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Jury Charge
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Ladies and gentlemen, whether the defendant is to be found guilty or not guilty depends upon both the facts and / the law.

As jurors you have two duties to perform. One duty is to determine the facts of the case / from the evidence received in this trial and not from any other source. Your other duty is to apply the / rules of law that I state to you to the facts as you determine them and in this way to / arrive at your verdict. It is the judge's duty to explain to you the rules of law that apply to / this case. You must accept and follow the rules of law as I state them to you.

As jurors you / must not be influenced by pity for a defendant or by prejudice against him or her. You must not be / biased against the defendant because he or she has been arrested for this offense or because he or she has / been charged with a crime, or because he or she has been brought to trial. None of these circumstances is / evidence of guilt, and you must not infer or assume from any or all of them that the defendant is / more likely to be guilty than not guilty.

You must not be swayed by mere sentiment, conjecture, sympathy, passion, prejudice, / public opinion, or public feeling. Both the State and the defendant have a right to expect that you will conscientiously consider / and weigh the evidence and apply the law of the case, and that you will reach a just verdict regardless / of what the consequences of such verdict may be.

A defendant in a criminal case is presumed to be innocent / until the contrary is proved, and in case of a reasonable doubt whether his or her guilt is satisfactorily shown, / he or she is entitled to a verdict of not guilty. This presumption places upon the State the burden of / proving him or her guilty beyond a reasonable doubt. The defendant has no burden of proof.

Reasonable doubt is defined / as follows: It is not a mere possible doubt, because everything relating to human affairs, and depending on moral evidence, / is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison / and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they / feel an abiding conviction, to a moral certainty, of the truth of the charge.

Evidence is either direct or circumstantial. / Direct evidence is evidence that directly proves a fact without the necessity of an inference.

Circumstantial evidence is evidence that / proves a fact from which an inference of the existence of another fact may be drawn.

It is not necessary / that facts be proved by direct evidence. They may be proved also by circumstantial evidence or by a combination of / direct and circumstantial evidence. Both direct evidence and circumstantial evidence are acceptable as a means of proof. Neither is entitled / to any greater weight than the other.

However, in any case based on circumstantial evidence, if the circumstantial evidence is / susceptible of two reasonable interpretations, one of which points to the defendant's guilt and the other interpretation to his or / her innocence, you must adopt

that interpretation which points to the defendant's innocence and reject that interpretation which points to / the defendant's guilt.

If one interpretation appears reasonable and the other interpretation appears unreasonable, you must accept the reasonable interpretation / and reject the unreasonable.

Murder is the unlawful killing of a human being with malice aforethought.

"Malice" means either an / expressed intent to kill or an intent to commit an act dangerous to human life with knowledge of the danger / to, and with conscious disregard for, human life.

"Aforethought" means the malice must precede the act.

First degree murder occurs / when the killing is committed with malice aforethought and a deliberate and premeditated intent to kill.

"Deliberate" means determined after / careful thought and weighing of the consequences. "Premeditated" means considered beforehand.

The law does not try to measure in units / of time the length of time during which the thought must be pondered before it can ripen into an intent / to kill that is truly deliberate and premeditated. The time will vary with different individuals and different circumstances.

The true / test is not the duration of time but the extent of the reflection. A cold, calculated decision may be arrived / at in a short time, but a mere unconsidered rash impulse will not amount to deliberation and premeditation, even though / it includes an intent to kill.

If you are not satisfied beyond a reasonable doubt that the defendant is guilty / of first degree murder, he may be found guilty of any lesser offense, such as second degree murder, voluntary manslaughter, / or involuntary manslaughter - - if the evidence is sufficient to establish his guilt of such lesser offense beyond a reasonable doubt. /

Second degree murder occurs when the killing is with malice aforethought but without deliberation and premeditation.

Voluntary manslaughter is the / intention killing of a human being without malice aforethought.

An intentional killing is said to be without malice aforethought and / therefore reduced to voluntary manslaughter in the following circumstances:

1. Where the killing is committed during a sudden quarrel or / heat of passion and where the provocation is such that it would naturally arouse such passions; and where the killer / acts under the smart of that heat of passion.

The heat of passion that will reduce a murder to manslaughter / must be such as naturally would be aroused in the mind of an ordinary reasonable person in the same circumstances. /

2. Where the killing is committed in the honest but unreasonable belief in the need to defend against imminent peril / to life or great bodily harm.

Involuntary manslaughter is the unlawful killing of a human being without malice aforethought and / without an intent to kill. This crime is committed when the killing occurs as a result of an act of / gross negligence involving a high risk of death or great bodily harm.

