

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

FILED

DEC 10 2014

[Signature]
CLERK

UNITED STATES OF AMERICA,)	CR. 10-50118-01-JLV
)	
Plaintiff,)	SUPPLEMENTAL
)	INSTRUCTIONS
vs.)	TO THE JURY
)	
LUIS OLIVARES,)	
)	
Defendant.)	

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VERDICT

INSTRUCTION NO. 30 - EQUALLY IMPORTANT INSTRUCTIONS

Members of the jury, I will now take a few minutes to give you additional instructions explaining the law which applies to this case. All instructions, both those I gave you earlier and these instructions, are equally binding on you and must be followed. You must consider my instructions as a whole and not single out some instructions and ignore others.

**INSTRUCTION NO. 31 -
DEFENDANT'S SELF-REPRESENTATION**

Luis Olivares decided to represent himself in this trial at times and not to use the services of a lawyer. He had a constitutional right to do that. This decision must not affect your consideration and your decision whether he is not guilty or guilty. Because Mr. Olivares decided to act as his own lawyer, you have heard him speak at various times during the trial. He asked questions of witnesses, made objections, and argued legal issues to the court. I want to remind you that when Mr. Olivares spoke in these parts of the trial, he was acting as a lawyer in the case, and his words were not evidence. The only evidence in this case came from witnesses who testified under oath on the witness stand and from exhibits that were admitted.

Although Mr. Olivares chose to represent himself at times, the court appointed John Rusch to assist Mr. Olivares as standby counsel. This was a standard procedure. Mr. Rusch conferred with Mr. Olivares, questioned witnesses, made objections, or argued legal issues to the court. Just as when Mr. Olivares spoke in these parts of the trial, when Mr. Rusch spoke in these parts of the trial, his words were not evidence.

INSTRUCTION NO. 32 - DUTY TO DELIBERATE

A verdict must represent the considered judgment of each juror. Your verdict must be unanimous. It is your duty to consult with one another and to deliberate with a view of reaching agreement if you can do so without violence to your individual judgment. Of course, you must not surrender your honest convictions as to the weight or effect of the evidence solely because of the opinions of other jurors or for the mere purpose of returning a verdict. Each of you must decide the case for yourself, but you should do so only after consideration of the evidence with your fellow jurors.

In the course of your deliberations, you should not hesitate to re-examine your own views and change your opinion if you are convinced it is wrong. To bring the jury to a unanimous result, you must examine the questions submitted to you openly and frankly with proper regard for the opinions of others and with a willingness to re-examine your own views.

Remember that if, in your individual judgment, the evidence fails to establish Mr. Olivares' guilt beyond a reasonable doubt, then Mr. Olivares should have your vote for a not guilty verdict. If all of you reach the same conclusion, the verdict of the jury must be not guilty. Of course, the opposite also applies. If, in your individual judgment, the evidence establishes Mr. Olivares' guilt beyond a reasonable doubt, your vote should be for a verdict of guilty against Mr. Olivares. If all of you reach that conclusion, the verdict of the jury must be guilty.

The question before you can never be whether the government wins or loses the case. The government, as well as society, always wins when justice is done, regardless of whether your verdict is not guilty or guilty.

Finally, remember that you are not partisans. You are judges of the facts. Your sole interest is to seek the truth from the evidence. You are the judges of the credibility of the witnesses and the weight of the evidence.

You may conduct your deliberations as you choose. You may take all the time you feel is necessary.

There is no reason to think that another trial would be tried in a better way or that a more conscientious, impartial or competent jury would be selected to hear it. Any future jury must be selected in the same manner and from the same source as you. If you should fail to agree on a verdict, then this case is left open and must be resolved at some later time.

INSTRUCTION NO. 33 - DUTY DURING DELIBERATIONS

There are certain rules you must follow while conducting your deliberations and returning your verdict:

First, when you go to the jury room, you must select one of your members as your foreperson, who will preside over your discussions and speak for you here in court.

Second, if Mr. Olivares is found guilty, the sentence to be imposed is my responsibility. You may not consider punishment in any way in deciding whether the government proved its case beyond a reasonable doubt as to the offenses charged in the indictment.

Third, if you need to communicate with me during your deliberations, you may send a note to me through the court security officer, signed by one or more jurors. After conferring with the lawyers, I will respond as soon as possible, either in writing or orally in open court. Remember you should not tell anyone—including me—how your votes stand numerically.

Fourth, your verdict must be based solely on the evidence and on the law in these instructions. **The verdict, whether not guilty or guilty, must be unanimous.** Nothing I have said or done is intended to suggest what your verdict should be—that is entirely for you to decide.

Fifth, the verdict form is simply the written notice of the decision you reach in this case. You will take this form to the jury room. When you have unanimously agreed on the verdict, the foreperson will fill in the form, date and sign it and advise the court security officer you have reached a verdict. You will then return to the courtroom where your verdict will be received and announced.

Dated December 10, 2014.

BY THE COURT:


JEFFREY L. VIKEN
CHIEF JUDGE