

1 **14-252. Homicide; negligence of deceased or third person.**

2 The State must prove beyond a reasonable doubt that the defendant's act was a  
3 significant cause of the death of \_\_\_\_\_ (*name of victim*). [~~Evidence has been~~  
4 ~~presented that~~] An issue in this case is whether the negligence of a person other than the  
5 defendant may have contributed to the cause of death. Such contributing negligence does not  
6 relieve the defendant of responsibility for an act that significantly contributed to the cause  
7 of the death so long as the death was a foreseeable result of the defendant's actions.

8 However, if you find the negligence of a person other than the defendant was the only  
9 significant cause of death or constitutes an intervening cause that breaks the foreseeable  
10 chain of events, then the defendant is not guilty of the offense of \_\_\_\_\_  
11 (*name of offense*).

12 USE [~~NOTE~~] NOTES

13 For use in conjunction with [~~Instruction~~] UJI 14-251 NMRA when there is evidence  
14 of negligence by another person. This instruction may be modified and used as appropriate  
15 in non-homicide cases.

16 [~~As amended, effective January 1, 2000; as amended by Supreme Court Order No. 19-8300-~~  
17 016, effective for all cases pending or filed on or after December 31, 2019.]

18 **Committee commentary.** — *See State v. Munoz*, 1998-NMSC-041, 126 N.M. 371,  
19 970 P.2d 143; *State v. Romero*, 1961-NMSC-139, ¶ 10, 69 N.M. 187, [~~191,~~] 365 P.2d 58  
20 [~~(1961) and~~] (contrasting contributory negligence in civil and criminal cases and holding “if  
21 the culpable negligence of the defendant is found to be the cause of the death, he is

1 criminally responsible whether the decedent’s failure to use due care contributed to the injury  
2 or not.” (internal quotation marks and citation omitted)); *State v. Myers*, 1975-NMCA-055,  
3 88 N.M. 16, 536 P.2d 280~~[(Ct. App. 1975)]~~ (requiring proof that defendant’s conduct is a  
4 proximate cause of death for vehicular homicide conviction).

5 *Munoz* clarified that a victim’s own negligence does not negate the defendant’s  
6 culpability so long as the defendant is a “significant link” in the causal chain and  
7 acknowledged the difference between but-for and proximate causes. *Munoz*, 1998-NMSC-  
8 041, ¶¶ 19-22. Because there can be more than one “significant cause” of death, this  
9 instruction, along with the “proximate cause” definition in UJI 14-251 NMRA, explains the  
10 role of third-party negligence in criminal cases, which may negate a defendant’s culpability  
11 if it is an intervening event that breaks the causal chain. See UJI 14-251 (“The defendant’s  
12 act was a significant cause of death if it was an act which, in a natural and continuous chain  
13 of events, uninterrupted by an outside event, resulted in the death . . .”). Cf. UJI 13-306  
14 NMRA (“An intervening cause interrupts and turns aside a course of events and produces  
15 that which was not foreseeable as a result of an earlier act or omission.”).

16 The defendant is entitled to an instruction on the theory of the case if there is  
17 evidence to support it. See *State v. Benavidez*, 1980-NMSC-097, 94 N.M. 706, 616 P.2d 419  
18 [~~(1980)~~]; [and] *State v. Lujan*, 1980-NMSC-036, 94 N.M. 232, 608 P.2d 1114 [~~(1980)~~],  
19 *overruled on other grounds by Sells v. State*, 1982-NMSC-125, ¶ 9, 98 N.M. 786, 653 P.2d  
20 162.

21 [As amended by Supreme Court Order No. 19-8300-016, effective for all cases pending or

1 filed on or after December 31, 2019.]