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CONFESSIONS OR ADMISSIONS

DRAFT

You have heard evidence that the defendant made [a confession] [admissions]. The burden is on the State to prove beyond a reasonable doubt that the [confession] [admissions] [was] [were] voluntary. Unless you are convinced that the State has proven beyond a reasonable doubt that the [confession was] [admissions were] voluntary, you must not consider [it] [them] in reaching a verdict. If you decide that the defendant gave [a confession] [admissions] freely and voluntarily, then you may use the [confession] [admissions] together with all the other evidence in reaching a verdict.

[A confession is] [Admissions are] involuntary when there is overreaching or coercive conduct by the police to such an extent that it induced the defendant to make the [confession] [admissions]. However, [a confession is] [admissions are] not involuntary simply because [it was] [they were] the product of questioning, or made while the defendant was in custody, or made without the defendant's lawyer present, or made without the defendant being warned that [he] [she] had a right to remain silent and that any statements could be used against [him] [her]. Nor [is a confession] [are admissions] involuntary simply because the police made a promise to the defendant, provided [him] [her] with false information, or confronted [him] [her] with incriminating evidence. However, you should consider all such circumstances in deciding whether the [confession was] [admissions were] given freely and voluntarily.

The basic test is whether the police exerted such an influence over the defendant that [his] [her] will was overborne. In making this decision, you should consider all of the circumstances surrounding the defendant's statements, including the time and place the [confession] [admissions] occurred, the length of time the defendant was questioned, and the physical and mental condition of the defendant. You may also consider the age, education, experience, character and intelligence of the defendant to the extent that you have heard such evidence. However, unless the police engaged in overreaching or coercive conduct when considered in relation to the defendant's condition and capabilities, you should not find a statement involuntary simply because of the particular characteristics of the defendant.

State v. Phimney, 117 N.H. 145 (1977)

State v. Goddard, 122 N.H. 471 (1982)

State v. Reynolds, 124 N.H. 428 (1984)

In re Sanborn, 130 N.H. 430 (1988)

State v. Chapman, 135 N.H. 390 (1992)

State v. Beland, 138 N.H. 735 (1994)

State v. Carroll, 138 N.H. 687 (1994)

State v. Decker, 138 N.H. 432 (1994)

State v. Monroe, 142 N.H. 857 (1998)