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 Bank Robbery. You may return one of two verdicts under this Count of the indictment:

(1) guilty of Bank Robbery; or

(2) not guilty.

 Bank Robbery occurs when a person by force and violence, or by putting in fear, takes or attempts to take from the person or presence of another any property, money or other thing of value belonging to, or in the care, custody, control, management, or possession of a bank.

 The burden is on the State to prove the defendant’s guilt beyond a reasonable doubt and the defendant is not required to prove [himself] [herself] innocent. [He] [She] is presumed by the law to be innocent of this charge and this presumption remains with [him] [her] throughout the entire trial. Before the defendant can be convicted of Bank Robbery, the State must overcome the presumption that the defendant is innocent and prove beyond a reasonable doubt that:

1. the defendant,

2. in [insert county] County, West Virginia,

3. on or about the \_\_ day of [insert month], [insert year],

4. by [force and violence] [putting in fear],

5. [took and carried away] [attempted to take and carry away],

6. from the person or presence of another,

7. property, money, or other thing of value belonging to, or in the care, custody, control, management, or possession of a bank,

8. with the intent to permanently deprive the bank of the possession of said property.

 If, after impartially considering, weighing and comparing all the evidence (that of both the State and the defendant), you are convinced beyond a reasonable doubt of the truth of the charge as to each of these elements, you may find defendant guilty of Bank Robbery as charged. If you have a reasonable doubt of the truth of the charge as to any one or more of these elements, you shall find the defendant¬ not guilty.

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

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

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

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 JUDGE