

21.2 RESISTING OFFICER WITHOUT VIOLENCE

§ 843.02, Fla. Stat.

To prove the crime of Resisting Officer without Violence, the State must prove the following four elements beyond a reasonable doubt:

Note to Judge: An issue arises when the State charges that the defendant resisted Officer X or Officer Y. Under the current law, a defendant can commit only one count of Resisting Without Violence even if several officers are involved in the same event. See Wallace v. State, 724 So. 2d 1176 (Fla. 1998). One possible remedy for this problem would be to instruct:

To prove the crime of Resisting Officer without Violence, the State must prove all of the following four elements beyond a reasonable doubt as to at least one of the alleged victims named below:

1. (Defendant) [resisted] [obstructed] [opposed] (victim).
2. At the time, (victim) was engaged in the [execution of legal process] [lawful execution of a legal duty].
3. At the time, (victim) was [an officer] [a person legally authorized to execute process].
4. At the time, (defendant) knew (victim) was [an officer] [a person legally authorized to execute process].

In giving the instruction below, insert the class of officer to which the victim belongs, e.g., law enforcement officer, correctional officer. See Wright v. State, 586 So. 2d 1024 (Fla. 1991). See § 843.02 Fla. Stat. for the type of officer covered by this statute.

The court now instructs you that every (name of official position of victim designated in charge) **is an officer within the meaning of this law.**

Lesser Included Offenses

RESISTING OFFICER WITHOUT VIOLENCE — 843.02			
CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
None			
	Attempt	777.04(1)	5.1

Comment

This instruction was adopted in 1981 [431 So. 2d 594] and amended in 1989 [543 So. 2d 1205], 1995 [657 So.2d 1152], 2008 [996 So. 2d 851], and 2014.