

County Court District Court
Boulder County, State of Colorado
Justice Center
1777 Sixth Street
Boulder, CO 80302

DATE FILED
September 20, 2024 10:27 AM

THE PEOPLE OF THE STATE OF COLORADO

v.

**Ahmad Al Aliwi Alissa,
Defendant.**

Case No: D0072021CR000497

DIV: 13

INSTRUCTIONS TO THE JURY

JURY INSTRUCTION NO. 1

Members of the jury, the evidence in this case has been completed. In a moment, I will read to you jury instructions that contain the rules of law you must apply to reach your verdict. You will have copies of what I read to take with you to the jury room. But first, I want to mention a few things you need to keep in mind when you are discussing this case in the jury room.

Until you have returned a verdict, you must not do any research about this case or this kind of case using any source, including dictionaries, reference materials, the internet, or any other electronic means. You must not communicate in any way with anyone else about this case or this kind of case until you have returned a verdict in court. This includes your family and friends. If you have a cell phone or other electronic device, you must keep it turned off during jury deliberations.

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.

During the trial, you received all of the evidence that you may properly consider in deciding the case. Your decision must be made by applying the rules of law that I give you to the evidence presented at trial. Remember, you must not be influenced by sympathy, bias or prejudice in reaching your decision.

You should not allow bias or any kind of prejudice based upon gender to influence your decision. You must also not be biased for or against the defendant, any witness, or any other party based on any identifying characteristic such as race, religion, age, gender, gender identity, gender expression, sexual orientation, ethnicity, national origin, disability, socioeconomic status, or any other such characteristic. You must not allow bias to influence your verdict.

Remember that you must also guard against unconscious bias (also called implicit bias). Unconscious biases are stereotypes, perceptions, attitudes, or preferences that people may hold without being aware of them. Such biases can affect how we evaluate information and make decisions. You must not allow unconscious bias to influence your verdict.

One way to guard against unconscious bias is to ask yourself, during your deliberations, whether your views and conclusions would be different if the defendant or the witnesses were of a different race, religion, age, gender, gender identity, gender expression, sexual orientation, ethnicity, national origin, disability, socioeconomic status, or any other such characteristic. If the answer is yes, then you should reconsider your views and conclusions along with the other jurors, and make sure that your decision is based on the evidence and not on any such stereotypes, perceptions, attitudes, or preferences.

If you decide that the prosecution has proved beyond a reasonable doubt that Mr. Alissa is guilty and that he was sane, it will be my job to decide what the punishment will be. In making your decision, you must not consider punishment at all. At times during the trial, attorneys 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 trial, you must not consider it in your deliberations.

Finally, you should consider all the evidence in light of your experiences in life.

JURY INSTRUCTION NO. 2

The charges against Mr. Alissa are not evidence. The charges against Mr. Alissa are just accusations. The fact that Mr. Alissa has been accused is not evidence that Mr. Alissa committed any crime.

Mr. Alissa is charged with committing the crimes of Murder in the First Degree (10 counts), Attempted Murder in the First Degree (38 counts), Assault in the First Degree (a single count), and Possessing a Large Capacity Magazine (6 counts) in Boulder County, Colorado, on or about March 22, 2021.

Mr. Alissa has pleaded not guilty by reason of insanity.

JURY INSTRUCTION NO. 3

Every person charged with a crime is presumed innocent, including a person such as Mr. Alissa who has plead not guilty by reason of insanity. The presumption of innocence remains with Mr. Alissa throughout the trial and into deliberations. This presumption of innocence remains with Mr. Alissa throughout the trial and should be given effect by you unless, after considering all of the evidence, you are then convinced that Mr. Alissa is guilty and that he was sane beyond a reasonable doubt.

The burden of proof is upon the prosecution to prove to the satisfaction of the jury beyond a reasonable doubt the existence of all of the elements necessary to constitute the crime charged. This includes a duty to disprove Mr. Alissa's insanity beyond a reasonable doubt.

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 case. 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.

If you find from the evidence that each and every element of a crime has been proven beyond a reasonable doubt and that Mr. Alissa was sane, you should find Mr. Alissa guilty of that crime. If you find from the evidence that the prosecution has failed to prove any one or more of the elements of a crime beyond a reasonable doubt, you should find Mr. Alissa not guilty of that crime.

JURY INSTRUCTION NO. 4

Insanity is an affirmative defense. The prosecution must prove Mr. Alissa's guilt beyond a reasonable doubt as to the affirmative defense as well as to all elements of the crime charged. If the jury is not convinced beyond a reasonable doubt of Mr. Alissa' guilt and sanity after considering the evidence of the affirmative defense and all other evidence, you must return a not guilty verdict.

Every criminal defendant is presumed sane, but once any evidence of insanity is introduced at trial, the burden of proof is on the government to prove sanity beyond a reasonable doubt.

JURY INSTRUCTION NO. 5

In this case a separate offense is charged against Mr. Alissa in each count of the information. 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. The fact that you may find Mr. Alissa guilty or not guilty of one of the offenses charged, should not control your verdict as to any other offense charged against Mr. Alissa.

Mr. Alissa may be found guilty or not guilty of any one or all of the offenses charged.

JURY INSTRUCTION NO. 6

The number of witnesses testifying for or against a certain fact does not, by itself, prove or disprove that fact.

JURY INSTRUCTION NO. 7

You are the sole judges of the credibility of each witness and the weight to be given to the 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.

JURY INSTRUCTION NO. 8

During the trial, witnesses testified in a language other than English, which was then translated into English by an official interpreter. Although some of you may know the other language, it is important that all jurors consider the same evidence. Therefore, you must only consider the English translation as provided by the interpreter.

JURY INSTRUCTION NO. 9

You are not bound by the testimony of witnesses who have 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.

JURY INSTRUCTION NO. 10

Every defendant has a constitutional right not to testify. The decision not to testify cannot be used as an inference of guilt, or his sanity at the time of the offense, and cannot prejudice Mr. Alissa. It is not evidence, does not prove anything, and must not be considered for any purpose.

JURY INSTRUCTION NO. 11

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.

JURY INSTRUCTION NO. 12

The court admitted certain evidence for a limited purpose.

At that time you were instructed not to consider it for any purpose other than the limited purpose for which it was admitted.

JURY INSTRUCTION NO. 13

The credibility of a witness may be discredited by showing that the witness has been convicted of a felony. A previous conviction is one factor which you may consider in determining the credibility of the witness. You must determine the weight to be given to any prior conviction when considering the witness's credibility.

JURY INSTRUCTION NO. 14

In the following counts, Mr. Alissa is charged with Murder in the First Degree (after deliberation) of the following persons:

- Count 1- Neven Stanisic
- Count 2- Kevin Mahoney
- Count 3- Tralona Bartkowiak
- Count 4- Rikki Olds
- Count 5- Denny Stong
- Count 6- Lynn Murray
- Count 7- Teri Leiker
- Count 8- Jody Waters
- Count 9- Suzanne Fountain

JURY INSTRUCTION NO. 15

This instruction pertains to Counts 1 through 9 of the Complaint and Information.

The elements of the crime of Murder in the First Degree (after deliberation) 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 32.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find Mr. Alissa guilty of Murder in the First Degree.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of elements 1-6 beyond a reasonable doubt, you should find Mr. Alissa not guilty of Murder in the First Degree.

If you find the prosecution has failed to prove element 7 beyond a reasonable doubt, you should find Mr. Alissa not guilty by reason of insanity.

JURY INSTRUCTION NO. 16

In the following count, Mr. Alissa is charged with Murder in the First Degree (peace officer) of the following person:

Count 10- Eric Talley

JURY INSTRUCTION NO. 17

This instruction pertains to Count 10 of the Complaint and Information.

The elements of the crime of Murder in the First Degree (peace officer) 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, and
7. the victim was a peace officer, firefighter, or emergency medical service provider, engaged in the performance of his or her duties,
8. and that the defendant was not insane, as defined in Instruction 32.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find Mr. Alissa guilty of Murder in the First Degree.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of elements 1-7 beyond a reasonable doubt, you should find Mr. Alissa not guilty of Murder in the First Degree.

If you find the prosecution has failed to prove element 8 beyond a reasonable doubt, you should find Mr. Alissa not guilty by reason of insanity.

JURY INSTRUCTION NO. 18

In the following counts, Mr. Alissa is charged with Attempt to Commit Murder in the First Degree (extreme indifference) of the following persons:

- Count 11- Angela Peacock
- Count 12- Casey Taylor
- Count 13- Hadyn Steele
- Count 14- Khagendra Malla
- Count 15- Jacqueline Keeton
- Count 16- Paul Johnson
- Count 17- Kymberly Brekhus
- Count 18- Mykah Huang
- Count 19- Tasia Beresford
- Count 20- Patrick Kruse
- Count 21- James Graham
- Count 22- Kelly Rae Dorr
- Count 24- Sarah Moonshadow
- Count 26- Nick Edwards
- Count 28- Christopher Tatum

JURY INSTRUCTION NO. 19

This instruction pertains to Counts 11 through 22, 24, 26, and 28 of the Complaint and Information.

The elements of the crime of Attempt to Commit Murder in the First Degree (extreme indifference) are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged.
3. under circumstances evidencing an attitude of universal malice manifesting extreme indifference to the value of human life generally,
4. knowingly,
5. engaged in conduct which created a grave risk of death to a person, or persons, other than himself, and
6. engaged in conduct constituting a substantial step toward the commission of Murder in the First Degree (extreme indifference),
7. and that the defendant's conduct was not legally authorized by the affirmative defense of insanity as defined in Instruction 32.

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 the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find Mr. Alissa guilty of Criminal Attempt to commit Murder in the First Degree (extreme indifference).

After considering the evidence, if you decide the prosecution has failed to prove any one or more of the elements 1 through 6 beyond a reasonable doubt, you should find Mr. Alissa not guilty of Criminal Attempt to commit Murder in the First Degree (extreme indifference).

If you find that the prosecution has failed to prove element 7 beyond a reasonable doubt, you should find Mr. Alissa not guilty by reason of insanity.

JURY INSTRUCTION NO. 20

In the following counts, Mr. Alissa is charged with Attempt to Commit Murder in the First Degree (after deliberation) of the following persons:

Count 23- Sarah Moonshadow

Count 25- Nick Edwards

Count 27- Christopher Tatum

JURY INSTRUCTION NO. 21

This instruction pertains to Counts 23, 25, and 27 of the Complaint and Information.

The elements of the crime of Attempt to Commit Murder in the First Degree (after deliberation) 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, and
6. engaged in conduct constituting a substantial step toward the commission of Murder in the First Degree (after deliberation),
7. and that the defendant's conduct was not legally authorized by the affirmative defense of insanity as defined in Instruction 32.

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 the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find Mr. Alissa guilty of Criminal Attempt to commit Murder in the First Degree (after deliberation).

After considering the evidence, if you decide the prosecution has failed to prove any one or more of the elements 1 through 6 beyond a reasonable doubt, you should find Mr. Alissa not guilty of Criminal Attempt to commit Murder in the First Degree (after deliberation).

If you find that the prosecution has failed to prove element 7 beyond a reasonable doubt, you should find Mr. Alissa not guilty by reason of insanity.

JURY INSTRUCTION NO. 22

In the following counts, Mr. Alissa is charged with Attempt to Commit Murder in the First Degree (extreme indifference) (peace officer) of the following persons:

- Count 29- Bryan Capobianco
- Count 30- Pam Gignac
- Count 32- Richard Steidell
- Count 34- Bryan Plyter
- Count 36- Alexander Kicera
- Count 38- Jenny Schmeits
- Count 40- D.J. (Richard) Smith
- Count 42- Bryan Capobianco
- Count 44- Brandon Braun
- Count 46- Michael West
- Count 47- Jeffrey Brunkow
- Count 48- Samuel Kilburn

JURY INSTRUCTION NO. 23

This instruction pertains to Counts 29, 30, 32, 34, 36, 38, 40, 42, 44, and 46-48 of the Complaint and Information.

The elements of the crime of Attempt to Commit Murder in the First Degree (extreme indifference) (peace officer) are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged.
3. under circumstances evidencing an attitude of universal malice manifesting extreme indifference to the value of human life generally,
4. knowingly,
5. engaged in conduct which created a grave risk of death to a person, or persons, other than himself, and
6. engaged in conduct constituting a substantial step toward the commission of Murder in the First Degree (extreme indifference) (peace officer),
7. and that the defendant's conduct was not legally authorized by the affirmative defense of insanity as defined in Instruction 32.

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 the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find Mr. Alissa guilty of Criminal Attempt to commit Murder in the First Degree (extreme indifference) (peace officer).

After considering the evidence, if you decide the prosecution has failed to prove any one or more of the elements 1 through 6 beyond a reasonable doubt, you should find Mr. Alissa not guilty of Criminal Attempt to commit Murder in the First Degree (extreme indifference) (peace officer).

If you find that the prosecution has failed to prove element 7 beyond a reasonable doubt, you should find Mr. Alissa not guilty by reason of insanity.

JURY INSTRUCTION NO. 24

In the following counts, Mr. Alissa is charged with Attempt to Commit Murder in the First Degree (after deliberation) (peace officer) of the following persons:

- Count 31- Richard Steidell
- Count 33- Bryan Plyter
- Count 35- Alexander Kicera
- Count 37- Jenny Schmeits
- Count 39- D.J. (Richard) Smith
- Count 41- Bryan Capobianco
- Count 43- Brandon Braun
- Count 45- Michael West

JURY INSTRUCTION NO. 25

This instruction pertains to Counts 31, 33, 35, 37, 39, 41, 43, and 45 of the Complaint and Information.

The elements of the crime of Attempt to Commit Murder in the First Degree (after deliberation) (peace officer) 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, and
6. engaged in conduct constituting a substantial step toward the commission of Murder in the First Degree (after deliberation) (peace officer),
7. and that the defendant's conduct was not legally authorized by the affirmative defense of insanity as defined in Instruction 32.

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 the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find Mr. Alissa guilty of Criminal Attempt to commit Murder in the First Degree (after deliberation).

After considering the evidence, if you decide the prosecution has failed to prove any one or more of the elements 1 through 6 beyond a reasonable doubt, you should find Mr. Alissa not guilty of Criminal Attempt to commit Murder in the First Degree (after deliberation).

If you find that the prosecution has failed to prove element 7 beyond a reasonable doubt, you should find Mr. Alissa not guilty by reason of insanity.

JURY INSTRUCTION NO. 26

If you find Mr. Alissa not guilty or not guilty by reason of insanity of Attempt to Commit Murder in the First Degree, you should disregard this instruction and sign the verdict form to indicate your not guilty verdict.

If, however, you find Mr. Alissa guilty of any of the Attempt to Commit Murder in the First Degree in Counts 11-48, you should sign the verdict form to indicate your finding of guilt, and answer the following verdict question on the verdict form:

Did Mr. Alissa use, or possess and threaten the use of, a deadly weapon? (Answer “Yes” or “No”)

Mr. Alissa 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 Attempt to Commit Murder in the First Degree, or in the immediate flight therefrom.

The prosecution has the burden to prove each numbered condition beyond a reasonable doubt.

After considering all the evidence, if you decide the prosecution has met this burden, you should mark “Yes” in the appropriate place, and have the foreperson sign the designated line of the verdict form.

After considering all the evidence, if you decide the prosecution has failed to meet this burden, you should mark “No” in the appropriate place, and have the foreperson sign the designated line of the verdict form.

JURY INSTRUCTION NO. 27

This instruction pertains to Count 49 (Elan Shakti) of the Complaint and Information.

The elements of the crime of Assault in the First Degree are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. under circumstances manifesting extreme indifference to the value of human life,
5. engaged in conduct which created a grave risk of death to another person, and
6. thereby caused serious bodily injury to Elan Shakti.
7. and that the defendant's conduct was not legally authorized by the affirmative defense of insanity as defined in Instruction 32.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find Mr. Alissa guilty of Assault in the First Degree.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements 1 through 6 beyond a reasonable doubt, you should find Mr. Alissa not guilty of Assault in the First Degree.

If you find that the prosecution has failed to prove element 7 beyond a reasonable doubt, you should find Mr. Alissa not guilty by reason of insanity.

JURY INSTRUCTION NO. 28

This instruction pertains to Counts 50 through 55 of the Complaint and Information

The elements of the crime of Possession of a Large-Capacity Magazine are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. possessed a large-capacity magazine.
4. and that the defendant's conduct was not legally authorized by the affirmative defense of insanity as defined in Instruction 32.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find Mr. Alissa guilty of Possession of a Large Capacity Magazine.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements 1 through 3 beyond a reasonable doubt, you should find Mr. Alissa not guilty of Possession of a Large Capacity Magazine.

If you find that the prosecution has failed to prove element 4 beyond a reasonable doubt, you should find Mr. Alissa not guilty by reason of insanity.

JURY INSTRUCTION NO. 29

If you find Mr. Alissa not guilty or not guilty by reason of insanity of Possession of a Large-Capacity Magazine, you should disregard this instruction and fill out the verdict form reflecting your not guilty verdict.

If, however, in Counts 50-55 you find Mr. Alissa guilty of any of the Possession of a Large Capacity Magazine, you should sign the verdict form to indicate your finding of guilt, and answer the following verdict question:

Did Mr. Alissa possess the large-capacity magazine during commission of a specified crime? (Answer “Yes” or “No”)

Mr. Alissa possessed the large-capacity magazine during the commission of a specified crime only if:

1. the defendant possessed a large-capacity magazine during the commission of Murder in the First Degree, as defined in your instructions.

The prosecution has the burden to prove the numbered condition beyond a reasonable doubt.

After considering all the evidence, if you decide the prosecution has met this burden, you should mark “Yes” in the appropriate place, and have the foreperson sign the designated line of the verdict form.

After considering all the evidence, if you decide the prosecution has failed to meet this burden, you should mark “No” in the appropriate place, and have the foreperson sign the designated line of the verdict form.

JURY INSTRUCTION NO. 30

A crime is committed when a defendant has committed a voluntary act prohibited by law, together with a culpable state of mind.

“Voluntary act” means an act performed consciously as a result of effort or determination.

Proof of the voluntary act alone is insufficient to prove that Mr. Alissa had the required state of mind.

The culpable state of mind is as much an element of the crime as the act itself and must be proven beyond a reasonable doubt, either by direct or circumstantial evidence.

In this case, the applicable states of mind are explained below:

The term “after deliberation” means not only intentionally, but also that the decision to commit the act has been made after the exercise of reflection and judgment concerning the act. An act committed after deliberation is never one which has been committed in a hasty or impulsive manner.

A person acts “intentionally” or “with intent” when his conscious objective is to cause the specific result proscribed by the statute defining the offense. It is immaterial whether or not the result actually occurred.

A person acts “knowingly” with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of such a nature or that such a circumstance exists. A person acts “knowingly” with respect to a result of his conduct, when he is aware that his conduct is practically certain to cause the result.

JURY INSTRUCTION NO. 31

In this case, certain words and phrases have particular meanings.

Accordingly, you are to use the following definitions where these words and phrases appear in instructions that define crimes, defenses, special rules, and verdict questions.

“Deadly weapon” means a firearm, whether loaded or unloaded.

“Large-capacity magazine” means a fixed or detachable magazine, box, drum, feed strip, or similar device capable of accepting, or that is designed to be readily converted to accept, more than fifteen rounds of ammunition; a fixed, tubular shotgun magazine that holds more than twenty-eight inches of shotgun shells, including any extension device that is attached to the magazine and holds additional shotgun shells; or a nontubular, detachable magazine, box, drum, feed strip, or similar device that is capable of accepting more than eight shotgun shells when combined with a fixed magazine.

“Large-capacity magazine” does not mean a feeding device that has been permanently altered so that it cannot accommodate more than fifteen rounds of ammunition; an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition; or a tubular magazine that is contained in a lever-action firearm.

“Peace officer” means a person who is included within the provisions set forth below, and who meets all standards imposed by law as described in the provisions set forth below, is a “peace officer”: A police officer, including a chief of police employed by a municipality, is a peace officer whose authority shall include the enforcement of all laws of the state of Colorado.

A peace officer is “engaged in the performance of his or her duties” if he or she is engaged or acting in, or is present for the purpose of engaging or acting in, the performance of any duty, service, or function imposed, authorized, required, or permitted by law to be performed by a peace officer, whether or not the peace officer is within the territorial limits of his or her jurisdiction, if the peace officer is in uniform or the person committing the assault upon or offense against or otherwise acting toward the peace officer knows or reasonably should know that the victim is a peace officer.

“Person” refers to a human being who had been born and was alive at the time of the homicidal act.

“Possession” constitutes a “voluntary act” if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to have terminated it.

“Serious bodily injury” means bodily injury that, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, a penetrating knife or penetrating gunshot wound, or burns of the second or third degree.

“Universal malice” means conduct evidencing a willingness to take human life indiscriminately.

JURY INSTRUCTION NO. 32

The evidence in this case has raised the defense of insanity, as a defense to the crimes of Murder in the First Degree, Criminal Attempt to Commit Murder in the First Degree, First Degree Assault, and Unlawful Possession of a Large-Capacity Magazine.

Mr. Alissa was insane at the time of the commission of the acts 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.

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 acts. In order to meet this burden of proof, the prosecution must disprove, beyond a reasonable doubt, both of the above numbered conditions.

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 that the defendant was sane at the time of the commission of the acts, which is an essential element of Murder in the First Degree, Criminal Attempt to Commit Murder in the First Degree, First Degree Assault, and Unlawful Possession of a Large-Capacity Magazine. In that event, you must find the defendant not guilty and have the foreperson sign the designated section of Part A of the verdict forms to indicate your verdicts.

After considering all the evidence, if you decide the prosecution has met this burden of proof, then the prosecution has proved that the defendant was not insane at the time of the commission of the acts. In that event, your verdicts concerning the charges of Murder in the First

Degree, Criminal Attempt to Commit Murder in the First Degree, First Degree Assault, and Unlawful Possession of a Large-Capacity Magazine must depend upon your determination whether the prosecution has met its burden of proof with respect to the remaining elements of those offenses.

JURY INSTRUCTION NO. 33

Mr. Alissa need only be insane at the time of the commission of the crime to be found not guilty by reason of insanity. The relevant period of time for determining sanity or insanity is the time of the offense. Insanity could be temporary in nature, or long-term.

JURY INSTRUCTION NO. 34

The question of sanity in a criminal case is an issue of fact to be determined by the trier of fact.

When evidence of sanity is in dispute, the fact-finder must resolve the conflict in the testimony, and weigh all relevant evidence to determine whether the defendant was legally insane at the time of the act.

JURY INSTRUCTION NO. 35

This is an informational instruction and must have no persuasive bearing on the verdict you arrive at under the evidence.

If Mr. Alissa is found not guilty by reason of insanity, it is the court's duty to commit Mr. Alissa to the Department of Human Services. The Executive Director of the Department of Human Services shall designate the state facility at which the defendant shall be held for care and psychiatric treatment and may transfer the defendant from one facility to another if, in the opinion of the Director, it is desirable to do so in the interest of the proper care, treatment, and custody of Mr. Alissa or the protection of the public.

Mr. Alissa will not be released from commitment unless the court determines, after holding a hearing on release, that Mr. Alissa has no abnormal mental condition which would be likely to cause him to be dangerous to himself or to others or to the community in the reasonably foreseeable future.

A release hearing may be ordered by the court on its own motion, or upon motion of the prosecuting attorney or Mr. Alissa. The court need not hold a hearing unless the medical documentation is favorable to Mr. Alissa or unless Mr. Alissa demonstrates that there is favorable medical evidence to support his release.

At the hearing, Mr. Alissa would have the burden to prove by a preponderance of the evidence that he has no abnormal mental condition which would be likely to cause him to be dangerous either to himself or to others or to the community in the reasonably foreseeable future. Mr. Alissa's commitment to the Department of Human Services upon a finding of not guilty by reason of insanity is indefinite unless the conditions described above are met.

If Mr. Alissa is found not guilty by reason of insanity, he will never again be tried on the merits of the criminal charges filed against him.

JURY INSTRUCTION NO. 36

It is Mr. Alissa's theory of defense that he was insane at the time of the commission of the acts. Mr. Alissa asserts that he suffers from a chronic and serious mental illness with psychotic features which falls within the schizophrenia spectrum of disorders. Mr. Alissa further asserts that in the fall of 2020 into the winter of 2021, his mental illness worsened.

Mr. Alissa acknowledges that he engaged in planning and preparation, but asserts that he did so as a result of his delusional beliefs and psychotic thought processes, and that his purpose for engaging in planning and preparation was to pursue these psychotic delusions.

Mr. Alissa maintains that his delusional belief system was borne of his mental illness, obscured his ability to make moral distinctions, and rendered him incapable of understanding that his actions were wrong from a societal perspective of morality. Mr. Alissa further asserts that his delusional beliefs interfered with his ability to act with reflection and judgment concerning the charged offenses.

JURY INSTRUCTION NO. 37

Members of the jury, you may discuss this case only when you are all present and you may only deliberate in the jury room. No juror should attempt to discuss this case with other jurors or anyone else at any other time except when all jurors are in the jury room.

JURY INSTRUCTION NO. 38

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 the bailiff, 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.

JURY INSTRUCTION NO. 39

The bailiff will now 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 verdict form that you may agree on, according to the rules that I am about to explain.

The verdict for each charge must represent the considered judgment of each juror, and it must be unanimous. In other words, all of you must agree to all parts of it.

Only one verdict shall be returned signed for each count. The verdict forms and these instructions shall remain in the possession of your foreperson until I ask for them in open court. Upon reaching a verdict you will inform the bailiff, 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 55 verdict forms.

When you have unanimously agreed upon your verdict you will select the option on each form which reflects your verdict, and the foreperson will sign the verdict forms as I have stated.

I will now read to you the verdict forms. You must not draw any inferences based on the order in which I read them. The verdict forms you will receive read as follows: