IN THE CIRCUIT COURT OF [*county*] COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v. [*case number*]

Hon. [*name*]

[*name-all caps*],

 Defendant.

DEFENDANT’S INSTRUCTION NO. \_\_\_\_

 Count \_\_ of the indictment charges the defendant with First Degree Murder. Right now and at all times during this trial, the defendant is presumed innocent. [He] [She] does not need to prove [his] [her] innocence. It is up to the State to overcome this presumption and prove to you beyond a reasonable doubt that that the defendant is guilty.

 In West Virginia not all homicides are murder. If the State has proven beyond a reasonable doubt that the defendant caused the death of [insert name(s) of victim(s)], then whether the defendant is guilty of a crime, and what specific crime [he] [she] is guilty of, will depend on [his] [her] mental state. You can only infer [his] [her] mental state from the circumstances. You are instructed to infer a guilty mental state from only those circumstances which the State has proven beyond a reasonable doubt. Furthermore, you should consider any fact indicating a guilty mental state in its full context and not in isolation.

GIVEN:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

REFUSED:\_\_\_\_\_\_\_\_\_\_\_\_\_

MODIFIED:\_\_\_\_\_\_\_\_\_\_\_\_

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 JUDGE