

**FILED**

FEB 08 2013

*[Signature]*  
CLERK

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

UNITED STATES OF AMERICA,

Plaintiff,

No. CR 12-40039-01-KES

vs.

CARL CAMPBELL  
a/k/a "Nutty Boy,"  
a/k/a Carl Smith,  
a/k/a Karl Campbell,  
a/k/a Earl Campbell,  
a/k/a Carl Michael,  
  
Defendant.

**FINAL  
INSTRUCTIONS  
TO THE JURY**

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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 – COUNT 1: SEX TRAFFICKING BY FORCE,  
FRAUD OR COERCION

**Count 1** of the Second Superseding Indictment charges Campbell with “sex trafficking by force, fraud, or coercion.” For you to find Campbell guilty of **Count 1** of the Second Superseding Indictment, the prosecution must prove beyond a reasonable doubt *all* of the following three elements:

**One, that beginning on or about August 1, 2010, and continuing through on or about July 31, 2011,**

- (a) Campbell knowingly recruited, enticed, harbored, transported, provided, obtained, or maintained by any means, M.A., or**
- (b) Campbell benefitted, financially or by receiving anything of value, from participation in a venture engaged in commercial sex acts;**

The term “venture” means any group of two or more individuals associated in fact, whether or not a legal entity.

**Two, that Campbell did so knowing or in reckless disregard of the fact that means of force, threats of force, fraud, coercion, or any combination of such means would be used to cause M.A. to engage in a commercial sex act;**

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

A person “recklessly disregards” a fact within the meaning of this offense when he is aware of, but consciously or carelessly ignores facts and circumstances that would reveal the fact that means of force, threats of force, fraud, or coercion, or any combination of such means would be used to cause M.A. to engage in a commercial sex act.

The term “coercion” means:

- (A) threats of serious harm to or physical restraint against any person; or
- (B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person.

The term “serious harm” means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.

***And three, that Campbell’s acts were 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.

For you to find Campbell guilty of sex trafficking by force, fraud, or coercion, as charged in the Second Superseding Indictment, the prosecution must prove all of the essential elements of this offense beyond a reasonable doubt. Otherwise, you must find Campbell not guilty of **Count 1**.

FINAL INSTRUCTION NO. 3 – COUNT 2: PERSUADING OR COERCING TO  
TRAVEL TO ENGAGE IN PROSTITUTION

**Count 2** of the Second Superseding Indictment charges Campbell with “persuading or coercing to travel to engage in prostitution.” For you to find Campbell guilty of **Count 2** of the Second Superseding Indictment, the prosecution must prove beyond a reasonable doubt *all* of the following three essential elements:

**One, that between on or about August 1, 2010, and continuing through on or about July 31, 2011, Campbell knowingly persuaded, induced, enticed, or coerced M.A. to travel in 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.

**Two, that during such travel a state line was crossed;**  
**And three, that Campbell did so with the intent that M.A. engage in prostitution.**

Prostitution refers to any person who engages in or offers to engage in sexual activity for a fee. Sexual activity includes both sexual penetration and sexual contact. Sexual contact is defined as any touching of the female breast or the genitalia or anus of any person with the intent to arouse or gratify the sexual desire of either party.

Whether M.A. consented to being transported or to traveling in interstate commerce for the purpose of prostitution, or otherwise voluntarily participated, is not relevant, because the consent or voluntary participation of M.A. is not a defense to this charge.

For you to find Campbell guilty of persuading or coercing M.A. to travel to engage in prostitution, as charged in the Second Superseding Indictment, the prosecution must prove all of the essential elements of this offense beyond a reasonable doubt. Otherwise, you must find Campbell not guilty of **Count 2**.

FINAL INSTRUCTION NO. 4 – COUNT 3: SEX TRAFFICKING OF A CHILD

**Count 3** of the Second Superseding Indictment charges Campbell with “sex trafficking of a child.” For you to find Campbell guilty of **Count 3** in the Second Superseding Indictment, the prosecution must prove beyond a reasonable doubt *all* of the following three elements:

**One, that beginning on or about September 1, 2009, and continuing through on or about July 31, 2011, Campbell knowingly recruited, enticed, harbored, transported, provided, obtained, or maintained by any means, N.K.;**

**Two, that Campbell did so knowing or in reckless disregard of the fact that N.K. had not attained the age of 18 years and would be caused to engage in a commercial sex act;**

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

If the Government proves beyond a reasonable doubt that Campbell had a reasonable opportunity to observe N.K., then the Government does not have to prove that Campbell knew that N.K. had not attained the age of 18 years.

Whether N.K. consented to engage in a commercial sex act, or otherwise voluntarily participated, is not relevant, because the consent or voluntary participation of a minor is not a defense to this charge.

Any contention that N.K. engaged in acts of prostitution before or after her encounters with Campbell is not relevant, and should not be considered by you in any way.

**And three, that Campbell’s actions were 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.

In Count 3 of the Second Superseding Indictment, Campbell is also charged with aiding and abetting sex trafficking of a child. Campbell may also be found guilty of sex trafficking of N.K. even if he personally did not do every act constituting the offense charged, if he aided and abetted the commission of sex trafficking of N.K. In order to have aided and abetted the commission of a crime, Campbell must:

- (1) have known sex trafficking of N.K. was being committed or going to be committed,
- (2) have knowingly acted in some way for the purpose of causing, encouraging, or aiding the commission of sex trafficking of N.K., and
- (3) have done so knowing or in reckless disregard of the fact that N.K. had not attained the age of 18 years and would be caused to engage in a commercial sex act.

For you to find Campbell guilty of sex trafficking of N.K. by reason of aiding and abetting, the Government must prove beyond a reasonable doubt that all of the elements of sex trafficking of a child were committed by some person or persons and that Campbell aided and abetted the commission of that crime.

For you to find Campbell guilty of sex trafficking of N.K. or aiding and abetting sex trafficking of N.K., as charged in the Second Superseding Indictment, the prosecution must prove all of the essential elements of this



offense beyond a reasonable doubt. Otherwise, you must find Campbell not guilty of **Count 3**.

FINAL INSTRUCTION NO. 5 – COUNT 4: OBSTRUCTION OF SEX TRAFFICKING  
ENFORCEMENT

**Count 4** of the Second Superseding Indictment charges Campbell with “obstruction of sex trafficking enforcement.” For you to find Campbell guilty of **Count 4** of the Second Superseding Indictment, the prosecution must prove beyond a reasonable doubt *both* of the following two essential elements:

**One, that between on or about October 1, 2011, and continuing through on or about May 31, 2012, Campbell obstructed, attempted to obstruct, or in any way interfered with or prevented the enforcement of the sex trafficking statute;**

**And two, that Campbell did so knowingly.**

Campbell may be found guilty of an attempt if he intended to obstruct sex trafficking enforcement, and voluntarily, knowingly, and intentionally carried out some act that was a substantial step toward that offense.

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.

For you to find Campbell guilty of obstruction of sex trafficking enforcement or attempting to obstruct sex trafficking enforcement, as charged in the Second Superseding Indictment, the prosecution must prove all of the essential elements of this offense beyond a reasonable doubt. Otherwise, you must find Campbell not guilty of **Count 4**.

FINAL INSTRUCTION NO. 6 – COUNT 5: SEX TRAFFICKING OF A CHILD

**Count 5** of the Second Superseding Indictment charges Campbell with “sex trafficking of a child.” For you to find Campbell guilty of **Count 5** in the Second Superseding Indictment, the prosecution must prove beyond a reasonable doubt *all* of the following three elements:

**One, that beginning on or about April 1, 2011, and continuing through on or about July 31, 2011, Campbell knowingly recruited, enticed, or attempted to recruit or entice by any means, L.O.;**

**Two, that Campbell did so knowing or in reckless disregard of the fact that L.O. had not attained the age of 18 years and would be caused to engage in a commercial sex act;**

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

If the Government proves beyond a reasonable doubt that Campbell had a reasonable opportunity to observe L.O., then the Government does not have to prove that Campbell knew that L.O. had not attained the age of 18 years.

Whether L.O. consented to engage in a commercial sex act, or otherwise voluntarily participated, is not relevant, because the consent or voluntary participation of a minor is not a defense to this charge.

Any contention that L.O. engaged in acts of prostitution before or after her encounters with Campbell is not relevant, and should not be considered by you in any way.

**And three, that Campbell’s acts were 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.

In Count 5 of the Second Superseding Indictment, Campbell is also charged with attempted sex trafficking of a child. Campbell may be found guilty of an attempt if he intended to commit sex trafficking of a child and voluntarily, knowingly, and intentionally carried out some act that was a substantial step toward that offense.

In Count 5 of the Second Superseding Indictment, Campbell is also charged with aiding and abetting sex trafficking of a child. Campbell may also be found guilty of sex trafficking of L.O. even if he personally did not do every act constituting the offense charged, if he aided and abetted the commission of sex trafficking of L.O. In order to have aided and abetted the commission of this crime, Campbell must:

- (1) have known sex trafficking of L.O. was being committed or going to be committed,
- (2) have knowingly acted in some way for the purpose of causing, encouraging, or aiding the commission of sex trafficking of L.O., and
- (3) have done so knowing or in reckless disregard of the fact that L.O. had not attained the age of 18 years and would be caused to engage in a commercial sex act.

For you to find Campbell guilty of sex trafficking of L.O. by reason of aiding and abetting, the Government must prove beyond a reasonable doubt that all of the elements of sex trafficking of a child were committed by some person or persons and that Campbell aided and abetted the commission of that crime.

For you to find Campbell guilty of sex trafficking of L.O., attempting to engage in sex trafficking of L.O., or aiding and abetting sex trafficking of L.O.,

as charged in the Second Superseding Indictment, the prosecution must prove all of the essential elements of this offense beyond a reasonable doubt.

Otherwise, you must find Campbell not guilty of **Count 5**.

FINAL INSTRUCTION NO. 7 – IMPEACHMENT

In Preliminary Instruction No. 6, I instructed you generally on the credibility of witnesses. I now give you this further instruction on how the credibility of a witness can be “impeached” and how you may treat certain evidence.

A witness may be discredited or impeached by contradictory evidence; by a showing that the witness testified falsely concerning a material matter; or by evidence that at some other time the witness said or did something, or failed to say or do something, that is inconsistent with the witness’s present testimony. If earlier statements of a witness were admitted into evidence, they were not admitted to prove that the contents of those statements were true. Instead, you may consider those earlier statements only to determine whether you think they are consistent or inconsistent with the trial testimony of the witness, and therefore whether they affect the credibility of that witness.

If you believe that a witness has been discredited or impeached, it is your exclusive right to give that witness’s testimony whatever weight you think it deserves. If you conclude that any witness has willfully sworn falsely to any material fact in issue, you may disregard the whole or any part of such witness’s testimony.

You have heard that a witness was convicted of a crime. You may use that evidence only to help you decide whether to believe the witness and how much weight to give his or her testimony.

You have heard testimony from witnesses that stated that they participated in the crimes charged against the defendant. Their testimony was received in evidence and may be considered by you. You may give their testimony such weight as you think it deserves. Whether or not their testimony may have been influenced by their desire to please the Government or to strike

a good bargain with the Government about their own situation is for you to determine.

You have heard evidence that Joezy Guest has received a payment from the Government. Her testimony was received in evidence and may be considered by you. You may give her testimony such weight as you think it deserves. Whether or not her information or testimony may have been influenced by receiving such benefits is for you to determine.

FINAL INSTRUCTION NO. 8 – DEFENDANT’S PRIOR SIMILAR ACTS

You have heard evidence that Campbell may have assaulted and/or engaged in sex trafficking of witness J.R. You may consider this evidence only if you unanimously find it is more likely true than not true. This is a lower standard than proof beyond a reasonable doubt. It is instead proof by the greater weight of the evidence. If you find that this evidence of other acts is proved by the greater weight of the evidence, you may consider it to help you decide Campbell’s intent, preparation, plan, and absence of mistake or accident to commit sex trafficking by force, fraud, or coercion against M.A. You should give it the weight and value you believe it is entitled to receive. You must disregard it unless you find it is proved by the greater weight of the evidence.

Remember even if you find that the defendant may have committed a similar act in the past, this is not evidence that he committed such an act in this case. You may not convict a person simply because you believe he may have committed a similar act in the past. The defendant is on trial only for the crimes charged, and you may consider the evidence of similar acts he committed in the past only on the issue of intent, preparation, plan, and absence of mistake or accident.



FINAL INSTRUCTION NO. 9 – PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF

The presumption of innocence means that Campbell is presumed to be absolutely not guilty.

- This presumption means that you must put aside all suspicion that might arise from the defendant's arrest, the charges, or the fact that he is here in court.
- This presumption remains with the defendant throughout the trial.
- This presumption is enough, alone, for you to find the defendant not guilty, unless the prosecution proves, beyond a reasonable doubt, all of the elements of an offense charged against him.

The burden is always on the prosecution to prove guilt beyond a reasonable doubt.

- This burden never, ever shifts to the defendant to prove his innocence.
- This burden means that the defendant does not have to call any witnesses, produce any evidence, cross-examine the prosecution's witnesses, or testify.
- This burden means that you must find the defendant not guilty of an offense charged against him, unless the prosecution proves beyond a reasonable doubt that he has committed each and every element of that offense.

FINAL INSTRUCTION NO. 10 – REASONABLE DOUBT

A reasonable doubt is a doubt based upon reason and common sense.

- A reasonable doubt may arise from evidence produced by the prosecution or the defendant, keeping in mind that the defendant never, ever has the burden or duty to call any witnesses or to produce any evidence.
- A reasonable doubt may arise from the prosecution's lack of evidence.

The prosecution must prove the defendant's guilt beyond a reasonable doubt.

- Proof beyond a reasonable doubt requires careful and impartial consideration of all the evidence in the case before making a decision.
- Proof beyond a reasonable doubt is proof so convincing that you would be willing to rely and act on it in the most important of your own affairs.

The prosecution's burden is heavy, but it does not require proof beyond all possible doubt.

FINAL INSTRUCTION NO. 11 – DUTY TO DELIBERATE

A verdict must represent the careful and impartial judgment of each of you. Before you make that judgment, you must consult with one another and try to reach agreement if you can do so consistent with your individual judgment.

- If you are convinced that the prosecution has not proved beyond a reasonable doubt that the defendant is guilty, say so.
- If you are convinced that the prosecution has proved beyond a reasonable doubt that the defendant is guilty, say so.
- Do not give up your honest beliefs just because others think differently or because you simply want to be finished with the case.
- On the other hand, do not hesitate to re-examine your own views and to change your opinion if you are convinced that it is wrong.
- You can only reach a unanimous verdict if you discuss your views openly and frankly, with proper regard for the opinions of others, and with a willingness to re-examine your own views.
- Remember that you are not advocates, but judges of the facts, so your sole interest is to seek the truth from the evidence.
- The question is never who wins or loses the case, because society always wins, whatever your verdict, when you return a just verdict based solely on the evidence, reason, your common sense, and these Instructions.

- You must consider all of the evidence bearing on each question before you.
- Take all the time that you feel is necessary.
- Remember that this case is important to the parties and to the fair administration of justice, so do not be in a hurry to reach a verdict just to be finished with the case.

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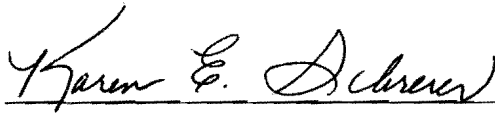
## FINAL INSTRUCTION NO. 12 – DUTY DURING DELIBERATIONS

You must follow certain rules while conducting your deliberations and returning your verdict:

- Select a foreperson to preside over your discussions and to speak for you here in court.
- Do not consider punishment in any way in deciding whether the defendant is not guilty or guilty. If the defendant is guilty, I will decide what his sentence should be.
- Communicate with me by sending me a note through a Court Security Officer (CSO). The note must be signed by one or more of you. Remember that you should not tell anyone, including me, how your votes stand. I will respond as soon as possible, either in writing or orally in open court.
- Base your verdict solely on the evidence, reason, your common sense, and these Instructions. Again, nothing I have said or done was intended to suggest what your verdict should be—that is entirely for you to decide.
- Reach your verdict without discrimination. In reaching your verdict, you must not consider the defendant's race, color, religious beliefs, national origin, or sex. You are not to return a verdict for or against the defendant unless you would return the same verdict without regard to his race, color, religious beliefs, national origin, or sex.
- Complete the Verdict Form. The foreperson must bring the signed verdict form to the courtroom when it is time to announce your verdict.
- When you have reached a verdict, the foreperson will advise the CSO that you are ready to return to the courtroom.

Good luck with your deliberations.

Dated February 8, 2013.

A handwritten signature in black ink, reading "Karen E. Schreier". The signature is written in a cursive style with a horizontal line underneath it.

Karen E. Schreier  
United States District Judge