**ICJI 1723 Multiple Aggravating Circumstances**

The State has alleged more than one statutory aggravating circumstance in this case. You must consider whether the State has proven the existence of more than one statutory aggravating circumstance beyond a reasonable doubt by relying on the same facts or independent facts. The same facts, without more, cannot be relied on to find more than one statutory aggravating circumstance beyond a reasonable doubt. Independent facts must exist for each statutory aggravating circumstance in order for you to find that the State has proven multiple statutory aggravating circumstances beyond a reasonable doubt.

Comment

*State v. Dunlap*, 155 Idaho 345, 365–66 (2013); *State v. Fain*, 116 Idaho 82, 99 (1989), overruled on other grounds by *State v. Card*, 121 Idaho 425 (1991); *State v. Osborn*, 102 Idaho 405, 418-19 (1981).