

Ala. Code 1975, § 13A-5-40(a)(10)

Murder of Two or More Persons (Single Act)

The defendant is charged with capital murder. The law states that the intentional murder of two or more persons is capital murder.

A person commits intentional murder of two or more persons if he causes the death of two or more people and, in performing the act that cause the deaths of those people, he intends to kill each of those people.

To convict, the State must prove beyond a reasonable doubt each of the following elements of an intentional murder of two or more persons:

- (1) That (named of first deceased) is dead;
- (2) That (name of second deceased) is dead;
- (3) That the defendant (name of the defendant) caused the deaths of (name of the first deceased) and (name of the second deceased) by one act by (state the alleged act, e.g., shooting) them; and
- (4) That in committing the act that caused the deaths of both (name of first deceased) and (name of second deceased) the defendant intended to kill the deceased or another person.

A person acts intentionally when it is his purpose to cause the death of another person. The intent to kill must be real and specific.

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of the offense of intentional murder of two or more persons, as charged, then you shall find the defendant guilty of capital murder.

If you find the State has failed to prove beyond a reasonable doubt any one or more of the elements of the offense of intentional murder of two or more persons, then you cannot find the defendant guilty of capital murder.

[If lesser-included offenses are included, the court should instruct on those offenses at this point.]

Use Notes

If more than two deceased are named in the indictment, the State must prove only that at least two of the named deceased, as opposed to all the named deceased, were murdered by the defendant's act.

For this charge to be applicable, a single act of the defendant must have caused the death of the victims. For example: arson in which two or more persons are killed; an explosion in which two or more persons are killed, etc.

If evidence exists that the accused was intoxicated at the time of the charged intentional crime, the defendant is entitled to an instruction on lesser-included offenses. See *Fletcher v. State*, 621 So. 2d 1010 (Ala. Crim. App. 1993).

[Adopted 7-30-10.]