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 Entering Without Breaking a Dwelling House.

Entering without Breaking a Dwelling House occurs when a person, during the daytime, enters without breaking another person’s dwelling house or an outhouse that adjoins or is occupied along with the owner’s dwelling house, intending to commit a crime.

An “entry” is the slightest intrusion into another’s dwelling house or outhouse by any part of the perpetrator’s body, or with an instrument or weapon introduced for the purpose of committing a crime therein.

A “dwelling house” is a building or portion thereof, intended for use as a human habitation, home or residence, and includes, but is not limited to, a mobile home, house trailer, modular home, factory-built home, or self-propelled motor home, used as a dwelling regularly or only from time to time, or any other nonmotive vehicle primarily designed for human habitation and occupancy and used as a dwelling regularly or only from time to time.

An “outhouse” is a house that adjoins the owner’s dwelling or is occupied along with it.

To prove Entering without Breaking a Dwelling House, the State must overcome the defendant’s presumption of innocence and prove beyond a reasonable doubt that:

1. the defendant,

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

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

4. during the daytime,

5. entered without breaking

6. a dwelling house or an adjoining or occupied outhouse

7. of another, that is [insert name(s) of victim(s)],

8. with the intent to commit a crime therein, that is, [insert offense], a crime that occurs when [insert statutory definition of underlying offense].

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 as charged in Count \_\_ of the indictment. 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