

14-212. Second degree murder; lesser included offense felony murder; voluntary manslaughter not 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 harm³ to _____ (*name of victim*) [or any other human being]⁴;
3. The defendant did not cause the death of _____ (*name of victim*) during [the commission of]⁵ [the attempt to commit] _____ (*name of felony*);
4. This happened in New Mexico on or about the _____ day of _____, _____.⁶

USE NOTES

1. This instruction is to be used only when second degree murder is the lowest degree of homicide to be considered by the jury.
2. Insert the count number if more than one count is charged.
3. UJI 14-131 NMRA, the definition of great bodily harm, must be given.
4. Use this bracketed phrase when the intent was directed to someone other than the victim. In such a case, UJI 14-255 NMRA must also be given.
5. Use applicable alternative or alternatives. The same alternative or alternatives should be used as provided in the felony murder instruction.
6. UJI 14-141 NMRA, general criminal intent, must also be given.

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