

310.10 COMPULSION, DURESS¹, OR COERCION.

There is evidence in this case tending to show that the defendant acted only because of [compulsion] [duress] [coercion]. The burden of proving [compulsion] [duress] [coercion] is on the defendant². It need not be proved beyond a reasonable doubt, but only to your satisfaction.

[COMPULSION

Compulsion is the act of compelling; the quality, state, or condition of being compelled.^{3]}

[DURESS

Duress is where the unlawful act of another induces the defendant to perform some act under circumstances which deprive defendant of the exercise of free will.⁴

The defendant would not be guilty of [name crime] because of duress if the defendant proves to your satisfaction the following two things:

First, the defendant's reasonable fear that the defendant would suffer immediate death or serious bodily injury if the defendant did not so act.

And Second, the defendant did not have a reasonable opportunity to avoid doing the act without undue exposure to death or serious bodily harm.]⁵

[COERCION⁶

Coercion is compulsion of a free agent by physical, moral, or economic force or threat of physical force.^{7]}

The defendant's assertion of [compulsion] [duress] [coercion] is a denial that the defendant committed any crime. The burden remains on the State to prove the defendant's guilt beyond a reasonable doubt.⁸

If the defendant has proven to your satisfaction that the defendant (describe action of the defendant) at the time of the alleged offense because

of [compulsion] [duress] [coercion] you will not consider this case further and it would be your duty to return a verdict of not guilty.

However, if you do not so find then you must decide if the defendant is guilty of (name offense). If you find from the evidence beyond a reasonable doubt that on or about the alleged date, the defendant (give final mandate for offense charged), then you would return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1 The defense of duress is not available to a defendant charged with murder. *State v. Strickland*, 307 N.C. 274, 295 (1983), *overruled on other grounds* by *State v. Johnson*, 317 N.C. 193 (1986); *State v. Brock*, 305 N.C. 532 (1982), *disapproved of* by *State v. Taylor*, 337 N.C. 597 (1994).

2 *State v. Strickland*, 307 N.C. at 297 (1983).

3 Compulsion, *Black's Law Dictionary* (10th Ed. 2014)

4 *Stegall v. Stegall*, 100 N.C. App. 398, 401, 397 S.E.2d 306, 307 (1990).

5 *State v. Smarr*, 146 N.C. App. 44, 54–55, 551 S.E.2d 881, 888 (2001).

6 The distinction between duress and coercion has blurred. See *State v. Smarr*, 146 N.C. App. 44, 54 n.1, 551 S.E.2d 881, 887 n.1 (2001) (“North Carolina case law uses the terms duress and coercion interchangeably”).

7 Coercion, *Black's Law Dictionary* (10th Ed. 2014).

8 *State v. Sherian*, 234 N.C. 30 (1951).