

Ala. Code 1975, § 13A-3-31

Entrapment Defense

One of the issues in this case is the defense of entrapment.

Entrapment is the inducement of one to commit a crime not contemplated by him/her, for the mere purpose of instituting criminal prosecution against him/her. *Griffith v. State*, 47 Ala. App. 378, 255 So. 2d 48 (Ala. Cr. 1971), cert. denied, 287 Ala. 735, 255 So.2d 52 (1971), cert. denied, 405 U.S. 1042, 92 S.Ct. 1317, 31 L.Ed. 2d 583 (1972).

Entrapment occurs when an officer or person under his/her control incites, induces, lures, or instigates a person into committing a criminal offense, which that person would not have otherwise committed and had no intention of committing. The defense of entrapment is not applicable where the officer merely affords an opportunity to one intending to violate the law. *Tyson v. State*, 361 So. 2d 1182 (Ala. Cr. 1978).

To convict, the State, in addition to the elements of the crime charged, must prove beyond a reasonable doubt that at the time of the commission of the alleged crime, the defendant was not incited, induced, lured, or instigated by a law enforcement officer or by a person acting under a law enforcement officer's control to commit a criminal offense which the defendant otherwise would not have committed and which the defendant had no intention of committing.

The defense of entrapment does not apply if the defendant was predisposed to commit the crime. In order for entrapment to occur, the law enforcement officer or person acting under a law enforcement officer's control must actually implant the criminal design in the mind of the defendant, who was not predisposed to commit the crime.

[Read if applicable] - An officer, acting in good faith, may use deception, trickery or artifice to detect crime. *Johnson v. State*, 36 Ala. App. 634, 61 So. 2d 867 (Ala. Cr. 1952).

Use Notes

In order for the defense of entrapment to be available, the defendant must first come forward with evidence sufficient to raise a jury issue that the government's conduct creates a substantial risk that the offense would be committed by a person other than one ready to commit it. Once the issue is raised, the State must prove beyond a reasonable doubt that the defendant was predisposed to commit the charged offense.

By relying on the defense of entrapment the defendant exposes himself/herself to an inquiry into his/her own conduct and predisposition. To negate the defense, the State may introduce evidence to prove predisposition which is otherwise inadmissible. *Jackson v. State*, 384 So. 2d 134 (Ala. Cr. 1979).

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