

## 14-221A. Voluntary manslaughter; lesser included offense of felony murder.<sup>1</sup>

For you to find the defendant guilty of voluntary manslaughter, 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 harm<sup>2</sup> to \_\_\_\_\_ (*name of victim*) [or any other human being];<sup>3</sup>
3. The defendant did not cause the death of \_\_\_\_\_ (*name of victim*) during [the commission of]<sup>4</sup> [the attempt to commit] \_\_\_\_\_ (*name of felony*);<sup>5</sup>
4. The defendant acted as a result of sufficient provocation;
5. This happened in New Mexico on or about the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

The difference between second degree murder and voluntary manslaughter is sufficient provocation. In second degree murder the defendant kills without having been sufficiently provoked, that is, without sufficient provocation. In the case of voluntary manslaughter the defendant kills after having been sufficiently provoked, that is, as a result of sufficient provocation. Sufficient provocation reduces second degree murder to voluntary manslaughter.<sup>6</sup>

### USE NOTES

1. This instruction should immediately follow the second degree murder instruction as lesser included offense of felony murder.
2. UJI 14-131 NMRA, the definition of “great bodily harm,” must be given following this instruction.
3. Use the bracketed phrase when the intent was directed to someone other than the victim. UJI 14-255 NMRA must also be given following this instruction.
4. Use applicable alternative or alternatives. The same alternative or alternatives should be used as provided in the previous murder instructions.
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. UJI 14-222 NMRA, the definition of sufficient provocation, must be given following this instruction.

[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.]