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

(1) guilty of Aggravated Bank Robbery; or

(2) not guilty.

 Aggravated 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 any other thing of value belonging to, or in the care, custody, control, management, or possession of any bank, and while committing or attempting to commit bank robbery assaults a person, or puts in jeopardy the life of another person by the use of a dangerous weapon or device, disabling chemical substance or an electronic shock device.

 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 Aggravated Bank Robbery, the State must overcome the presumption 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 another 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 possession of said property,

9. and in doing so defendant [assaulted a person] [put in jeopardy the life of any person by the use of a dangerous weapon or device, disabling chemical substance or an electronic shock device].

 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 the defendant guilty of Aggravated 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