

11.16

Issues In Aggravated Battery--While Armed, Hooded, Or Involving Specific Categories Of Victims

To sustain the charge of aggravated battery, the State must prove the following propositions:

First Proposition: That the defendant [(intentionally) (knowingly)] [(caused bodily harm to ____) (made physical contact of an insulting or provoking nature with ____)]; and

[1] *Second Proposition:* That the defendant used a deadly weapon other than by the discharge of a firearm.

[or]

[2] *Second Proposition:* That the defendant was hooded, robed, or masked in such a manner as to conceal his identity.

[or]

[3] *Second Proposition:* That the defendant knew ____ to be a teacher or other person employed in a school; and

Third Proposition: That ____ was on the grounds of a school or grounds adjacent to a school, or in any part of a building used for school purposes.

[or]

[4] *Second Proposition:* That the defendant knew ____ to be a supervisor, director, instructor, or other person employed in a park district; and

Third Proposition: That ____ was on the grounds of the park, or on grounds adjacent to the park, or in any part of a building used for park purposes.

[or]

[5] *Second Proposition:* That the defendant knew ____ to be a caseworker, investigator, or other person employed by the State Department of Public Aid or a County Department of Public Aid; and

Third Proposition: That ____ was

[a] on the grounds of a public aid office or grounds adjacent to a public aid office.

[or]

[b] in any part of a building used for public aid purposes.

[or]

[c] on the grounds of the home of a [(public aid applicant or recipient) (person being interviewed or investigated in the employee's discharge of his duties)]

[or]

[d] on grounds adjacent to the home of the [(public aid applicant or recipient) (person being interviewed or investigated in the employee's discharge of his duties)].

[or]

[e] in any part of a building in which the applicant, recipient, or other such person resides or is located.

[or]

[6] *Second Proposition:* That the defendant knew ____ to be a [(peace officer) (correctional institution employee) (fireman) (person summoned or directed by a peace officer)]; and

[a] *Third Proposition:* That the defendant [(knew that ____ was engaged in the execution of) (harmed ____ to prevent him from performing) (harmed ____ in retaliation for his performing)] official duties.

[or]

[b] *Third Proposition:* That the defendant harmed that person [(while the peace officer was engaged in the execution of) (to prevent the peace officer from performing) (to retaliate for that person helping the peace officer perform)] official duties.

[or]

[7] *Second Proposition:* That the defendant knew ____ to be [(an emergency medical technician) (and ambulance driver) (a medical assistant) (a first aid attendant)]; and

Third Proposition: That the defendant [(knew that ____ was engaged in the performance of his) (harmed ____ to prevent him from performing) (harmed ____ in retaliation for his performing)] official duties.

[or]

[8a] *Second Proposition:* That the defendant did so while on or about [(a public way) (public property) (a public place of accommodation) (a public place of amusement)].

[or]

[8b] *Second Proposition:* That when the defendant did so, ____ was on or about [(a public way) (public property) (a public place of accommodation) (a public place of amusement)].

[or]

[9] *Second Proposition:* That the defendant knew ____ to be the [(driver) (operator)(employee) (passenger)] of any transportation facility or system engaged in the business of transportation of the public for hire; and

Third Proposition: That ____ was [(then performing in such capacity) (then using such public transportation as a passenger) (then using any area of any description designated by the transportation facility or system as a vehicle boarding, departure, or transfer location)].

[or]

[10] *Second Proposition:* That at the time defendant did so, ____ was an individual of 60 years of age or older.

[or]

[11] *Second Proposition:* That the defendant knew ____ to be pregnant.

[or]

[12] *Second Proposition:* That the defendant knew ____ to be a judge whom he intended to harm as a result of the judge's performance of his or her official duties as a judge.

[or]

[13] *Second Proposition:* That the defendant knew ____ to be an employee of the Illinois Department of Children and Family Services engaged in the performance of his or her official duties as such an employee.

[or]

[14] *Second Proposition:* That the defendant knew ____ to be a person who was physically handicapped.

[or]

[15] *Second Proposition*: That the defendant knew ____ to be a merchant who was detaining the defendant for an alleged commission of retail theft.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

720 ILCS 5/12-4(b) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §12-4(b) (1991)), amended by P.A. 86-979 and P.A. 86-980, effective July 1, 1990; P.A. 87-921, effective January 1, 1993, P.A. 88-45, effective July 6, 1993; P.A. 88-433, effective January 1, 1994; and P.A. 90-115, effective January 1, 1998.

Give Instruction 11.15.

See Committee Note to Instruction 11.15, concerning selection of the appropriate alternative method of committing a battery.

Whenever the jury is to be instructed on an affirmative defense, it is necessary to use the phrase “without legal justification” in Instruction 11.15 (see Committee Note to Instruction 11.15), and this instruction must be combined with the appropriate instructions from Chapter 24-25.00. Because the additional proposition or propositions that will thereby be included will require the jury to find that the defendant acted without legal justification, the Committee has concluded that the phrase “without legal justification” need not be used in this issues instruction.

Insert in the blank(s) the name of the victim.

The bracketed numbers in this instruction correspond with the bracketed numbers in Instruction 11.15. Select the alternative that corresponds to the alternative selected from the definitional instruction.

Use applicable paragraphs, subparagraphs, and bracketed material.

The bracketed numbers and letters are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.