

9.3 Bank Robbery (18 U.S.C. § 2113(e))

The defendant is charged in [Count _____ of] the indictment with bank robbery in violation of Section 2113 of Title 18 of the United States Code. For the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

[First, the defendant [[took] [obtained by extortion]] [[property] [money] [something of value]] belonging to or in the care, custody, control, management or possession of [specify financial institution], using force and violence or intimidation in doing so.]

or

[First, the defendant entered [specify financial institution], intending to commit [insert applicable crime] affecting [specify financial institution];]

or

[First, the defendant took and carried away, with intent to steal or purloin, [[property] [money] [something of value]] belonging to or in the care, custody, control, management or possession of [specify financial institution];]

or

[First, the defendant received, possessed, concealed, stored, bartered, sold, or disposed of [property] [money] [something of value] belonging to, or in the care, custody, control, management, or possession of [specify financial institution], knowing that the [property] [money] [item] was stolen;]

or

[First, the defendant [[took] [obtained by extortion]] [[property] [money] [something of value]] belonging to, or in the care, custody, control, management, or possession of [specify financial institution], using force and violence or intimidation in doing so [and intentionally struck or wounded a person] [and intentionally made a display of force that reasonably caused another person to fear bodily harm by] using [specify dangerous weapon or device];]

or

[First, the defendant entered [specify financial institution] intending to commit [insert applicable crime] affecting [specify financial institution], using force and violence or intimidation in doing so and intentionally [struck or wounded a person] [made a display of force that reasonably caused another person to fear bodily harm by] using [specify dangerous weapon or device];]

Second, while doing so, the defendant [killed [name of victim]] [forced [name of victim]] to accompany the defendant without the consent of such person. A defendant “forces a person to accompany” the defendant when the defendant forces that person to go somewhere with the defendant, even if the movement occurs entirely within a single building or over a short distance]; and

Third, the deposits of [specify financial institution] were then insured by the [Federal Deposit Insurance Corporation] [National Credit Union Administration Board].

Comment

Depending on which crime(s) from 18 U.S.C. § 2113 are charged in the indictment, select the appropriate “First” option(s).

The “forced” language in the second element should be used when a violation of 18 U.S.C. § 2113(e) for kidnapping a person in connection with a robbery is charged. See *Whitfield v. United States*, 574 U.S. 265, 267, 270 (2015) (§ 2113(e) does not require defendant to force someone to accompany defendant over “substantial distance”; movement may occur “entirely within a single building or over a short distance”); *United States v. Strobehn*, 421 F.3d 1017, 1019 (9th Cir. 2005) (“On its face, the enhancing elements are that a defendant (1) in the course of committing a bank robbery (2) forces a person (3) to accompany him (4) without that person’s consent. While ‘kidnaping’ works as a shorthand description because § 2113(e) contemplates moving someone by force to someplace he doesn’t want to go, the statute plainly, and only, requires accompaniment that is forced and without consent.”).

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