

14-213. Second degree murder; lesser included offense of felony murder; or voluntary manslaughter lesser included offense; essential elements.¹

For you to find the defendant guilty of second degree murder [as charged in Count _____],² the state must prove to your satisfaction beyond a reasonable doubt each of the following elements of the crime:

1. The defendant killed _____ (*name of victim*);
2. The defendant knew that his acts created a strong probability of death or great bodily harm⁴ to _____ (*name of victim*) [or any other human being]³;
3. The defendant did not cause the death of _____ (*name of victim*) during [the commission of]⁴ [the attempt to commit] _____ (*name of felony*)⁵;
4. The defendant did not act as a result of sufficient provocation;⁶
5. This happened in New Mexico on or about the ___ day of _____, ____.⁶

USE NOTES

1. This instruction is to be given only when provocation is an issue.
2. Insert the count number if more than one count is charged.
3. Use this bracketed phrase when the intent was directed to someone other than the victim. UJI 14-255 NMRA must also be given following UJI 14-220 NMRA, voluntary manslaughter; lesser included offense.
4. Use applicable alternative or alternatives. The same alternative or alternatives should be used as provided in the felony murder instruction.
5. Insert the name of the felony or felonies in the disjunctive. The essential elements of each felony must also be given immediately following this instruction. To instruct on the elements of an uncharged offense, UJI 14-140 NMRA must be used.
6. The following instructions must also be given after UJI 14-220 NMRA, voluntary manslaughter, lesser included offense:

UJI 14-141 NMRA, general criminal intent;

UJI 14-131 NMRA, definition of great bodily harm;

UJI 14-222 NMRA, definition of sufficient provocation; and

UJI 14-250 NMRA, jury procedure for various degrees of homicide.

[Adopted by Supreme Court Order No. 14-8300-005, effective for all cases filed or pending on or after December 31, 2014; as amended by Supreme Court Order No. 21-8300-025, effective for all cases pending or filed on or after December 31, 2021.]