

**Errata** 10/01/21

**Case Packet:**

1. **Page 13, line 18:** add

**Procedural Explanation of the Lesser Included Offense of Voluntary Manslaughter**

The prosecution will argue that the defendant committed first-degree murder when the defendant (1) intentionally obtained a rattlesnake, (2) cut off its rattle, and (3) placed it in the victim's mailbox in order to kill him. Alternatively, the prosecution will argue that if the court finds the defendant acted under the heat of passion and in response to the victim's provocation, then the defendant should be convicted of voluntary manslaughter. First-degree murder is a greater offense of murder, and voluntary manslaughter is the lesser included offense. The crimes are mutually exclusive, so the defendant cannot be convicted of both. The prosecution will argue that the judge should:

- find the defendant guilty of murder; but
- if the judge finds the defendant not guilty of murder, then they should find the defendant guilty of manslaughter; and
- In no event should the judge find the defendant not guilty of both offenses.

The defense will argue: (1) the defendant did not place the rattlesnake in the mailbox, (2) the defendant had no intent to murder, and (3) even if the court finds the defendant put the rattlesnake in the mailbox, the act was committed under heat of passion and in response to adequate provocation, so therefore only guilty of voluntary manslaughter. The defense will argue that the judge should:

- find the defendant not guilty of murder and not guilty of manslaughter; but
- if the judge finds the defendant guilty, then it should only be for manslaughter, and the judge should still find the defendant not guilty of murder; and
- in no event should the judge find the defendant guilty of murder of any kind.

2. **STIPULATION - Page 15, line 19:** add "20. As Smith opened the mailbox door, a snake that was coiled in the box bit deep into Smith's left wrist."

3. **Page 36, line 31-35:** delete "A moment later I heard a loud scream coming from Smith's direction. I looked over and saw Smith stepping away from the mailbox and trying to shake off what looked like a snake from Smith's hand or wrist." And replace with "A moment later I looked up and saw Smith open the mailbox door, reach in, and then step away and scream trying to shake off what looked like a snake hanging from Smith's hand or wrist."

4. **Page 40, line 25 and line 32:** delete "[“ and “]"