

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

3 For you to find the defendant guilty of second degree murder [as charged in Count  
4 \_\_\_\_\_],<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 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>

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14 USE NOTES

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

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

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

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

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

4           [~~5.~~6. The following instructions must also be given after UJI 14-220 NMRA, voluntary  
5 manslaughter, lesser included offense:

6           UJI 14-141 NMRA, general criminal intent;

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

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

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

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

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

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