

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 No. 12CR1522 Division: 201
NOTICE OF LABELING AS “C-220” COURT’S DRAFT FINAL INSTRUCTIONS FOR PHASE 2 OF THE SENTENCING HEARING	

The Court started selecting a jury on January 20, 2015. On July 16, the jury returned its verdicts. Because the jury found the defendant guilty of 24 counts of Murder in the First Degree, a capital sentencing hearing commenced on July 22. On July 23, the jury found that the prosecution proved beyond a reasonable doubt four aggravating factors for each of the 24 counts of Murder in the First Degree. The jury is currently deliberating as to whether the mitigating factors that exist outweigh the aggravating factors proven by the prosecution.

Attached to this Order are the Court’s **draft** final instructions for Phase 2 of the sentencing hearing. The Court sent copies of these **draft** instructions to the parties via email on July 27. The Court has designated these **draft** instructions as “C-220.”

Dated this 31st day of July of 2015.

BY THE COURT:



Carlos A. Samour, Jr.
District Court Judge

CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2015, a true and correct copy of the **Notice of labeling as "C-220" Court's draft final instructions for Phase 2 of the sentencing hearing** was served upon the following parties of record:

Karen Pearson
Christina Taylor
Rich Orman
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ATTACHMENT

NOTICE C-220

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DISTRICT COURT
ARAPAHOE COUNTY, COLORADO
Court Address: Arapahoe County Justice Center
7325 South Potomac Street, Centennial, CO 80112

THE PEOPLE OF THE STATE OF COLORADO

v.

JAMES EAGAN HOLMES,
Defendant

COURT USE ONLY

Case Number:

12CR1522

Division:

201

JURY INSTRUCTIONS—PHASE 2 OF SENTENCING HEARING

Instruction Nos. _____ through _____ given by the Court this _____ day of _____ of 2015.

BY THE COURT:

Carlos A. Samour, Jr.
District Court Judge

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

Members of the jury, Phase 2 of the sentencing hearing has been completed. During the course of the trial and Phases 1 and 2 of the sentencing hearing, you have received all of the evidence that you may properly consider in reaching your Phase 2 sentencing verdicts. In a moment, I will read to you jury instructions that contain the rules of law you must apply to reach your Phase 2 sentencing verdicts. You will have copies of what I read to take with you to the jury room. But first, I want to mention some things you need to keep in mind when you are discussing this case in the jury room.

In these instructions, I refer to the first part of the proceedings as “the trial” and to the present part of the proceedings as “the sentencing hearing” or, more specifically, as “Phase 2” of the sentencing hearing. If I refer to “the proceedings,” I am referring to both the trial and Phases 1 and 2 of the sentencing hearing.

Until you have returned your Phase 2 sentencing verdicts, you must follow all of the following admonishments.

- You must reach your Phase 2 sentencing verdicts based only on the evidence presented in the courtroom and the instructions of law provided by the Court. This includes all of the evidence presented during the trial. However, to the extent that I tell you that you may only consider certain evidence for a limited

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purpose, you must only consider such evidence for the limited purpose that I tell you it may be considered.

- Do not communicate about the case with anyone else in any way, including in person, by telephone, cell phone, smart phone, iPhone, Blackberry, computer, the internet, or any internet service. This means that you must not e-mail, text, instant message, Tweet, blog, or post information about this case, or about your experience as a juror in this case, on any website, list serve, chat room, blog, or website such as Facebook, My Space, LinkedIn, YouTube, or Twitter. You must not communicate in any way with anyone else about this case or this kind of case. This includes your family members and friends. You must not read, review, or accept any communications in any form from anyone regarding this case or a case like this one. All you can tell family members, friends, acquaintances, and strangers is that you are on a jury in Arapahoe County that is anticipated to be completed at the latest by the end of August.

- If you notice that people are discussing the case, remove yourself from that location immediately.

- Do not attempt to gather any information on your own about this case. You must not read or conduct any research about this case or this kind of case using any source, including dictionaries, reference materials, the internet, or any other electronic means. Many of us routinely use the internet to research topics of

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interest, but you may not do that in relation to this case. You may not use Google, Bing, Yahoo, or any other type of internet search engine to learn about any person, place, or thing that is involved in this case. This includes the defendant, the attorneys, the witnesses, your fellow jurors, court personnel, and me. This applies whether you are here, at home, or anywhere else.

- Do not read about this case in the newspapers or on the internet; do not listen to any radio broadcasts about the trial; and do not watch any television news reports regarding the trial.

- Do not attempt to visit any places mentioned in this case.

- Do not in any other way learn about this case or this kind of case outside the courtroom.

- Do not talk to the witnesses, parties, and attorneys about anything.

- Do not talk to any members of the media about anything.

- Do not have any contact (through any means, including in person, by telephone, text, or email) with any jurors who have been discharged. You also should not have any contact (through any means, including in person, by telephone, text, or email) with any of the alternate jurors.

- Make sure you wear your juror badge whenever you are on the courthouse grounds, and that your juror badge is visible to those around you.

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- If you have a cell phone or other electronic device, you must temporarily surrender it to my staff. You are not allowed to have a cell phone or other electronic device in the jury room during your deliberations. You will get your electronic devices at the end of the day before you go home.

- Lastly, although you may start deliberating when I tell you that you may do so, you may discuss this case only when you are all present and only when you are in the jury room. No juror should attempt to discuss this case with another juror or other jurors except when all the jurors are present in the jury room. All deliberations must occur in the jury room when all 12 jurors are present.

It is my job to decide what rules of law apply to the case. While the attorneys may comment on some of these rules, you must follow the instructions I give you. Even if you disagree with or do not understand the reasons for some of the rules of law, you must follow them. No single instruction describes all the law which must be applied; the instructions must be considered together as a whole.

Your Phase 2 sentencing verdicts are not dictated by law. Rather, in this phase of the sentencing hearing, each of you will be called upon to make decisions based on your individual reasoned moral judgment.

Your decisions in this phase of the sentencing hearing are separate and distinct from all the decisions you have made previously in these proceedings.

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Further, none of those earlier decisions dictates what your Phase 2 sentencing verdict should be with respect to each count of Murder in the First Degree.

At times during the proceedings, the attorneys have made objections. Do not draw any conclusions from the objections or from my rulings on the objections. These only related to legal questions I had to decide and should not influence your thinking. If I told you not to consider a particular statement that was made during the proceedings, you must not consider it in your deliberations. Similarly, if, during the proceedings, I sustained an objection to a question after a witness had already provided an answer or partial answer, you must not consider any part of that answer in your deliberations.

I may have asked questions of witnesses during the proceedings. That did not mean I had any opinion about the facts in the case.

Remarks and rulings I have made during the proceedings should not be understood by you as suggesting any opinion or feeling on my part as to what has or has not been proven in this case. Further, remarks and rulings I have made during the proceedings should not be understood by you as suggesting any opinion or feeling on my part as to what Phase 2 sentencing verdicts you should reach. I remind you that I am neutral in these proceedings.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

You are instructed that, despite your findings in Phase 1, a death sentence is never mandatory or required by law.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

You should consider all of the evidence presented throughout the proceedings relating to mitigating factors. Mitigating factors include:

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

A mitigating factor is not a justification or excuse for the crime. Rather, a mitigating factor is a fact or circumstance which, in fairness or mercy, may be considered as extenuating or reducing the degree of the defendant's moral culpability. Thus, mitigation refers to anything about a person or his offenses that weigh in favor of a life sentence for any juror.

Mitigation can include facts or circumstances about the crimes for which the defendant has been found guilty. But mitigation is not restricted to the events or circumstances related to the defendant's crimes. Indeed, mitigation does not need to have a link or connection to the defendant's crimes. Mitigation can also include facts or circumstances that bear on the defendant's moral culpability. Thus, mitigation can include, but is not limited to, a broad range of factors relating to the defendant's personal history, character, background, and mental health.

Mitigation is also not limited to evidence presented by the defense. Evidence of mitigation can come from any source and can be presented by either party. A juror may find a mitigating fact or circumstance in the evidence, even if it has not been specifically called to his or her attention by the parties. Likewise, a juror may consider as mitigation any evidence he or she finds to have mitigating value, even if such evidence has not been specifically presented or argued as mitigation. Therefore, any list of mitigating factors mentioned in these instructions

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cannot and does not limit your deliberations. The mitigating factors referenced in these instructions are examples of mitigation you may consider in reaching your Phase 2 sentencing verdicts. While you should pay careful attention to these mitigating factors, you are not restricted by them.

The Court instructs you that you may not in any fashion consider any mitigating factor as aggravation or as an aggravating factor. Nor may you ever consider a mitigating factor as a reason in favor of a death sentence.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

When you retire to deliberate on your Phase 2 sentencing verdicts, each juror must first independently determine with respect to each count whether one or more mitigating factors exist. This is an individual decision, not a group decision. The jury need not unanimously agree that mitigating factors exist or that the same mitigating factors exist. A juror may consider a mitigating factor without regard to whether the jury unanimously agrees about its existence. Each juror has the responsibility and authority to decide for himself or herself what constitutes a mitigating fact or circumstance. Each juror must use his or her own personal discretion, life experiences, and reasoned moral judgment in determining for himself or herself what mitigating factors exist.

Once a juror has determined that a mitigating factor exists with respect to a count, the juror must give that mitigating factor full or meaningful consideration and effect. The juror may give it any weight that he or she chooses. In other words, the juror may attach whatever significance to a mitigating factor that he or she feels is appropriate. But the juror may not give a mitigating factor he has determined exists no weight by excluding it from his or her deliberations or refusing to give it full or meaningful consideration and effect.

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Each juror must individually decide what weight to give to each mitigating factor he or she has determined exists with respect to a count. This, too, is an individual decision, not a group decision.

With respect to each count, each juror must weigh the mitigating factors that he or she has determined exist against the aggravating factors proven by the prosecution beyond a reasonable doubt in Phase 1. In weighing the mitigating factors and the aggravating factors on each count, each juror may emphasize any factor more than another, giving each factor as little or as much weight as the juror deems appropriate. Although in Phase 1 you were required to unanimously agree on whether at least one of the aggravating factors alleged by the prosecution with respect to each count was proven beyond a reasonable doubt, each of you must now decide individually, for yourself, what weight, if any, to give to each aggravating factor proven as to each count. Further, the only aggravating factors each of you may individually consider are the aggravating factors that you unanimously found to exist beyond a reasonable doubt in Phase 1 of the sentencing hearing. You cannot consider any other aggravating factors. (Copies of your verdicts forms from Phase 1 of the sentencing hearing will be provided with these instructions).

The process of individually weighing the mitigating factors each juror has determined exist and the aggravating factors proven by the prosecution beyond a

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reasonable doubt in Phase 1 is not a mere counting process. Your decision should not be mechanical or mathematical. Because the number of factors is not the only criteria you should use in the weighing process and is not determinative, you cannot merely count the number of aggravating factors and the number of mitigating factors with respect to each count and then compare the two totals. Nor should you merely assign arbitrary values to the aggravating factors and the mitigating factors and then subtract one value from the other. Rather, as to each count, the weighing process requires a critical evaluation of the mitigating factors and the aggravating factors so that you can make a reasoned moral judgment as to whether you are individually convinced beyond a reasonable doubt that the mitigating factors do not outweigh the aggravating factors. The exercise of your reasoned moral judgment must be based upon the evidence presented during the proceedings.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

Based upon your earlier verdicts, the defendant has been found guilty of 24 counts of Murder in the First Degree. As you know, there are two guilty verdicts for Murder in the First Degree with respect to each deceased victim because the prosecution pursued two theories of liability as to each deceased victim: Murder in the First Degree—After Deliberation and Murder in the First Degree—Extreme Indifference. The two guilty verdicts for each deceased victim will eventually merge into a single conviction for Murder in the First Degree, and, based solely on the jury's sentencing verdicts, the defendant will receive a single sentence for that conviction. Accordingly, the defendant will stand convicted of 12 Murders in the First Degree, and the jury's sentencing verdicts, alone, will determine the sentences for those crimes.

In Phase 1 of the sentencing hearing, you determined that the prosecution proved beyond a reasonable doubt four aggravating factors with respect to each count. You must again make 24 separate determinations in Phase 2 of the sentencing hearing. This time, as to each of the 24 counts of Murder in the First Degree, you must decide whether you are unanimously convinced beyond a reasonable doubt that the mitigating factors that exist do not outweigh the aggravating factors proven by the prosecution in Phase 1 of the sentencing hearing.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

You must treat the defendant as a uniquely individual human being. Further, in reaching your decisions in Phase 2 of the sentencing hearing, you must not be influenced by prejudice or bias of any sort against the defendant, and you must not consider any public opinion or community sentiment against him. Nor may your decisions in Phase 2 of the sentencing hearing be the result of mere bias, prejudice, passion, conjecture, or any other irrational or arbitrary emotional response.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

You may consider mercy for the defendant during Phase 2 of the sentencing hearing. Your exercise of mercy must be based upon the evidence presented during the proceedings.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

As to each count of Murder in the First Degree, the sentencing hearing will only continue to Phase 3 if the jury is unanimously convinced beyond a reasonable doubt that the mitigating factors that exist do not outweigh the aggravating factors proven by the prosecution in Phase 1 of the sentencing hearing. Regarding a count of Murder in the First Degree, if every juror is individually convinced beyond a reasonable doubt that the mitigating factors found to exist do not outweigh the aggravating factors proven by the prosecution in Phase 1 of the sentencing hearing, then the sentencing hearing will continue to Phase 3 on that count. Regarding a count of Murder in the First Degree, if every juror is not so convinced, then the sentencing hearing will end with respect to that count and, based solely on the jury's Phase 2 sentencing verdict, the defendant will be sentenced to life imprisonment without the possibility of parole on that count. Under Colorado law, a sentence to life imprisonment without the possibility of parole means that a person must spend the rest of his natural life in prison without the possibility of ever being paroled.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

Neither party has the burden to prove anything in Phase 2 of the sentencing hearing. The fact that a party may have chosen to present evidence in Phase 2 of the sentencing hearing does not change this rule. Similarly, the fact that a party may have chosen not to present evidence in Phase 2 of the sentencing hearing does not change this rule. In Phase 2 of the sentencing hearing, neither party bears the burden to convince you of anything, including with respect to whether mitigation exists, the weight to be given each aggravating factor and each mitigating factor, and the outcome of the weighing process.

While neither party has a burden of proof in Phase 2 of the sentencing hearing, the degree of certainty that is defined as “beyond a reasonable doubt” nevertheless applies in this phase of the sentencing hearing. As mentioned earlier, the sentencing hearing will only continue to Phase 3 if each juror is individually convinced beyond a reasonable doubt that the mitigating factors do not outweigh the aggravating factors. Thus, in Phase 2, the use of the term “beyond a reasonable doubt” does not refer to a party’s burden of proof; it refers to the level of moral certainty that each individual juror is required to have before he or she may conclude that the mitigating factors that exist do not outweigh the aggravating factors proven by the prosecution in Phase 1 of the sentencing hearing.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

Reasonable doubt means a doubt based upon reason and common sense which arises from a fair and rational consideration of all of the evidence, or the lack of evidence, in the proceedings. It is a doubt which is not a vague, speculative or imaginary doubt, but such a doubt as would cause reasonable people to hesitate to act in matters of importance to themselves.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

You are instructed that the fact that the prosecution seeks the death penalty in this case is entitled to no weight whatsoever in your decisions in Phase 2 of the sentencing hearing. No juror should allow himself or herself to be influenced or prejudiced against the defendant because of the fact that the prosecution seeks the death penalty.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

In reaching your Phase 2 sentencing verdicts, you may consider all of the evidence admitted during the proceedings. However, the evidence admitted during Phase 2 of the sentencing hearing for the limited purpose of determining the existence or absence of any mitigating factor may not be considered as evidence of aggravation or for any other purpose. You can only consider such evidence in your Phase 2 deliberations for the limited purpose for which it was admitted. Additionally, the evidence admitted during the trial for the limited purpose of considering the issues raised by the defendant's plea of not guilty by reason of insanity may only be considered now for a **different** limited purpose—for the limited purpose of determining the existence or absence of any mitigating factor. You cannot consider such evidence in your Phase 2 deliberations as evidence of aggravation or for any other purpose.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

The Court reminds you that a fact may be proven by either direct or circumstantial evidence. Under the law, both are acceptable ways to prove something. Neither is necessarily more reliable than the other.

Direct evidence is based on first-hand observation of the fact in question. For example, a witness's testimony that he or she looked out a window and saw snow falling might be offered as direct evidence that it had snowed.

Circumstantial evidence is indirect. It is based on observations of related facts that may lead you to reach a conclusion about the fact in question. For example, a witness's testimony that he or she looked out a window and saw snow covering the ground might be offered as circumstantial evidence that it had snowed.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

The Court reminds you that the number of witnesses testifying for or against a certain fact during the proceedings does not, by itself, prove or disprove that fact.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

The Court reminds you that you are the sole judges of the credibility of each witness who testified in these proceedings and the weight to be given to each witness's testimony. You should carefully consider all of the testimony given and the circumstances under which each witness has testified.

For each witness, consider that person's knowledge, motive, state of mind, demeanor, and manner while testifying. Consider the witness's ability to observe, the strength of that person's memory, and how that person obtained his or her knowledge. Consider any relationship the witness may have to either side of the case, and how each witness might be affected by the verdict. Consider how the testimony of the witness is supported or contradicted by other evidence in the case. You should consider all facts and circumstances shown by the evidence when you evaluate each witness's testimony.

You may believe all of the testimony of a witness, part of it, or none of it.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

The Court reminds you that you are not bound by the testimony of witnesses who testified as experts; the credibility of an expert's testimony is to be considered as that of any other witness. You may believe all of an expert witness's testimony, part of it, or none of it.

The weight you give the testimony is entirely your decision.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

Every citizen charged with a crime or convicted of Murder in the First Degree has the constitutional right not to testify. The defendant did not testify during the first trial or during Phase 1 or Phase 2 of the sentencing hearing, as was his right. You shall not draw any negative inference from his choice as to the punishment to be imposed or any other matter. You shall not allow his choice to prejudice him in any way. His decision not to testify cannot be used as a reason to support or impose the death penalty. You must not discuss the defendant's choice not to testify or permit it to enter into your Phase 2 deliberations in any way.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

You were permitted to submit written questions to witnesses during the trial. If a particular question was not asked, do not guess why the question was not asked or what the answer might have been. My decision not to ask a question submitted by a juror was not a reflection on the person asking it, and you should not attach any significance to the failure to ask a question. By making legal rulings on the admissibility of questions, I did not intend to suggest or express any opinion about the question. My decision whether or not to allow a question was based on the applicable rules of evidence and other rules of law, and not on the facts of this particular case. It is my responsibility to assure that all parties receive a fair trial according to the law and the rules of evidence.

The fact that certain questions were not asked must not affect your consideration of the evidence in any way. Do not give greater weight to questions, or answers to questions, that were submitted by yourself or your fellow jurors. In making your decisions, you must consider all of the evidence that has been presented.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

You have been allowed to take notes. Whether or not you took notes, you should rely on your memory as much as possible. The notes you took are to refresh your own memory. You should not give additional weight to the comments of any juror based upon the quantity or quality of his or her note-taking.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

Once you begin your deliberations, if you have a question, your foreperson should write it on a piece of paper, sign it, and give it to one of the bailiffs, who will bring it to me.

The Court will then determine the appropriate way to answer the question.

However, there may be some questions that, under the law, the Court is not permitted to answer. Please do not speculate about what the answer to your question might have been or why the Court is not able to answer a particular question.

Finally, please be sure to keep the original question and response. Do not destroy them, as they are part of the official record in this case, and must be returned to me when you return the instructions and verdict forms at the end of the case.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

There is no requirement that you articulate, explain, or justify to your fellow jurors why you reached a particular determination (whether with respect to the existence of mitigating factors, the weight assigned to each aggravating factor and each mitigating factor, or the weighing process). Nor are your decisions required to reflect the determinations, opinions, feelings, or thoughts of other jurors.

Nevertheless, it is your duty, as jurors, to consult with one another and to deliberate. After all, these are the jury's Phase 2 deliberations. Each of you must individually decide the issues for yourself after discussion and consideration of the evidence presented in the proceedings and these instructions of law with your fellow jurors.

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SENTENCING HEARING PHASE 2 INSTRUCTION NO. _____

Following the attorneys' closing arguments at the end of Phase 2 of the sentencing hearing, the bailiffs will escort you to the jury room so that you may deliberate. Your foreperson will preside over your deliberations.

You will be given 24 separate Phase 2 Sentencing Verdict Forms—one for each count of Murder in the First Degree. Each verdict form has two Sections: I and II. Your Phase 2 sentencing verdict on each count must be reflected in Section I or Section II of the verdict form for that count. You must make 24 separate determinations: as to each count, you must determine whether every juror is convinced beyond a reasonable doubt that the mitigating factors that exist do not outweigh the aggravating factors proven by the prosecution in Phase 1 of the sentencing hearing. The verdict forms shall be completed in the manner that reflects your decisions.

If, with respect to a count, the jury unanimously finds beyond a reasonable doubt that the mitigating factors that exist do not outweigh the aggravating factors proven by the prosecution in Phase 1 of the sentencing hearing, the Foreperson shall sign on the designated line in Section I, and the rest of the jurors shall sign on the other lines in Section II; in that event, the sentencing hearing will continue to Phase 3 on that count. If, with respect to a count, the jury does not so find, the foreperson should sign on the designated line in Section II; in that event, the

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sentencing hearing will end with respect to that count and, based solely on the jury's Phase 2 sentencing verdict, the defendant will be sentenced to life imprisonment without the possibility of parole on that count. Only one Section (Section I or Section II) should be completed.

Only one Phase 2 sentencing verdict shall be returned signed on each verdict form.

The Phase 2 Sentencing Verdict Forms and these instructions shall remain in the possession of your foreperson until I call for them in open court. Upon reaching your Phase 2 sentencing verdicts, you will inform the bailiffs, who in turn will notify me, and you will remain in your jury room until called into the courtroom.

I will now read a sample Phase 2 Sentencing Verdict Form. You must not draw any inferences based on the verdict form I have selected to read to you.

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**

PHASE 2 SENTENCING VERDICT FORM

COUNT 1

MURDER IN THE FIRST DEGREE—AFTER DELIBERATION

(Jonathan Blunk)

Phase II Sentencing Verdict Question: Does the jury unanimously find beyond a reasonable doubt that the mitigating factors that exist do not outweigh the aggravating factors proven by the prosecution in Phase 1 of the sentencing hearing?

I.* Answer to Phase II Sentencing Verdict Question: YES

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

FOREPERSON

II.** Answer to Phase II Sentencing Verdict Question: NO

FOREPERSON

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* If the answer to the Phase 2 Sentencing Verdict Question is "YES," the Foreperson shall sign on the designated line in Section I, and the rest of the jurors shall sign on the other lines in Section I; in that event, the sentencing hearing will continue to Phase 3 on this count. Only one Section (Section I or Section II) shall be completed.

** If the answer to the Phase 2 Sentencing Verdict Question is "NO," the foreperson shall sign on the designated line in Section II; in that event, the sentencing hearing will end with respect to this count and, based solely on the jury's Phase 2 sentencing verdict, the defendant will be sentenced to life imprisonment without the possibility of parole on this count. Only one Section (Section I or Section II) shall be completed.