

1 **14-5030. Flight.**

2 The flight of a person immediately after the commission of a crime, or after [~~he~~] the person
3 has been accused of a crime that has been committed, is not sufficient in itself to establish [~~his~~]
4 guilt, but is a fact which, if proved, may be considered by you in the light of all other proved facts
5 in deciding the question of [~~his~~] the person's guilt or innocence. Whether or not [~~defendant's~~]
6 defendant's conduct amounted to flight, and if it did, whether or not it shows a consciousness of
7 guilt, and the significance to be attached to any such evidence, are matters exclusively for you to
8 decide.

9 USE NOTES

10 No instruction on this subject shall be given.

11 [As amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending
12 or filed on or after December 31, 2025.]

13 **Committee commentary.** — The language of this instruction is derived from California Jury
14 Instructions Criminal, 2.52. In California, the instruction must be given when evidence of flight is
15 relied upon as tending to show guilt. No New Mexico cases indicate that an instruction is required.
16 However, in *State v. Hardison*, 81 N.M. 430, 467 P.2d 1002 (Ct. App. 1970), the court held that
17 the jury may draw an inference of guilt from an unexplained flight. *See also State v. Duran*, 86
18 N.M. 594, 526 P.2d 188 (Ct. App.), cert. denied, 86 N.M. 593, 526 P.2d 187 (1974); *State v.*
19 *Gonzales*, 82 N.M. 388, 482 P.2d 252 (Ct. App.), cert. denied, 82 N.M. 377, 482 P.2d 241 (1971).
20 The committee believed that the instruction would constitute a comment on the evidence and that
21 the matter was better left to argument of counsel.