

310.10 COMPULSION, DURESS¹, OR COERCION.

*NOTE WELL: The trial judge is reminded that this instruction must be combined with the substantive offense instruction in the following manner: (1) the jury should be instructed on the elements of the charged offense; (2) the jury should then be instructed on the definition of compulsion, duress, or coercion set out in this instruction below; (3) the jury should be instructed on the mandate for compulsion, duress, or coercion as set out below in this instruction; and (4) the jury should then be instructed on the mandate of the charged offense. **The failure to charge on all of these matters constitutes reversible error.***

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).

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1. The defense of duress is not available to a defendant charged with murder.
 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).