defendant's co-worker testified that they read the law together, and that Defendant spoke with an attorney about the law. Counsel for Defendant discussed, in his opening and closing statements, the steps Defendant took to determine the legality of revoking the bond.

¶ 24 We conclude that the trial court did not abuse its discretion when it prevented Defendant's further testimony, which was cumulative and relevant only to his rejected mistake of law defense.

CONCLUSION

¶ 25 The trial court did not err when it ruled Defendant was not entitled to raise a mistake of law defense, under Utah Code Ann. § 76–2–304(2)(b)(ii) (1999), because Defendant did not rely on a written interpretation of the law. Second, although we may decline to consider Defendant's argument that the Act as applied by the trial court was an unconstitutional strict liability offense because it was raised for the first time on appeal, we conclude there was no error because the trial court properly instructed the jury. Third, the trial court did not violate Defendant's due process rights when it prohibited Defendant from giving further testimony. We therefore affirm.

¶ 26 WE CONCUR: NORMAN H. JACKSON, Presiding Judge, and GREGORY K. ORME, Judge.

All Citations

67 P.3d 1050, 470 Utah Adv. Rep. 9, 2003 UT App 88

End of Document

TAB 4

info@utcourts.gov Wednesday, November 19, 2025 at 3:03:32 PM

Hello, is there any approved verdict form that contains a lesser-included offense? If not, could someone propose creating a template for lesser-included offense verdict forms?

In consideration of CR505 which says "law does not require you to make these determinations in any particular order," I ran into an issue during a trial as to how the "guilty" and "not guilty" boxes for each offense should be structured.