

2 **MEDICAL NECESSITY**

3 Necessity is a defense to criminal conduct where the conduct was
4 necessary to avoid a harm more serious than that sought to be prevented
5 by the statute defining the offense. You must find Jordan Crittle not
6 guilty if you find the following:

7 One: Mr. Crittle was faced with a choice of evils and chose
8 the lesser evil;

9 Two: Mr. Crittle acted to prevent imminent harm;

10 Three: Mr. Crittle reasonably anticipated a causal relation
11 between his conduct and the harm to be avoided; and

12 Four: there were no other legal alternatives to violating the
13 law.

14 Belief in the causal connection is reasonable when a licensed
15 physician has recommended the use of marijuana for relief of a physical
16 condition.¹

17 A person has no legal alternatives when any legal alternative
18 would have been ineffective or resulted in intolerable side effects.²

19 The defense must prove necessity by a preponderance of the
20 evidence. This means that the facts Jordan Crittle seeks to prove are
21 more likely true than not true. If you believe that Mr. Crittle's
22 conduct was necessary to avoid a more serious harm, then you must find
23 him not guilty.

24 United States v. Bailey, 444 U.S. 394, 410 (1980) (defining the defense
25 of necessity); Raich v. Gonzalez, 500 F.3d 850, 859 (2007) (as
26 modified) (listing elements of medical necessity defense); 9th Cir.
Model 6.6 (defining "preponderance of the evidence").

27 ¹Raich, 500 F.3d at 860.

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