

1 **14-213. [~~Second-degree~~ Second-degree murder; lesser included offense of felony murder; or**  
2 **voluntary manslaughter lesser included offense; essential elements.<sup>1</sup>**

3 For you to find the defendant guilty of [~~second-degree~~ second-degree murder [as charged  
4 in Count \_\_\_\_\_],<sup>2</sup> the state must prove to your satisfaction beyond a reasonable doubt each of the  
5 following elements of the crime:

6 1. The defendant killed \_\_\_\_\_ (*name of victim*);

7 2. The defendant knew that [~~his~~ their] acts created a strong probability of death or great  
8 bodily harm<sup>4</sup> to \_\_\_\_\_ (*name of victim*) [or any other human being]<sup>3</sup>;

9 3. The defendant did not cause the death of \_\_\_\_\_ (*name of victim*) during [the  
10 commission of]<sup>4</sup> [the attempt to commit] \_\_\_\_\_ (*name of felony*)<sup>5</sup>;

11 4. The defendant did not act as a result of sufficient provocation;<sup>6</sup>

12 5. This happened in New Mexico on or about the \_\_\_ day of \_\_\_\_\_, \_\_\_\_.<sup>6</sup>

13 USE NOTES

14 1. This instruction is to be given only when provocation is an issue.

15 2. Insert the count number if more than one count is charged.

16 3. Use this bracketed phrase when the intent was directed to someone other than the  
17 victim. UJI 14-255 NMRA must also be given following UJI 14-220 NMRA, voluntary  
18 manslaughter; lesser included offense.

19 4. Use applicable alternative or alternatives. The same alternative or alternatives  
20 should be used as provided in the felony murder instruction.

21 5. Insert the name of the felony or felonies in the disjunctive. The essential elements  
22 of each felony must also be given immediately following this instruction. To instruct on the  
23 elements of an uncharged offense, UJI 14-140 NMRA must be used.

1           6.       The following instructions must also be given after UJI 14-220[~~NMRA~~], voluntary  
2 manslaughter, lesser included offense:

3                   UJI 14-141 NMRA, general criminal intent;

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

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

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

7 [Adopted by Supreme Court Order No. 14-8300-005, effective for all cases filed or pending on or  
8 after December 31, 2014; as amended by Supreme Court Order No. 21-8300-025, effective for all  
9 cases pending or filed on or after December 31, 2021; as amended by Supreme Court Order No.  
10 S-1-RCR-2025-00126, effective for all cases filed or pending on or after December 31, 2025.]

11 **Committee commentary.** — *See State v. O’Kelly*, 2004-NMCA-013, 135 N.M. 40, 84 P.3d 88;  
12 Committee Commentary to UJI 14-212 NMRA.

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