

FIRST DEGREE MURDER--SPECIAL INSTRUCTION FOR ACCESSORY BEFORE THE FACT. CLASS A FELONY. G.S. 14-5.2.

NOTE WELL: *If there is evidence that defendant, though aiding and abetting, was not present at the scene of the crime and there was testimony against him by one or more principals, co-conspirators, or accessories to the crime, the following instructions should be given after the instruction on the sixth element in N.C.P.I.--Crim. 206.10 and 206.11, or immediately before the final mandate to N.C.P.I.--Crim. 206.14 and 206.15. (See G.S. 14-5.2; see also footnote 2 of N.C.P.I.--Crim. 206.10 or footnote 3 of N.C.P.I.--Crim. 206.14, or 206.15.)*

If you find the defendant guilty of murder in the first degree, you must then determine whether his conviction was based solely on the uncorroborated testimony of one or more principals, co-conspirators, or accessories to this crime.

By uncorroborated testimony I mean testimony of one or more [principals] (or) [co-conspirators] (or) [accessories] that is not supported or confirmed by other evidence, (either) from [(an)other witness(es)] (or) [exhibits] (or) [objects] that have been admitted into evidence in this case.

Corroborate means to add weight or credibility by additional and confirming facts or evidence. Corroborating evidence tends to strengthen or confirm the evidence.

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(A principal is a person who actually committed the crime (or who, being present at the scene, assisted, aided, or advised [another] [others] to commit it).)

(A co-conspirator is one who participates with the defendant in a plan to commit a crime. (The same person can be both a co-conspirator and a principal, or a co-conspirator and an accessory before the fact in a given crime.))

(An accessory is a person who [A] was not present at the scene when the crime was committed, but who participated in the planning of the crime in such a way as to counsel, procure, command or knowingly aid the principal(s) to commit it, and whose statements or actions caused or contributed to the commission of the crime (or) [B] knowing of the completed crime, gave aid or assistance to the person(s) who committed it, for the purpose of hindering that person's [detection] [arrest] [conviction] (or) [punishment].)

(For you to find that the conviction was not based solely on the uncorroborated testimony of (*name witness*), the State must prove to you beyond a reasonable doubt that there was other evidence in addition to the testimony of the witness to establish the defendant's guilt.) (The testimony of a witness does not become corroborated merely because that witness may have told one or more persons, or even a hundred people, who then repeat it on the witness stand.)

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If you find from the evidence beyond a reasonable doubt that the conviction was not based solely on the uncorroborated testimony of one or more principals, co-conspirators, or accessories to this crime, you will answer "yes" to that issue on the verdict form.

If you have a reasonable doubt on this issue, or if you find that the conviction was based solely on the uncorroborated testimony of one or more principals, co-conspirators, or accessories, you will answer "no" to that issue on the verdict form.

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*NOTE WELL: It is suggested that the following be inserted after the first degree murder finding in the verdict form given the jury when they retire for deliberation.*

2. Has the State proved to you beyond a reasonable doubt that there was other evidence in addition to the testimony of (name witness(es)) to establish the defendant's guilt?

Answer (yes or no) \_\_\_\_\_.

