

3.15 Circumstances Of Identification

When you weigh the identification testimony of a witness, you should consider all the facts and circumstances in evidence, including, but not limited to, the following:

- [1] The opportunity the witness had to view the offender at the time of the offense.
- [2] The witness's degree of attention at the time of the offense.
- [3] The witness's earlier description of the offender.
- [4] The level of certainty shown by the witness when confronting the defendant.
- [5] The length of time between the offense and the identification confrontation.

Committee Note *Amendments to Committee Note Approved July 28, 2017*

This new instruction simply lists factors well-established by case law. *Manson v. Brathwaite*, 432 U.S. 98, 97 S.Ct. 2243 (1977); *People v. Manion*, 67 Ill.2d 564, 367 N.E.2d 1313 (1977); *People v. Slim*, 127 Ill.2d 302, 537 N.E.2d 317 (1989). The Committee believes this instruction would serve the interests of justice by offering guidance in an area that contains complexities and pitfalls not readily apparent to some jurors.

Give this instruction when identification is an issue.

See Instruction 3.15A when the identification evidence involves law-enforcement conducted line-up procedures as set forth in Article 107A of the Code of Criminal Procedure (725 ILCS 5/107A-0.1 *et seq.*).

Give numbered paragraphs that are supported by the evidence.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

The jury should be instructed on only the factors with any support in the evidence. Other factors should be omitted. Do not use “or” or “and” between the factors where more than one factor is used. *People v. Herron*, 215 Ill.2d 167, 191-92, 830 N.E.2d 467 (2005).

For an example of the use of this instruction, see Sample Set 27.02.