

FILED

NOV 08 2011

[Signature]
CLERK

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 11-40016-01-KES

**FINAL
INSTRUCTIONS
TO THE JURY**

RONALD BONESTROO,
a/k/a "rbonestroo@sio.midco.net,"

Defendant.

TABLE OF CONTENTS

FINAL INSTRUCTIONS

NO. 1 – INTRODUCTION	1
NO. 2 – ATTEMPTED COMMERCIAL SEX TRAFFICKING OF A CHILD	2
NO. 3 – PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF	4
NO. 4 – REASONABLE DOUBT	5
NO. 5 – DUTY TO DELIBERATE	6
NO. 6 – DUTY DURING DELIBERATIONS	8

VERDICT FORM

FINAL INSTRUCTION NO. 1 – INTRODUCTION

Members of the jury, the written instructions I gave you at the beginning of the trial and the oral instructions I gave you during the trial remain in effect. I now give you some additional instructions.

The instructions I am about to give you, as well as the preliminary instructions given to you at the beginning of the trial, are in writing and will be available to you in the jury room. *All* instructions, whenever given and whether in writing or not, must be followed. This is true even though some of the instructions I gave you at the beginning of the trial are not repeated here.

FINAL INSTRUCTION NO. 2 – ATTEMPTED COMMERCIAL SEX TRAFFICKING
OF A CHILD

For you to find Ronald Bonestroo guilty of the offense charged in the superseding indictment, the prosecution must prove the following four essential elements beyond a reasonable doubt:

One, that on or about the 10th day of February, 2011, the defendant knowingly recruited, enticed or obtained a person whom the defendant knew would be caused to engage in a commercial sex act;

“Knowledge” is an element of the offense charged in this case and must be proved beyond a reasonable doubt. The prosecution is not required to prove that the defendant knew that his acts or omissions were unlawful. An act is done “knowingly” if the defendant is aware of the act and does not act through ignorance, mistake, or accident. You may consider evidence of the defendant’s words, acts, or omissions, along with all the other evidence, in deciding whether the defendant acted knowingly.

“Commercial sex act” means any sex act, on account of which anything of value is given to or received by any person.

Two, that the defendant believed that the person had not attained the age of 18 years;

Three, that the offense was in or affecting interstate commerce;

The term “commerce” includes, among other things, travel, trade, transportation, and communication. The internet is an instrumentality and channel of interstate commerce.

The phrase “interstate commerce” means commerce between any combination of states, territories, and possessions of the United States, including the District of Columbia.

And four, that the defendant intended to commit sex trafficking of a child and voluntarily and intentionally carried out some act which was a substantial step toward that crime.

A substantial step must be something more than mere preparation, yet may be less than the last act necessary before the actual commission of the substantive crime. In order for behavior to be punishable as an attempt, it need not be incompatible with innocence, yet it must be necessary to the consummation of the crime and be of such a nature that a reasonable observer, viewing it in context could conclude beyond a reasonable doubt that it was undertaken in accordance with a design to violate the statute.

Intent or knowledge may be proved like anything else. You may consider any statements made and acts done by the defendant with regard to the offense charged, and all the facts and circumstances in evidence which may aid in a determination of the defendant's knowledge or intent.

For you to find Ronald Bonestroo guilty of attempted commercial sex trafficking of a child, as charged in the superseding indictment, the prosecution must prove all of the essential elements of this offense beyond a reasonable doubt. Otherwise, you must find the defendant not guilty of the charge.

FINAL INSTRUCTION NO. 3 – PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF

Ronald Bonestroo is presumed innocent, and therefore, not guilty. This presumption of innocence requires you to put aside all suspicion that might arise from the arrest or charge of the defendant or the fact that he is here in court. The presumption of innocence remains with the defendant throughout the trial. That presumption alone is sufficient to find the defendant not guilty. The presumption of innocence may be overcome only if the prosecution proves, beyond a reasonable doubt, each element of a crime charged against him.

The burden is always upon the prosecution to prove guilt beyond a reasonable doubt. This burden never shifts to the defendant, for the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. Therefore, the fact that the defendant did not testify must not be discussed or considered by you in any way when deliberating and arriving at your verdict. A defendant is not even obligated to produce any evidence by cross-examining the witnesses who are called to testify by the prosecution.

Unless the prosecution proves beyond a reasonable doubt that Ronald Bonestroo committed each and every element of the offense charged in the superseding indictment against him, you must find him not guilty of that offense.

FINAL INSTRUCTION NO. 4 – REASONABLE DOUBT

A reasonable doubt may arise from the evidence or lack of evidence produced by the prosecution. A reasonable doubt is a doubt based upon reason and common sense and not the mere possibility of innocence. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the more serious and important transactions of life. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

FINAL INSTRUCTION NO. 5 – DUTY TO DELIBERATE

A verdict must represent the considered judgment of each juror. Your verdict as to the defendant must be unanimous. It is your duty to consult with one another and to deliberate with a view to 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 to change your opinion if you are convinced it is wrong. To bring twelve minds to an 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 the defendant's guilt beyond a reasonable doubt on the offense charged against him, then the defendant should have your vote for a not guilty verdict on that offense. If all of you reach the same conclusion, then the verdict of the jury must be not guilty for the defendant. Of course, the opposite also applies. If, in your individual judgment, the evidence establishes the defendant's guilt beyond a reasonable doubt on the offense charged, then your vote should be for a verdict of guilty against the defendant on that charge, and if all of you reach that conclusion, then the verdict of the jury must be guilty for the defendant. As I instructed you earlier, the burden is upon the prosecution to prove beyond a reasonable doubt every essential element of the crime charged.

Remember also that the question before you can never be whether the government wins or loses the case. The government, as well as society, always

wins, regardless of whether your verdict is not guilty or guilty, when justice is done.

Finally, remember that you are not partisans; you are judges—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. However, I suggest that you carefully consider all of the evidence bearing upon the questions before you. You may take all the time that 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, the case is left open and must be disposed of at some later time.

FINAL INSTRUCTION NO. 6 – 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. That person will preside over your discussions and speak for you here in court.

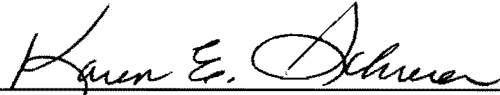
Second, if the defendant is found guilty, the sentence to be imposed is my responsibility. You may not consider punishment of the defendant in any way in deciding whether the prosecution has proved its case beyond a reasonable doubt.

Third, if you need to communicate with me during your deliberations, you may send a note to me through the marshal or court security officer, signed by one or more jurors. I will respond as soon as possible, either in writing or orally in open court. **Remember that 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.

Finally, the verdict form is simply the written notice of the decision that you reach in this case. You will take this form to the jury room, and when each of you has agreed on the verdict, your foreperson will fill in the form, sign and date it, and advise the marshal or court security officer that you are ready to return to the courtroom.

Dated November 8, 2011.



Karen E. Schreier
Chief Judge

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RONALD BONESTROO,
a/k/a "rbonestroo@sio.midco.net,"

Defendant.

No. CR 11-40016-01-KES

VERDICT

If you have reached a unanimous verdict, please return your verdict by placing an "X" or "√" in the space provided.

ATTEMPTED COMMERCIAL SEX TRAFFICKING OF A CHILD	VERDICT
On the charge of "attempted commercial sex trafficking of a child" as explained in Final Jury Instruction No. 2, please mark your verdict.	<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty

Date

Foreperson

FILED

NOV 08 2011

[Signature]
CLERK

Proposed Jury Instruction No. 1

Section 1591 of Title 18 of the United States Code makes it unlawful for any person to

knowingly: in or affecting interstate or foreign commerce

(1) recruit, entice, harbor, transport, provide, obtain, or maintain by any means a person;

or

(2) benefit financially or by receiving anything of value, from the participation in a venture which has engaged in an act described in violation of paragraph (1); knowing or in reckless disregard of the fact that the person has not attained the age of 18 years and will be caused to engage in a commercial sex act.

11-8-11
Refused...
K. Schreier