

FILED IN **REDACTED**
ARAPAHOE COUNTY
COMBINED COURT, COLORADO

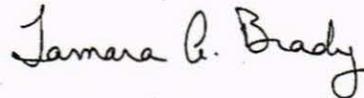
District Court, Arapahoe County, Colorado Arapahoe County Courthouse 7325 S. Potomac St., Centennial, CO 80112	15 AUG 24 AM 8:00
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff	
v.	
JAMES HOLMES, Defendant	σ COURT USE ONLY σ
DOUGLAS K. WILSON, Colorado State Public Defender Daniel King (No. 26129) Tamara A. Brady (No. 20728) Chief Trial Deputy State Public Defenders 1300 Broadway, Suite 400 Denver, Colorado 80203 Phone (303) 764-1400 Fax (303) 764-1478 E-mail: state.pubdef@coloradodefenders.us	Case No. 12CR1522 Division 201
SUBMISSION OF DEFENDANT'S REQUESTED REVISIONS TO COURT'S DRAFT VERDICT FORMS AND INSTRUCTIONS THAT PERTAIN TO VERDICT FORMS [D-292a]	

1. Mr. Holmes hereby submits a written copy of his proposed revisions to the Court's instructions that pertain to the verdict form, as well as proposed revisions to the verdict forms themselves, attached to this pleading as Exhibit A.
2. As explained on July 13, 2015, defense counsel drafted these proposed revisions over the weekend following the discussions held at the July 10, 2015 charging conference.
3. These proposed revisions were originally attached as Exhibit A to Pleading D-292. Pleading D-292 was filed yesterday morning, July 13, 2015, but was stricken by the Court.
4. The proposed revisions contained in Exhibit A were discussed in open court at the merits phase charging conference held on July 13, 2015, and the Court granted counsel permission to re-file these proposed revisions.

Mr. Holmes submits these requested revisions, and makes all other motions and objections in this case, whether or not specifically noted at the time of making the motion or objection, on the following grounds and authorities: the Due Process Clause, the Right to a Fair Trial by an Impartial Jury, the Rights to Counsel, Equal Protection, Confrontation, and Compulsory Process, the Rights to Remain Silent and to Appeal, and the Right to be Free from Cruel and Unusual Punishment, pursuant to the Federal and Colorado Constitutions generally, and specifically, the First, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, and Fourteenth Amendments to the United States Constitutions, and Article II, sections 3, 6, 7, 10, 11, 16, 18, 20, 23, 25 and 28 of the Colorado Constitution.



Daniel King (No. 26129)
Chief Trial Deputy State Public Defender



Tamara A. Brady (No. 20728)
Chief Trial Deputy State Public Defender



Kristen M. Nelson (No. 44247)
Deputy State Public Defender

Dated: July 14, 2015

I hereby certify that on July 14, 2015, I

mailed, via the United States Mail,
 faxed, or
 hand-delivered

a true and correct copy of the above and foregoing document to:

George Brauchler
Jacob Edson
Rich Orman
Karen Pearson
Lisa Teesch-Maguire
Office of the District Attorney
6450 S. Revere Parkway
Centennial, Colorado 80111
Fax: 720-874-8501



Motion D-292a

Exhibit A

(Submitted on July 14, 2015)

INSTRUCTION NO. _____

The defendant is charged with Murder in the First Degree—After

Deliberation in each of the following counts:

- Count 1 (Jonathan Blunk)
- Count 2 (Alexander Boik)
- Count 3 (Jesse Childress)
- Count 4 (Gordon Cowden)
- Count 5 (Jessica Ghawi)
- Count 6 (John Larimer)
- Count 7 (Matthew McQuinn)
- Count 8 (Micayla Medek)
- Count 9 (Veronica Moser-Sullivan)
- Count 10 (Alex Sullivan)
- Count 11 (Alexander Teves)
- Count 12 (Rebecca Wingo)

The elements of the crime of Murder in the First Degree—After

Deliberation, as charged in each of these counts, are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. after deliberation, and
4. with the intent,
5. to cause the death of a person other than himself,
6. caused the death of that person or of another person,
7. and that the defendant was not insane, as defined in Instruction _____.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt with respect to a count listed earlier in this instruction, you should find the defendant guilty of that count of Murder in the First Degree—After Deliberation, and you should so state in Part A of the verdict form for that count.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt with respect to a count listed earlier in this instruction, including element 7 which pertains to the defendant's sanity, you should find the defendant not guilty of that count of Murder in the First Degree—After Deliberation, and you should so state in Part A of the verdict form for that count. You should then proceed to complete Part B of the verdict form for that count, which inquires whether you found the defendant not guilty on this count solely based on the defense of insanity.

INSTRUCTION NO. _____

If you are not satisfied beyond a reasonable doubt that the defendant is guilty of the charged offense in a count listed in Instruction _____, he may, however, be found guilty of any lesser offense, the commission of which is necessarily included in the charged offense if the evidence is sufficient to establish his guilt of the lesser offense beyond a reasonable doubt.

The offense of Murder in the First Degree—After Deliberation, as charged in each of the counts listed in Instruction _____, necessarily includes the lesser offenses of Murder in the Second Degree and Manslaughter.

The elements of the crime of Murder in the Second Degree are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. caused the death of another person,
5. and that the defendant was not insane, as defined in Instruction _____.

The elements of the crime of Manslaughter are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. recklessly,
4. caused the death of another person,
5. and that the defendant was not insane, as defined in Instruction _____.

You should bear in mind that the burden is always upon the prosecution to prove beyond a reasonable doubt each and every element of any lesser offense which is necessarily included in any charged offense; the law never imposes upon a defendant in a criminal case the burden of calling any witnesses or producing any evidence.

After considering all the evidence, if you decide that the prosecution has proven each of the elements of a charged offense or of a lesser-included offense, you should find the defendant guilty of the offense proven, and you should so state in Part A of the verdict form for that count.

After considering all the evidence, if you decide that the prosecution has failed to prove one or more elements of a charged offense and one or more elements of each of its lesser-included offenses, **including element 7 which pertains to the defendant's sanity**, you should find the defendant not guilty of these

offenses, and you should so state in Part A of the verdict form for that count. You should then proceed to complete Part B of the verdict form for that count, which inquires whether you found the defendant not guilty on this count solely based on the defense of insanity.

While you may find the defendant not guilty of each crime charged and its lesser-included offenses, you may not find the defendant guilty of more than one of the following offenses in the same count:

Murder in the First Degree—After Deliberation

Murder in the Second Degree

Manslaughter

INSTRUCTION NO. _____

The defendant is charged with Murder in the First Degree—Extreme

Indifference in each of the following counts:

- Count 13 (Jonathan Blunk)
- Count 14 (Alexander Boik)
- Count 15 (Jesse Childress)
- Count 16 (Gordon Cowden)
- Count 17 (Jessica Ghawi)
- Count 18 (John Larimer)
- Count 19 (Matthew McQuinn)
- Count 20 (Micayla Medek)
- Count 21 (Veronica Moser-Sullivan)
- Count 22 (Alex Sullivan)
- Count 23 (Alexander Teves)
- Count 24 (Rebecca Wingo)

The elements of the crime of Murder in the First Degree—Extreme

Indifference, as charged in each of these counts, are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. under circumstances evidencing an attitude of universal malice manifesting extreme indifference to the value of human life generally,
5. engaged in conduct which created a grave risk of death to a person, or persons, other than himself, and
6. thereby caused the death of another,

7. and that the defendant was not insane, as defined in Instruction _____.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt with respect to a count listed earlier in this instruction, you should find the defendant guilty of that count of Murder in the First Degree—Extreme Indifference, and you should so state in Part A of the verdict form for that count.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt with respect to a count listed earlier in this instruction, including element 7 which pertains to the defendant's sanity, you should find the defendant not guilty of that count of Murder in the First Degree—Extreme Indifference, and you should so state in Part A of the verdict form for that count. You should then proceed to complete Part B of the verdict form for that count, which inquires whether you found the defendant not guilty on this count solely based on the defense of insanity.

INSTRUCTION NO. _____

If you are not satisfied beyond a reasonable doubt that the defendant is guilty of the charged offense in a count listed in Instruction _____, he may, however, be found guilty of any lesser offense, the commission of which is necessarily included in the charged offense if the evidence is sufficient to establish his guilt of the lesser offense beyond a reasonable doubt.

The offense of Murder in the First Degree—Extreme Indifference, as charged in each of the counts listed in Instruction _____, necessarily includes the lesser offenses of Murder in the Second Degree and Manslaughter.

The elements of the crime of Murder in the Second Degree are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. caused the death of another person,
5. and that the defendant was not insane, as defined in Instruction _____.

The elements of the crime of Manslaughter are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. recklessly,
4. caused the death of another person,
5. and that the defendant was not insane, as defined in Instruction _____.

You should bear in mind that the burden is always upon the prosecution to prove beyond a reasonable doubt each and every element of any lesser offense which is necessarily included in any charged offense; the law never imposes upon a defendant in a criminal case the burden of calling any witnesses or producing any evidence.

After considering all the evidence, if you decide that the prosecution has proven each of the elements of a charged offense or of a lesser-included offense, you should find the defendant guilty of the offense proven, and you should so state in Part A of the verdict form for that count.

After considering all the evidence, if you decide that the prosecution has failed to prove one or more elements of a charged offense and one or more elements of each of its lesser-included offenses, including element 7 which pertains to the defendant's sanity, you should find the defendant not guilty of these

offenses, and you should so state in Part A of the verdict form for that count. You should then proceed to complete Part B of the verdict form for that count, which inquires whether you found the defendant not guilty on this count solely based on the defense of insanity.

While you may find the defendant not guilty of each charged offense and its lesser-included offenses, you may not find the defendant guilty of more than one of the following offenses in the same count:

Murder in the First Degree—Extreme Indifference

Murder in the Second Degree

Manslaughter

INSTRUCTION NO. _____

The defendant is charged with Attempt to Commit Murder in the First Degree—After Deliberation in each of the following counts:

- Count 25 (Petra Hogan)
- Count 26 (Adan Avila Arredondo)
- Count 27 (Brandon Axelrod)
- Count 28 (Toni Billapando)
- Count 29 (Christina Blache)
- Count 30 (Maria Carbonell)
- Count 31 (Alejandra Cardona Lamas)
- Count 32 (Louis Duran)
- Count 33 (Craig Enlund)
- Count 34 (Alex Espinoza)
- Count 35 (Jacqueline Fry)
- Count 36 (Yousef Gharbi)
- Count 37 (Zackary Golditch)
- Count 38 (Munirih Gravelly)
- Count 39 (Eugene Han)
- Count 40 (Kirstin "K.C." Han)
- Count 41 (Katie Medley)
- Count 42 (Jasmine Kennedy)
- Count 43 (Marcus Kizzar)
- Count 44 (Patricia Legarreta Rohrs)
- Count 45 (Brenton Lowak)
- Count 46 (Ryan Lumba)
- Count 47 (Caleb Medley)
- Count 48 (Ashley Moser)
- Count 49 (Stefan Moton)
- Count 50 (Joshua Nowlan)
- Count 51 (Pierce O'Farrill)
- Count 52 (Prodeo Patria)

Count 53 (Rita Paulina)
Count 54 (Christopher Rapoza)
Count 55 (Carli Richards)
Count 56 (Dion Rosborough)
Count 57 (Carey Rottman)
Count 58 (Lucas Smith)
Count 59 (Heather Snyder)
Count 60 (Farrah Soudani)
Count 61 (Catherine Streib)
Count 62 (Jamison Toews)
Count 63 (Denise Axelrod)
Count 64 (Mark "Marcus" Weaver)
Count 65 (Michael White)
Count 66 (David Williams)
Count 67 (Alleen Young)
Count 68 (Jansen Young)
Count 69 (Samantha Yowler)
Count 70 (Gage Hankins)
Count 71 (McKayla Hicks)
Count 72 (Stephen Barton)
Count 73 (Nickelas Gallup)
Count 74 (Evan Farris)
Count 75 (Jennifer Avila Arredondo)
Count 76 (Jarell Brooks)
Count 77 (Amanda Hernandez-Memije)
Count 78 (Kelly Lewis)
Count 79 (Bonnie Kathleen Pourciau Zoghbi)
Count 80 (Anggiat Mora)
Count 81 (Ethan Rohrs)
Count 82 (Nathan Juranek)
Count 143 (Corbin Dates)
Count 145 (Lauren Shuler)
Count 147 (Jamie Rohrs)
Count 149 (Evan Morrison)
Count 151 (Richelle Hill)

- Count 153 (Kaylan Bailey)
- Count 155 (Kelly Bowen)
- Count 157 (Shirley Clark)
- Count 159 (Hailee Hensley)
- Count 161 (Victor Edgar Nava Hernandez)
- Count 163 (Daybra Thomas-Kizzar)
- Count 165 (Caitlin Peddicord)

The elements of the crime of Attempt to Commit Murder in the First Degree—After Deliberation, as charged in each of these counts, are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. after deliberation, and
4. with the intent,
5. to cause the death of a person other than himself,
6. engaged in conduct constituting a substantial step toward the commission of Murder in the First Degree—After Deliberation, as defined in Instruction _____.
7. and that the defendant was not insane, as defined in Instruction _____.

A “substantial step” is any conduct, whether act, omission, or possession, which is strongly corroborative of the firmness of the actor’s purpose to complete the commission of the offense.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt with respect to a count listed earlier in this instruction, you should find the defendant guilty of that count of Attempt to Commit Murder in the First Degree—After Deliberation, and you should so state in Part A of the verdict form for that count.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt with respect to a count listed earlier in this instruction, including element 7 which pertains to the defendant's sanity, you should find the defendant not guilty of that count of Attempt to Commit Murder in the First Degree—After Deliberation, and you should so state in Part A of the verdict form for that count. You should then proceed to complete Part B of the verdict form for that count, which inquires whether you found the defendant not guilty on this count solely based on the defense of insanity.

INSTRUCTION NO. _____

If you are not satisfied beyond a reasonable doubt that the defendant is guilty of the charged offense in a count listed in Instruction _____, he may, however, be found guilty of any lesser offense, the commission of which is necessarily included in the charged offense if the evidence is sufficient to establish his guilt of the lesser offense beyond a reasonable doubt.

The offense of Attempt to Commit Murder in the First Degree—After Deliberation, as charged in each of the counts listed in Instruction _____, necessarily includes the lesser offenses of Attempt to Commit Murder in the Second Degree and Attempt to Commit Manslaughter.

The elements of the crime of Attempt to Commit Murder in the Second Degree are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. engaged in conduct constituting a substantial step toward the commission of Murder in the Second Degree, as defined in Instruction _____,
5. and that the defendant was not insane, as defined in Instruction _____.

The elements of the crime of Attempt to Commit Manslaughter are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. recklessly,
4. engaged in conduct constituting a substantial step toward the commission of Manslaughter, as defined in Instruction _____,
5. and that the defendant was not insane, as defined in Instruction _____.

A “substantial step,” as used in the elements of the two lesser-included offenses defined in this instruction, is any conduct, whether act, omission, or possession, which is strongly corroborative of the firmness of the actor’s purpose to complete the commission of the offense.

You should bear in mind that the burden is always upon the prosecution to prove beyond a reasonable doubt each and every element of any lesser offense which is necessarily included in any charged offense; the law never imposes upon a defendant in a criminal case the burden of calling any witnesses or producing any evidence.

After considering all the evidence, if you decide that the prosecution has proven each of the elements of a charged offense or of a lesser-included offense,

you should find the defendant guilty of the offense proven, and you should so state in Part A of the verdict form for that count.

After considering all the evidence, if you decide that the prosecution has failed to prove one or more elements of a charged offense and one or more elements of each of its lesser-included offenses, **including element 7 which pertains to the defendant's sanity**, you should find the defendant not guilty of these offenses, and you should so state in Part A of the verdict form for that count. **You should then proceed to complete Part B of the verdict form for that count, which inquires whether you found the defendant not guilty on this count solely based on the defense of insanity.**

While you may find the defendant not guilty of each charged offense and its lesser-included offenses, you may not find the defendant guilty of more than one of the following offenses in the same count:

Attempt to Commit Murder in the First Degree—After Deliberation

Attempt to Commit Murder in the Second Degree

Attempt to Commit Manslaughter

INSTRUCTION NO. _____

The defendant is charged with Attempt to Commit Murder in the First

Degree—Extreme Indifference in each of the following counts:

- Count 83 (Petra Hogan)
- Count 84 (Adan Avila Arredondo)
- Count 85 (Brandon Axelrod)
- Count 86 (Toni Billapando)
- Count 87 (Christina Blache)
- Count 88 (Maria Carbonell)
- Count 89 (Alejandra Cardona Lamas)
- Count 90 (Louis Duran)
- Count 91 (Craig Enlund)
- Count 92 (Alex Espinoza)
- Count 93 (Jacqueline Fry)
- Count 94 (Yousef Gharbi)
- Count 95 (Zackary Golditch)
- Count 96 (Munirih Gravelly)
- Count 97 (Eugene Han)
- Count 98 (Kirstin "K.C." Han)
- Count 99 (Katie Medley)
- Count 100 (Jasmine Kennedy)
- Count 101 (Marcus Kizzar)
- Count 102 (Patricia Legarreta Rohrs)
- Count 103 (Brenton Lowak)
- Count 104 (Ryan Lumba)
- Count 105 (Caleb Medley)
- Count 106 (Ashley Moser)
- Count 107 (Stefan Moton)
- Count 108 (Joshua Nowlan)
- Count 109 (Pierce O'Farrill)
- Count 110 (Prodeo Patria)
- Count 111 (Rita Paulina)
- Count 112 (Christopher Rapoza)

Count 113 (Carli Richards)
Count 114 (Dion Rosborough)
Count 115 (Carey Rottman)
Count 116 (Lucas Smith)
Count 117 (Heather Snyder)
Count 118 (Farrah Soudani)
Count 119 (Catherine Streib)
Count 120 (Jamison Toews)
Count 121 (Denise Axelrod)
Count 122 (Mark "Marcus" Weaver)
Count 123 (Michael White)
Count 124 (David Williams)
Count 125 (Alleen Young)
Count 126 (Jansen Young)
Count 127 (Samantha Yowler)
Count 128 (Gage Hankins)
Count 129 (McKayla Hicks)
Count 130 (Stephen Barton)
Count 131 (Jennifer Avila Arredondo)
Count 132 (Jarrell Brooks)
Count 133 (Amanda Hernandez-Memije)
Count 134 (Nathan Juranek)
Count 135 (Kelly Lewis)
Count 136 (Anggiat Mora)
Count 137 (Bonnie Kathleen Pourciau Zoghbi)
Count 138 (Ethan Rohrs)
Count 139 (Nickelas Gallup)
Count 140 (Evan Farris)
Count 144 (Corbin Dates)
Count 146 (Lauren Shuler)
Count 148 (Jamie Rohrs)
Count 150 (Evan Morrison)
Count 152 (Richelle Hill)
Count 154 (Kaylan Bailey)
Count 156 (Kelly Bowen)

Count 158 (Shirley Clark)
Count 160 (Hailee Hensley)
Count 162 (Victor Edgar Nava Hernandez)
Count 164 (Daybra Thomas-Kizzar)
Count 166 (Caitlin Peddicord)

The elements of the crime of Attempt to Commit Murder in the First Degree—Extreme Indifference, as charged in each of these counts, are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. engaged in conduct constituting a substantial step toward the commission of Murder in the First Degree—Extreme Indifference, as defined in Instruction _____,
5. and that the defendant was not insane, as defined in Instruction _____.

A “substantial step” is any conduct, whether act, omission, or possession, which is strongly corroborative of the firmness of the actor’s purpose to complete the commission of the offense.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt with respect to a count listed earlier in this instruction, you should find the defendant guilty of that count of Attempt to Commit Murder in the First Degree—Extreme Indifference, and you should so state in Part A of the verdict form for that count.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt with respect to a count listed earlier in this instruction, including element 7 which pertains to the defendant's sanity, you should find the defendant not guilty of that count of Attempt to Commit Murder in the First Degree—Extreme Indifference, and you should so state in Part A of the verdict form for that count. You should then proceed to complete Part B of the verdict form for that count, which inquires whether you found the defendant not guilty on this count solely based on the defense of insanity.

INSTRUCTION NO. _____

If you are not satisfied beyond a reasonable doubt that the defendant is guilty of the charged offense in a count listed in Instruction _____, he may, however, be found guilty of any lesser offense, the commission of which is necessarily included in the charged offense if the evidence is sufficient to establish his guilt of the lesser offense beyond a reasonable doubt.

The offense of Attempt to Commit Murder in the First Degree—Extreme Indifference, as charged in each of the counts listed in Instruction _____, necessarily includes the lesser offenses of Attempt to Commit Murder in the Second Degree and Attempt to Commit Manslaughter.

The elements of the crime of Attempt to Commit Murder in the Second Degree are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. engaged in conduct constituting a substantial step toward the commission of Murder in the Second Degree, as defined in Instruction _____,
5. and that the defendant was not insane, as defined in Instruction _____.

The elements of the crime of Attempt to Commit Manslaughter are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. recklessly,
4. engaged in conduct constituting a substantial step toward the commission of Manslaughter, as defined in Instruction _____,
5. and that the defendant was not insane, as defined in Instruction _____.

A “substantial step,” as used in the elements of the two lesser-included offenses defined in this instruction, is any conduct, whether act, omission, or possession, which is strongly corroborative of the firmness of the actor’s purpose to complete the commission of the offense.

You should bear in mind that the burden is always upon the prosecution to prove beyond a reasonable doubt each and every element of any lesser offense which is necessarily included in any charged offense; the law never imposes upon a defendant in a criminal case the burden of calling any witnesses or producing any evidence.

After considering all the evidence, if you decide that the prosecution has proven each of the elements of a charged offense or of a lesser-included offense,

you should find the defendant guilty of the offense proven, and you should so state in Part A of the verdict form for that count.

After considering all the evidence, if you decide that the prosecution has failed to prove one or more elements of a charged offense and one or more elements of each of its lesser-included offenses, **including element 7 which pertains to the defendant's sanity**, you should find the defendant not guilty of these offenses, and you should so state in Part A of the verdict form for that count. **You should then proceed to complete Part B of the verdict form for that count, which inquires whether you found the defendant not guilty on this count solely based on the defense of insanity.**

While you may find the defendant not guilty of each charged offense and its lesser-included offenses, you may not find the defendant guilty of more than one of the following offenses in the same count:

Attempt to Commit Murder in the First Degree—Extreme Indifference

Attempt to Commit Murder in the Second Degree

Attempt to Commit Manslaughter

INSTRUCTION NO. _____

In Count 141, the defendant is charged with Possession or Control of an Explosive or Incendiary Device. The elements of the crime of Possession or Control of an Explosive or Incendiary Device are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. possessed, controlled, manufactured, gave, mailed, sent, or caused to be sent,
5. an explosive or incendiary device.
6. and that the defendant was not insane, as defined in Instruction _____.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of Possession or Control of an Explosive or Incendiary Device, and you should so state in Part A of the verdict form for that count.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, including element 7 which pertains to the defendant's sanity, you should find the defendant not guilty of Possession or Control of an Explosive or Incendiary Device, and you

should so state in Part A of the verdict form for that count. You should then proceed to complete Part B of the verdict form for that count, which inquires whether you found the defendant not guilty on this count solely based on the defense of insanity.

INSTRUCTION NO. _____

The evidence in this case has raised the defense of insanity as a defense to all the charged offenses and lesser-included offenses.

The defendant was insane at the time of the commission of each act if:

1. he was so diseased or defective in mind at the time of the commission of the act as to be incapable of distinguishing right from wrong with respect to that act; or
2. he suffered from a condition of mind caused by a mental disease or defect that prevented him from forming a culpable mental state that is an essential element of a crime charged or of a lesser-included offense.

But care should be taken not to confuse mental disease or defect with moral obliquity, mental depravity, or passion growing out of anger, revenge, hatred, or other motives and kindred evil conditions because, when an act is induced by any of these causes, the person is accountable to the law.

In addition, “diseased or defective in mind” does not refer to an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

Similarly, “mental disease or defect” means only those severely abnormal mental conditions that grossly and demonstrably impair a person’s perception or

understanding of reality and that are not attributable to the voluntary ingestion of alcohol or any other psychoactive substance. "Mental disease or defect" does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.

The prosecution has the burden to prove beyond a reasonable doubt that the defendant was not insane at the time of the commission of the act alleged in each count. In order to meet this burden of proof, the prosecution must disprove, beyond a reasonable doubt, both of the above numbered conditions with respect to the act alleged in each count. In other words, the prosecution must disprove, beyond a reasonable doubt, both of the above numbered conditions with respect to the act alleged in the charged offense in each count and in each of the lesser-included offenses of that charged offense.

After considering all the evidence, if you decide the prosecution has failed to meet this burden of proof, then the prosecution has failed to prove beyond a reasonable doubt that the defendant was sane at the time of the commission of the act, which is an essential element of each charged offense and each lesser-included offense. If you decide that the prosecution has failed to prove beyond a reasonable doubt that the defendant was sane at the time of the commission of the act alleged in a charged offense and in its lesser-included offenses, you must find the defendant not guilty of that charged offense and of its lesser-included offenses. In

that event, you should have the foreperson sign on the designated line in Part A of the verdict form for that count to indicate your verdict on that count. **You should then proceed to complete Part B of the verdict form for that count, which inquires whether you found the defendant not guilty on this count solely based on the defense of insanity.**

After considering all the evidence, if you decide the prosecution has met this burden of proof, then the prosecution has proved beyond a reasonable doubt that the defendant was not insane at the time of the commission of the act. If you decide that the prosecution has proved beyond a reasonable doubt that the defendant was not insane at the time of the commission of the act alleged in a count, your verdict with respect to the charged offense in that count and the lesser-included offenses of that charged offense must depend upon your determination whether the prosecution has met its burden of proof with respect to the remaining elements of the charged offense and each of its lesser-included offenses.

INSTRUCTION NO. _____

~~If you find the defendant guilty of any charged offense or lesser included offense, you should disregard the remainder of this instruction, as well as Part B of each of the verdict forms.~~

If, ~~however,~~ you find the defendant not guilty of **any of** the charged offenses and lesser-included offenses ~~in all the counts,~~ you should answer the following verdict question in Part B of the verdict form for each count:

Did you find the defendant not guilty solely based on the defense of insanity? (Answer “Yes” or “No”)

The Court reminds you that the prosecution has the burden to prove beyond a reasonable doubt each element of each crime charged and each element of each lesser-included offense. Further, the Court reminds you that an essential element of each crime charged and each lesser-included offense is that the defendant was not insane at the time of the commission of the act.

As to each count, if you decide that the only element of the crime charged and of the lesser-included offenses that the prosecution failed to prove beyond a reasonable doubt is that the defendant was sane at the time of the commission of the act, you should have the foreperson mark “Yes” in the appropriate space in Part B of the verdict form for that count, and you should then have the foreperson sign on the designated line in Part B of that verdict form. As to each count, if you

decide that the prosecution failed to prove beyond a reasonable doubt any other element of the crime charged and of the lesser-included offenses, you should have the foreperson mark "No" in the appropriate space in Part B of the verdict form for that count, and you should then have the foreperson sign on the designated line in Part B of that verdict form.

INSTRUCTION NO. _____

Following the attorneys' closing arguments, the bailiffs will escort you to the jury room, where you will select one of your members to be your foreperson. Your foreperson will preside over your deliberations and shall sign any part of a verdict form that you may agree on, according to the rules that I am about to explain.

The verdict form for Count 141, Possession or Control of an Explosive or Incendiary Device, contains two parts: Part A and Part B. The verdict forms for the remaining 164 counts contain the same two parts and an additional part, Part C.

You should indicate your verdict with respect to each count in Part A of the verdict form. ~~If your verdict on a count is not guilty of the charged offense and lesser included offenses,~~ **If you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, including element 7 which pertains to the defendant's sanity, then your verdict on that particular count is not guilty, and** you should have the foreperson sign on the designated line in Part A of the verdict form for that count. If your verdict on a count is guilty, you should have the foreperson place, in ink, an "X" in the space next to the offense that you conclude has been proven by the prosecution beyond a reasonable doubt (whether the charged offense in that count or one of the charged offense's lesser-included

offenses), and you should then have the foreperson sign on the designated line in Part A of the verdict form for that count. Because the charged offense of Possession or Control of an Explosive or Incendiary Device (Count 141) does not have any lesser-included offenses, if you find the defendant guilty of that charged offense, you should only have the foreperson sign on the designated line in Part A of the verdict form for that count.

Only one verdict shall be returned signed in Part A of the verdict form for each count.

As mentioned earlier in these instructions, each count charges a separate and distinct offense, and the evidence and the law applicable to each count should be considered separately, uninfluenced by your decision as to any other count. Therefore, the fact that you may find the defendant guilty of the charged offense or a lesser-included offense in a count should not control your verdict as to the charged offense and lesser-included offenses in any other count. Similarly, the fact that you may find the defendant not guilty of the charged offense and the lesser-included offenses in a count should not control your verdict as to the charged offense and the lesser-included offenses in any other count. This is the case even if the reason you find the defendant not guilty of the charged offense and the lesser-included offenses in a count is solely based on the prosecution's failure to prove

beyond a reasonable doubt that the defendant was sane at the time of the commission of the act.

~~Having said that, if you find the defendant guilty of any charged offense or lesser included offense in any count, you should disregard Part B of all the verdict forms. You should answer the verdict question in Part B of the verdict forms only if you find the defendant not guilty of all the charged offenses and all the lesser included offenses in this case. (The verdict question in Part B of each verdict form asks whether the jury found the defendant not guilty of the charged offense and the lesser included offenses solely based on the defense of insanity). Pursuant to these instructions, you will either complete Part B of all the verdict forms or you will disregard Part B of all the verdict forms.~~

~~—— If, based on your verdicts, you determine that you should answer the verdict question in Part B of all the verdict forms, you should have the foreperson complete and sign that part of each verdict form.~~

If you find the defendant not guilty on any count, you should then proceed to complete Part B of the verdict form for that count, which inquires whether you found the defendant not guilty on that count solely based on the defense of insanity.

In the event that you find the defendant guilty of any charged offense or lesser-included offense in a count, you should answer the verdict question in Part C

of the verdict form for that count, and you should have the foreperson complete and sign Part C of that verdict form. (The verdict question in Part C of each verdict form asks whether the defendant used, or possessed and threatened the use of, a deadly weapon). The verdict form for Count 141, Possession or Control of an Explosive or Incendiary Device, does not have a Part C because the verdict question in Part C does not apply to Count 141.

If you conclude that the verdict question in Part B of ~~all~~ any of the verdict forms should be answered, only one answer shall be returned signed in that part of each verdict form. Similarly, if you conclude that the verdict question in Part C of any verdict form should be answered, only one answer shall be returned signed in that part of the verdict form.

Your verdict as to each charged offense and lesser-included offense must represent the considered judgment of each juror, and must be unanimous. Similarly, your response to any verdict question that you conclude should be answered (whether in Part B or Part C of a verdict form) must represent the considered judgment of each juror, and must be unanimous. All of you must agree to all the parts of each verdict form.

The verdict forms and these instructions shall remain in the possession of your foreperson until I ask for them in open court. Upon reaching your verdicts and answering any verdict question or questions that you conclude should be

answered, you will inform the bailiffs, who in turn will notify me, and you will remain in the jury room until I call you into the courtroom.

You will be provided with 165 verdict forms. Each verdict form contains directions to remind you: (1) under what circumstances you should answer the verdict question in Part B of all the verdict forms; and (2) under what circumstances you should answer the verdict question in Part C of any verdict form. Because the verdict form for Count 141, Possession or Control of an Explosive or Incendiary Device, does not contain a Part C, it only has instructions with respect to Part B of the verdict form for that count.

I will now read to you five verdict forms, which represent the five different types of verdict forms you will receive: (1) for each charged offense of Murder in the First Degree—After Deliberation and its lesser-included offenses; (2) for each charged offense of Murder in the First Degree—Extreme Indifference and its lesser-included offenses; (3) for each charged offense of Attempt to Commit Murder in the First Degree—After Deliberation and its lesser-included offenses; (4) for each charged offense of Attempt to Commit Murder in the First Degree—Extreme Indifference and its lesser-included offenses; and (5) for the charged offense of Possession or Control of an Explosive or Incendiary Device. You must not draw any inferences based on the verdict forms I have selected to read to you or from the order in which I read them.

DISTRICT COURT, ARAPAHOE COUNTY,
STATE OF COLORADO
7325 S. Potomac St., Centennial, Colorado 80112

PEOPLE OF THE STATE OF COLORADO

v.

JAMES EAGAN HOLMES,
Defendant

COURT USE ONLY

Case Number: **12CR1522**

Division: **201**

VERDICT FORM

COUNT 1

MURDER IN THE FIRST DEGREE—AFTER DELIBERATION
(Jonathan Blunk)

PART A

I.* We, the jury, find the defendant, James Eagan Holmes, NOT GUILTY of Murder in the First Degree—After Deliberation and the lesser-included offenses of Murder in the Second Degree and Manslaughter.

FOREPERSON

II.** We, the jury, find the defendant, James Eagan Holmes, GUILTY of:

Murder in the First Degree—After Deliberation

OR

The Lesser-Included Offense of Murder in the Second Degree

OR

[] The Lesser-Included Offense of Manslaughter

FOREPERSON

* If you find the defendant NOT GUILTY of the charged offense and the lesser-included offenses, the foreperson should sign only on the designated line in section I in the previous page.

** If you find the defendant GUILTY of the charged offense or one of the lesser-included offenses, the foreperson should complete only section II in the previous page by placing, in ink, an "X" in the appropriate bracket, and signing on the designated line. ONLY ONE BRACKET may be filled in, with the other brackets to remain unmarked.

PART B

If you ~~find~~ **found** the defendant GUILTY of a **the** charged offense or a lesser-included offense ~~in any count~~ **in this count**, you should leave Part B of ~~all of the~~ **this** verdict forms blank. If, however, you find the defendant NOT GUILTY of ~~all the~~ charged offenses ~~and lesser-included offenses in this count~~ **all the counts**, you should answer the verdict question below: did you find the defendant not guilty on this count solely based on the defense of insanity? The foreperson should mark, in ink, "Yes," if the jury unanimously decides that the only element of the crime charged and the lesser-included offenses in this count that the prosecution failed to prove beyond a reasonable doubt is that the defendant was sane at the time of the commission of the act. The foreperson should mark, in ink, "No," if the jury unanimously decides that the prosecution failed to prove beyond a reasonable doubt any other element of the crime charged or of a lesser-included offense in this count.

Did you find the defendant NOT GUILTY on this count solely based on the defense of insanity?

Yes

No

FOREPERSON

PART C

If you find the defendant NOT GUILTY of the charged offense and the lesser-included offenses in this count, you should leave Part C of this verdict form blank. If, however, you find the defendant GUILTY of the charged offense or of a lesser-included offense in this count, you should answer the verdict question below: did the defendant use, or possess and threaten the use of, a deadly weapon? The defendant used, or possessed and threatened the use of, a deadly weapon only if: (1) the defendant used, or possessed and threatened the use of, a deadly weapon, (2) during the commission of the offense proven in this count, or in the immediate flight therefrom. The foreperson should mark, in ink, "Yes," if the jury unanimously decides that the prosecution met its burden of proving beyond a reasonable doubt each of these two conditions. The foreperson should mark, in ink, "No," if the jury unanimously decides that the prosecution did not meet its burden of proving beyond a reasonable doubt each of these two conditions.

Did the defendant use, or possess and threaten the use of, a deadly weapon?

Yes

No

FOREPERSON

DISTRICT COURT, ARAPAHOE COUNTY,
STATE OF COLORADO
7325 S. Potomac St., Centennial, Colorado 80112

PEOPLE OF THE STATE OF COLORADO

v.

JAMES EAGAN HOLMES,
Defendant

COURT USE ONLY

Case Number: **12CR1522**

Division: **201**

VERDICT FORM

COUNT 13

MURDER IN THE FIRST DEGREE—EXTREME INDIFFERENCE

(Jonathan Blunk)

PART A

I.* We, the jury, find the defendant, James Eagan Holmes, NOT GUILTY of Murder in the First Degree—Extreme Indifference and the lesser-included offenses of Murder in the Second Degree and Manslaughter.

FOREPERSON

II.** We, the jury, find the defendant, James Eagan Holmes, GUILTY of:

Murder in the First Degree—Extreme Indifference

OR

The Lesser-Included Offense of Murder in the Second Degree

OR

[] The Lesser-Included Offense of Manslaughter

FOREPERSON

* If you find the defendant NOT GUILTY of the charged offense and the lesser-included offenses, the foreperson should sign only on the designated line in section I in the previous page.

** If you find the defendant GUILTY of the charged offense or one of the lesser-included offenses, the foreperson should complete only section II in the previous page by placing, in ink, an "X" in the appropriate bracket, and signing on the designated line. ONLY ONE BRACKET may be filled in, with the other brackets to remain unmarked.

PART B

If you ~~find~~ found the defendant GUILTY of a the charged offense or a lesser-included offense ~~in any count~~ in this count, you should leave Part B of ~~all of the~~ this verdict forms blank. If, however, you find the defendant NOT GUILTY of ~~all~~ the charged offenses and lesser-included offenses in this count ~~all the counts~~, you should answer the verdict question below: did you find the defendant not guilty on this count solely based on the defense of insanity? The foreperson should mark, in ink, "Yes," if the jury unanimously decides that the only element of the crime charged and the lesser-included offenses in this count that the prosecution failed to prove beyond a reasonable doubt is that the defendant was sane at the time of the commission of the act. The foreperson should mark, in ink, "No," if the jury unanimously decides that the prosecution failed to prove beyond a reasonable doubt any other element of the crime charged or of a lesser-included offense in this count.

Did you find the defendant NOT GUILTY on this count solely based on the defense of insanity?

Yes

No

FOREPERSON

PART C

If you find the defendant NOT GUILTY of the charged offense and the lesser-included offenses in this count, you should leave Part C of this verdict form blank. If, however, you find the defendant GUILTY of the charged offense or of a lesser-included offense in this count, you should answer the verdict question below: did the defendant use, or possess and threaten the use of, a deadly weapon? The defendant used, or possessed and threatened the use of, a deadly weapon only if: (1) the defendant used, or possessed and threatened the use of, a deadly weapon, (2) during the commission of the offense proven in this count, or in the immediate flight therefrom. The foreperson should mark, in ink, "Yes," if the jury unanimously decides that the prosecution met its burden of proving beyond a reasonable doubt each of these two conditions. The foreperson should mark, in ink, "No," if the jury unanimously decides that the prosecution did not meet its burden of proving beyond a reasonable doubt each of these two conditions.

Did the defendant use, or possess and threaten the use of, a deadly weapon?

Yes

No

FOREPERSON

DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO 7325 S. Potomac St., Centennial, Colorado 80112	COURT USE ONLY
PEOPLE OF THE STATE OF COLORADO v. JAMES EAGAN HOLMES, Defendant	
	Case Number: 12CR1522 Division: 201

VERDICT FORM

COUNT 25

**ATTEMPT TO COMMIT MURDER IN THE FIRST DEGREE—AFTER
 DELIBERATION
 (PETRA HOGAN)**

PART A

I.* We, the jury, find the defendant, James Eagan Holmes, NOT GUILTY of Attempt to Commit Murder in the First Degree—After Deliberation and the lesser-included offenses of Attempt to Commit Murder in the Second Degree and Attempt to Commit Manslaughter.

 FOREPERSON

II.** We, the jury, find the defendant, James Eagan Holmes, GUILTY of:

[] Attempt to Commit Murder in the First Degree—After Deliberation

OR

The Lesser-Included Offense of Attempt to Commit Murder in the Second Degree

OR

The Lesser-Included Offense of Attempt to Commit Manslaughter

FOREPERSON

* If you find the defendant NOT GUILTY of the charged offense and the lesser-included offenses, the foreperson should sign only on the designated line in section I in the previous page.

** If you find the defendant GUILTY of the charged offense or one of the lesser-included offenses, the foreperson should complete only section II in the previous page by placing, in ink, an "X" in the appropriate bracket, and signing on the designated line. ONLY ONE BRACKET may be filled in, with the other brackets to remain unmarked.

PART B

If you ~~find~~ found the defendant GUILTY of a the charged offense or a lesser-included offense ~~in any count~~ in this count, you should leave Part B of ~~all of the~~ this verdict forms blank. If, however, you find the defendant NOT GUILTY of ~~all the~~ charged offenses and lesser-included offenses in this count ~~all the counts~~, you should answer the verdict question below: did you find the defendant not guilty on this count solely based on the defense of insanity? The foreperson should mark, in ink, "Yes," if the jury unanimously decides that the only element of the crime charged and the lesser-included offenses in this count that the prosecution failed to prove beyond a reasonable doubt is that the defendant was sane at the time of the commission of the act. The foreperson should mark, in ink, "No," if the jury unanimously decides that the prosecution failed to prove beyond a reasonable doubt any other element of the crime charged or of a lesser-included offense in this count.

Did you find the defendant NOT GUILTY on this count solely based on the defense of insanity?

Yes

No

FOREPERSON

PART C

If you find the defendant NOT GUILTY of the charged offense and the lesser-included offenses in this count, you should leave Part C of this verdict form blank. If, however, you find the defendant GUILTY of the charged offense or of a lesser-included offense in this count, you should answer the verdict question below: did the defendant use, or possess and threaten the use of, a deadly weapon? The defendant used, or possessed and threatened the use of, a deadly weapon only if: (1) the defendant used, or possessed and threatened the use of, a deadly weapon, (2) during the commission of the offense proven in this count, or in the immediate flight therefrom. The foreperson should mark, in ink, "Yes," if the jury unanimously decides that the prosecution met its burden of proving beyond a reasonable doubt each of these two conditions. The foreperson should mark, in ink, "No," if the jury unanimously decides that the prosecution did not meet its burden of proving beyond a reasonable doubt each of these two conditions.

Did the defendant use, or possess and threaten the use of, a deadly weapon?

Yes

No

FOREPERSON

DISTRICT COURT, ARAPAHOE COUNTY, STATE OF COLORADO 7325 S. Potomac St., Centennial, Colorado 80112	COURT USE ONLY
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	Case Number: 12CR1522 Division: 201

VERDICT FORM

COUNT 83
ATTEMPT TO COMMIT MURDER IN THE FIRST DEGREE—EXTREME
INDIFFERENCE
(Petra Hogan)

PART A

I.* We, the jury, find the defendant, James Eagan Holmes, NOT GUILTY of Attempt to Commit Murder in the First Degree—Extreme Indifference and the lesser-included offenses of Attempt to Commit Murder in the Second Degree and Attempt to Commit Manslaughter.

FOREPERSON

II.** We, the jury, find the defendant, James Eagan Holmes, GUILTY of:

[] Attempt to Commit Murder in the First Degree—Extreme Indifference

OR

The Lesser-Included Offense of Attempt to Commit Murder in the Second Degree

OR

The Lesser-Included Offense of Attempt to Commit Manslaughter

FOREPERSON

* If you find the defendant NOT GUILTY of the charged offense and the lesser-included offenses, the foreperson should sign only on the designated line in section I in the previous page.

** If you find the defendant GUILTY of the charged offense or one of the lesser-included offenses, the foreperson should complete only section II in the previous page by placing, in ink, an "X" in the appropriate bracket, and signing on the designated line. ONLY ONE BRACKET may be filled in, with the other brackets to remain unmarked.

PART B

If you ~~find~~ found the defendant GUILTY of a the charged offense or a lesser-included offense ~~in any count~~ in this count, you should leave Part B of ~~all of the~~ this verdict forms blank. If, however, you find the defendant NOT GUILTY of ~~all the~~ charged offenses and lesser-included offenses in this count ~~all the counts~~, you should answer the verdict question below: did you find the defendant not guilty on this count solely based on the defense of insanity? The foreperson should mark, in ink, "Yes," if the jury unanimously decides that the only element of the crime charged and the lesser-included offenses in this count that the prosecution failed to prove beyond a reasonable doubt is that the defendant was sane at the time of the commission of the act. The foreperson should mark, in ink, "No," if the jury unanimously decides that the prosecution failed to prove beyond a reasonable doubt any other element of the crime charged or of a lesser-included offense in this count.

Did you find the defendant NOT GUILTY on this count solely based on the defense of insanity?

Yes

No

FOREPERSON

PART C

If you find the defendant NOT GUILTY of the charged offense and lesser-included offenses in this count, you should leave Part C of this verdict form blank. If, however, you find the defendant GUILTY of the charged offense or of a lesser-included offense in this count, you should answer the verdict question below: did the defendant use, or possess and threaten the use of, a deadly weapon? The defendant used, or possessed and threatened the use of, a deadly weapon only if: (1) the defendant used, or possessed and threatened the use of, a deadly weapon, (2) during the commission of the offense proven in this count, or in the immediate flight therefrom. The foreperson should mark, in ink, "Yes," if the jury unanimously decides that the prosecution met its burden of proving beyond a reasonable doubt each of these two conditions. The foreperson should mark, in ink, "No," if the jury unanimously decides that the prosecution did not meet its burden of proving beyond a reasonable doubt each of these two conditions.

Did the defendant use, or possess and threaten the use of, a deadly weapon?

Yes

No

FOREPERSON

DISTRICT COURT, ARAPAHOE COUNTY,
STATE OF COLORADO
7325 S. Potomac St., Centennial, Colorado 80112

PEOPLE OF THE STATE OF COLORADO

v.

JAMES EAGAN HOLMES,
Defendant

COURT USE ONLY

Case Number: **12CR1522**

Division: **201**

VERDICT FORM

COUNT 141

**POSSESSION OR CONTROL OF AN EXPLOSIVE OR INCENDIARY
DEVICE**

PART A

I.* We, the jury, find the defendant, James Eagan Holmes, NOT GUILTY of Possession or Control of an Explosive or Incendiary Device.

FOREPERSON

II.** We, the jury, find the defendant, James Eagan Holmes, GUILTY of Possession or Control of an Explosive or Incendiary Device.

FOREPERSON

* If you find the defendant NOT GUILTY of the charged offense, the foreperson should sign only section I above.

** If you find the defendant GUILTY of the crime charged, the foreperson should sign only section II above.

PART B

If you ~~find~~ found the defendant GUILTY of a the charged offense in this count, you should leave Part B of ~~all of the~~ this verdict forms blank. If, however, you find the defendant NOT GUILTY of the charged offense in this count, you should answer the verdict question below: did you find the defendant not guilty on this count solely based on the defense of insanity? The foreperson should mark, in ink, "Yes," if the jury unanimously decides that the only element of the crime charged and the lesser-included offenses in this count that the prosecution failed to prove beyond a reasonable doubt is that the defendant was sane at the time of the commission of the act. The foreperson should mark, in ink, "No," if the jury unanimously decides that the prosecution failed to prove beyond a reasonable doubt any other element of the crime charged or of a lesser-included offense in this count.

Did you find the defendant NOT GUILTY on this count solely based on the defense of insanity?

Yes

No

FOREPERSON