

Minnesota District Judges Association

Committee on Criminal Jury Instruction Guides
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Part I. The General Part
A. General Instructions to the Jury
Chapter 3. Instructions to Jury at Close of Case

CRIMJIG 3.19

Identification Testimony—Cautionary Instruction

Testimony has been introduced tending to identify the defendant as the person observed at the time of the alleged offense. You should carefully evaluate this testimony. In doing so, you should consider such factors as the opportunity of the witness to see the person at the time of the alleged offense, the length of time the person was in the witness's view, the circumstances of that view, including light conditions and the distance involved, the stress the witness was under at the time, and the lapse of time between the alleged offense and the identification. (If the witness has seen and identified the person before trial and after the alleged offense, you should also consider the circumstances of that earlier identification, and you should consider whether in this trial the witness's memory is affected by that earlier identification.)

Comment

CRIMJIG 3.19 has been approved as “adequate.” *State v. Spann*, 287 N.W.2d 406 (Minn. 1979).

An instruction of this kind is not necessary in every case in which eyewitness testimony is involved. *State v. Bishop*, 289 Minn. 188, 183 N.W.2d 536 (1971). Where the circumstances raise any possible doubt in the court's mind as to the reliability of the identification, serious consideration should be given to a request for such an instruction. *State v. Burch*, 284 Minn. 300, 170 N.W.2d 543 (1969).

In *State v. Lindsey*, 632 N.W.2d 652 (Minn. 2001), the Court held that the trial court did not abuse its discretion by refusing to read to the jury a defendant's proposed instruction regarding the State's burden of proving identity because the instruction as proposed might have distracted the jury from its obligation to make findings beyond a reasonable doubt.