

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

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>JUAN FRANCISCO ALVAREZ-SORTO, a/k/a Juan Francisco Alvarez, a/k/a Juanito R., a/k/a Juan Jr., and DEYVIN MORALES, a/k/a Deyvin Eliabid Escriba Morales, a/k/a Guate, a/k/a Watay, a/k/a Chapine,</p> <p style="text-align: center;">Defendants.</p>	<p>5:22-CR-50084-KES</p> <p style="text-align: center;"><b>FINAL INSTRUCTIONS TO THE JURY</b></p>
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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 – KIDNAPPING

For you to find Juan Francisco Alvarez-Sorto or Deyvin Morales guilty of the offense of kidnapping, as charged in Count 1 of the Second Superseding Indictment, the prosecution must prove the following four essential elements beyond a reasonable doubt:

**One, the defendant, Juan Francisco Alvarez-Sorto or Deyvin Morales, unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away Curt Lauinger without his consent;**

“Kidnap” means to take and carry away a person by force and against his will. “Seize,” “confine,” “abduct,” and “carry away” all mean the taking and carrying away of a person, or holding of someone by force or without that person’s consent. “Inveigle” means to entice, lure, or lead astray, by false representations or promises, or by other deceitful means. “Decoy” means enticement or luring by means of some fraud, trick, or temptation.

**Two, the defendant held Curt Lauinger for ransom or reward or otherwise;**

The “or otherwise” is satisfied if the person kidnapped was taken for some reason that the defendant considered of sufficient benefit to him, or for some purpose of the defendant’s own.

**Three, the defendant voluntarily and intentionally transported Curt Lauinger, while he was unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted, or carried away; and**

Intent or knowledge may be proved like anything else. You may consider statements made and acts done by the defendant, and all the facts and circumstances in evidence that may aid in a determination of the defendant’s knowledge or intent.

You may, but are not required to, infer that a person intends the natural and probable consequences of acts knowingly done or knowingly omitted.

**Four, at the time of the kidnapping, Curt Lauinger was employed by and engaged in the performance of his official duties with the Federal Bureau of Investigation.**

To be engaged in the performance of official duties means acting within the scope of what the employee is employed to do as opposed to engaging in a personal frolic of his own. When evaluating whether

an employee was acting within the scope of his role as a federal employee, you should look to whether the employee's actions fall within the agency's overall mission or are otherwise what an employee ought to do because of being an employee. You should not look merely to whether the employee was performing a function within his job description or abiding by laws and regulations in effect at the time of the incident.

Juan Francisco Alvarez-Sorto or Deyvin Morales may be guilty of kidnapping even if he personally did not do every act constituting that offense, if he aided and abetted that offense.

In order to have aided and abetted the crime of kidnapping, a person must, before or at the time the crime was committed:

**One, have known that the crime of kidnapping was being committed;**

**Two, have had enough advance knowledge of the extent and character of the kidnapping that he was able to make the relevant choice to walk away from the kidnapping before all the elements of that crime were complete; and**

**Three, have knowingly acted in some way for the purpose of causing, encouraging, or aiding the commission of the crime of kidnapping.**

For you to find Juan Francisco Alvarez-Sorto or Deyvin Morales guilty of kidnapping by reason of aiding and abetting, the government must prove beyond a reasonable doubt that all the essential elements of kidnapping were committed by some person or persons and that Juan Francisco Alvarez-Sorto or Deyvin Morales aided and abetted the commission of the crime of kidnapping.

You should understand that merely acting in the same way as others or merely associating with others does not prove that a person has become an aider and abettor. A person who has no knowledge that a crime is being committed or is about to be committed, but who happens to act in a way that advances some offense, does not thereby become an aider and abettor.

For you to find Juan Francisco Alvarez-Sorto or Deyvin Morales guilty of kidnapping as charged in Count 1 of the Second Superseding Indictment, the prosecution must prove all four of the essential elements, or that he has aided and abetted the commission of kidnapping, beyond a reasonable doubt. Otherwise, you must find Juan Francisco Alvarez-Sorto or Deyvin Morales not guilty of kidnapping as charged in Count 1 of the Second Superseding Indictment.

FINAL INSTRUCTION NO. 3 – CARJACKING

For you to find Juan Francisco Alvarez-Sorto or Deyvin Morales guilty of the offense of carjacking, as charged in Count 2 of the Second Superseding Indictment, the prosecution must prove the following four essential elements beyond a reasonable doubt:

**One, the defendant, Juan Francisco Alvarez-Sorto or Deyvin Morales, took or attempted to take a Dodge Durango from the person or presence of another;**

**Two, the defendant did so by means of force or violence or by intimidation;**

“Intimidation” means doing something that would make an ordinary person fear bodily harm.

**Three, the Dodge Durango had been transported, shipped, or received in interstate commerce; and**

The term “commerce” includes, among other things, travel, trade and transportation. The phrase “interstate commerce” means commerce between any combination of states, territories, and possessions of the United States, including the District of Columbia.

**Four, at or during the time the defendant took the Dodge Durango, the defendant intended to cause death or serious bodily harm.**

A conditional intent to cause death or cause serious bodily harm is sufficient to establish the intent requirement under the statute. The intent to cause death or serious bodily harm is satisfied when, at the moment the defendant demanded or took control over the driver’s automobile, the defendant possessed the intent to seriously harm or kill the driver if necessary to steal the car.

Serious bodily harm means an injury that involves a substantial risk of death, extreme physical pain, long term and obvious disfigurement, the long term loss or impairment of a function of a bodily member or organ, or the long term loss or impairment of a mental function.

Juan Francisco Alvarez-Sorto or Deyvin Morales may be guilty of carjacking even if he personally did not do every act constituting that offense, if he aided and abetted that offense.

In order to have aided and abetted the commission of the crime of carjacking, a person must, before or at the time the crime was committed:

**One, have known that the crime of carjacking was being committed or going to be committed;**

**Two, have had enough advance knowledge of the extent and character of the carjacking that he was able to make the relevant choice to walk away from the carjacking before all the elements of that crime were complete;**

**Three, have knowingly acted in some way for the purpose of causing, encouraging, or aiding the commission of the crime of carjacking; and**

**Four, have intended to cause death or serious bodily harm.**

An explanation of what it means to act with “conditional intent” was provided earlier in this jury instruction after the fourth element of carjacking.

The term “serious bodily harm” was defined for you earlier in this jury instruction after the fourth element of carjacking.

For you to find Juan Francisco Alvarez-Sorto or Deyvin Morales guilty of carjacking by reason of aiding and abetting, the government must prove beyond a reasonable doubt that all the essential elements of carjacking were committed by some person or persons and that Juan Francisco Alvarez-Sorto or Deyvin Morales aided and abetted the commission of the crime of carjacking.

You should understand that merely acting in the same way as others or merely associating with others does not prove that a person has become an aider and abettor. A person who has no knowledge that a crime is being committed or is about to be committed, but who happens to act in a way that advances some offense, does not thereby become an aider and abettor.

For you to find Juan Francisco Alvarez-Sorto or Deyvin Morales guilty of carjacking as charged in Count 2 of the Second Superseding Indictment, the prosecution must prove all four of the essential elements, or that he has aided and abetted the commission of carjacking, beyond a reasonable doubt. Otherwise, you must find Juan Francisco Alvarez-Sorto or Deyvin Morales not guilty of carjacking as charged in Count 2 of the Second Superseding Indictment.



FINAL INSTRUCTION NO. 4 – USE OF A FIREARM IN FURTHERANCE  
OF A CRIME OF VIOLENCE

For you to find Juan Francisco Alvarez-Sorto or Deyvin Morales guilty of the offense of use of a firearm in furtherance of a crime of violence, as charged in Count 3 of the Second Superseding Indictment, the prosecution must prove the following <sup>two</sup> ~~four~~ essential elements beyond a reasonable doubt:

**One, the defendant, Juan Francisco Alvarez-Sorto or Deyvin Morales, committed the crime of carjacking as charged in Count 2 of the Second Superseding Indictment; and**

You must first consider the evidence pertaining to Count 2 of the second superseding indictment and determine whether the government has proved Count 2 beyond a reasonable doubt. If you reach a verdict of guilty on carjacking as charged in Count II, only then may you consider this charge. If your verdict was not guilty on Count 2, you must return a verdict of not guilty on this charge.

**Two, the defendants knowingly used, carried, or brandished a firearm during and in relation to the crime of carjacking as charged in Count 2 of the Second Superseding Indictment.**

The term “firearm” means any weapon that will, or is designed to, or may be readily converted to, expel a projectile by the action of an explosive, or the frame or receiver of any such weapon.

You may find that a firearm was “carried” during the commission of the crime if you find that a person had a firearm on his person.

The phrase “used a firearm” means that the firearm was actively employed in the course of the commission of the crime. You may find that a firearm was used during the commission of the crime if you find that it was brandished or fired.

The term “brandish” means to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person.

In determining whether a person carried and/or used or whether a person brandished a firearm, you may consider all of the facts received in evidence in the case including the nature of the underlying crime of violence alleged, the proximity of the defendant to the firearm in question, the usefulness of the firearm to the crime

alleged, and the circumstances surrounding the presence of the firearm.

In determining whether a defendant used or carried a firearm “during and in relation to” the crime, you may consider all of the factors received in evidence in the case including the nature of the underlying crime alleged, the proximity of the defendant to the firearm in question, the usefulness of the firearm to the crime alleged, and the circumstances surrounding the presence of the firearm.

Count 3 of the Second Superseding Indictment charges that the defendants used, carried, or brandished a firearm. The government does not have to prove beyond a reasonable doubt that a defendant did all of those things. However, the government does have to prove beyond a reasonable doubt, and you must unanimously agree that, during and in relation to a crime of violence, a defendant did at least one of the following: used a firearm, carried a firearm, or brandished a firearm.

Juan Francisco Alvarez-Sorto or Deyvin Morales may be guilty of use of a firearm in furtherance of a crime of violence even if he personally did not do every act constituting that offense, if he aided and abetted that offense.

In order to have aided and abetted the crime of use of a firearm in furtherance of a crime of violence, a person must, before or at the time the crime was committed:

**One, have known that the crime of use of a firearm in furtherance of a crime of violence was being committed or going to be committed;**

**Two, have had enough advance knowledge of the extent and character of that crime that he was able to make the relevant choice to walk away from the crime before all the elements of the crime of use of a firearm in furtherance of a crime of violence were complete; and**

**Three, have knowingly acted in some way for the purpose of causing, encouraging, or aiding the commission of the use of a firearm in furtherance of a crime of violence.**

For you to find Juan Francisco Alvarez-Sorto or Deyvin Morales guilty of use of a firearm in furtherance of a crime of violence by reason of aiding

and abetting, the government must prove beyond a reasonable doubt that all the essential elements of that crime were committed by some person or persons and that Juan Francisco Alvarez-Sorto or Deyvin Morales aided and abetted the commission of that crime.

You should understand that merely acting in the same way as others or merely associating with others does not prove that a person has become an aider and abettor. A person who has no knowledge that a crime is being committed or is about to be committed, but who happens to act in a way that advances some offense, does not thereby become an aider and abettor.

For you to find Juan Francisco Alvarez-Sorto or Deyvin Morales guilty of use of a firearm in furtherance of a crime of violence as charged in Count 3 of the Second Superseding Indictment, the prosecution must prove all <sup>two</sup> ~~four~~ of the essential elements, or that he aided and abetted the crime of use of a firearm in furtherance of a crime of violence, beyond a reasonable doubt. Otherwise, you must find Juan Francisco Alvarez-Sorto or Deyvin Morales not guilty of use of a firearm in furtherance of a crime of violence as charged in Count 3 of the Second Superseding Indictment.

FINAL INSTRUCTION NO. 5 – UNLAWFUL POSSESSION OF A  
FIREARM BY A PROHIBITED PERSON

For you to find Juan Francisco Alvarez-Sorto guilty of the offense of possession of a firearm or ammunition by a prohibited person as charged in Count 4 of the Second Superseding Indictment, the prosecution must prove the following four essential elements beyond a reasonable doubt:

**One, that between on or about May 5 and May 13, 2022, the defendant, Juan Francisco Alvarez-Sorto, knowingly possessed a firearm or ammunition, that is: a GWACS Amory LLC, model CAV-15 MKII, 5.56x45mm NATO caliber, semi-automatic rifle, bearing serial number 13003625, or ammunition;**

The government need not prove beyond a reasonable doubt that Alvarez-Sorto possessed both the firearm and ammunition. Instead, the government must prove beyond a reasonable doubt that Alvarez-Sorto possessed the firearm or the ammunition. For the government to meet its burden, you must unanimously agree as to whether Alvarez-Sorto possessed the firearm or possessed the ammunition, or possessed both.

The government does not have to prove who “owned” the firearm or ammunition.

The term “firearm” was defined for you in Final Jury Instruction No. 4.

**Two, that between on or about May 5 and May 13, 2022, Alvarez-Sorto was an unlawful user of a controlled substance or an alien illegally and unlawfully in the United States;**

**Three, at the time Alvarez-Sorto knowingly possessed the firearm or the ammunition, he knew that he was an unlawful user of a controlled substance, or knew that he was an alien illegally and unlawfully in the United States;**

**And four, that the firearm or ammunition was transported across a state line at some time during or before Alvarez-Sorto’s possession of it.**

If you have found beyond a reasonable doubt that the firearm in question, the ammunition in question, or both, were manufactured in a state or country other than the State of South Dakota, and that

the defendant possessed that firearm, ammunition, or both in the State of South Dakota, you may, but are not required to, find that the firearm, ammunition, or both, were transported across a state line.

The government is not required to prove that the defendant knew the firearm or ammunition had crossed a state line.

There are two theories identified in Count 4 for why Alvarez-Sorto is prohibited from possessing a firearm: that he was an unlawful user of a controlled substance, or that he was an alien unlawfully in the United States. The government need not prove beyond a reasonable doubt that Alvarez-Sorto is prohibited under both theories. Instead, the government must prove beyond a reasonable doubt that Alvarez-Sorto was prohibited under at least one of these theories. You must unanimously agree as to which prohibited status applies to Alvarez-Sorto.

For you to find Alvarez-Sorto guilty of possession of a firearm by a prohibited person as charged in Count 4 of the Second Superseding Indictment, the prosecution must prove all four of the essential elements beyond a reasonable doubt. Otherwise, you must find Alvarez-Sorto not guilty of possession of a firearm by a prohibited person as charged in Count 4 of the Second Superseding Indictment.



FINAL INSTRUCTION NO. 6 – UNLAWFUL POSSESSION OF A  
FIREARM BY A PROHIBITED PERSON

For you to find Deyvin Morales guilty of the offense of possession of a firearm or ammunition by a prohibited person as charged in Count 5 of the Second Superseding Indictment, the prosecution must prove the following four essential elements beyond a reasonable doubt:

**One, that between on or about May 5 and May 13, 2022, the defendant, Deyvin Morales, knowingly possessed a firearm or ammunition, that is: a Taurus PT99AF 9x19mm Luger caliber, semi-automatic pistol, bearing serial number THE25573, a Kel-Tec CNC Incorporated, model P-11, 9x19mm Luger caliber, semi-automatic pistol, bearing serial number 120253, or ammunition;**

There are two firearms identified in Count 5 of the Second Superseding Indictment. The government need not prove beyond a reasonable doubt that Morales possessed both of these firearms and the ammunition. Instead, the government must prove beyond a reasonable doubt that Morales possessed at least one of these firearms, or that Morales possessed the ammunition. For the government to meet its burden, you must unanimously agree that Morales possessed at least one of the two firearms identified, or that Morales possessed the ammunition.

The government does not have to prove who “owned” the firearm or ammunition.

**Two, before May 13, 2022, Morales had been convicted of a crime punishable by imprisonment for a term exceeding one year, or that between on or about May 5 and May 13, 2022, Morales was an unlawful user of a controlled substance;**

**Three, at the time Morales knowingly possessed a firearm or ammunition, he knew that he had been convicted of a crime punishable by imprisonment for a term exceeding one year, or knew that he was an unlawful user of a controlled substance;**

**And four, that the firearm or ammunition was transported across a state line at some time during or before Morales’s possession of it.**

If you have found beyond a reasonable doubt that the firearm in question, the ammunition in question, or both, were manufactured

in a state or country other than the State of South Dakota, and that the defendant possessed that firearm, ammunition, or both in the State of South Dakota, you may, but are not required to, find that the firearm, ammunition, or both, were transported across a state line.

The government is not required to prove that the defendant knew the firearm or ammunition had crossed a state line.

The term “firearm” was defined for you in Final Jury Instruction No. 4.

There are two theories identified in Count 5 for why Morales is prohibited from possessing a firearm: that had been convicted of a crime punishable by imprisonment for a term exceeding one year, or that he was an unlawful user of a controlled substance. The government need not prove beyond a reasonable doubt that Morales is prohibited under both theories. Instead, the government must prove beyond a reasonable doubt that Morales was prohibited under at least one of these theories. You must unanimously agree as to which prohibited status applies to Morales.

For you to find Morales guilty of possession of a firearm by a prohibited person as charged in Count 5 of the Second Superseding Indictment, the prosecution must prove all four of the essential elements beyond a reasonable doubt. Otherwise, you must find Morales not guilty of possession of a firearm by a prohibited person as charged in Count 5 of the Second Superseding Indictment.

FINAL INSTRUCTION NO. 7 – UNLAWFUL REENTRY

For you to find Francisco Alvarez-Sorto guilty of the crime of unlawful reentry after deportation as charged in Count 6 of the Second Superseding Indictment, the prosecution must prove the following three essential elements beyond a reasonable doubt:

***One, that on or about July 21, 2017, the defendant, Francisco Alvarez-Sorto, was deported from the United States;***

***Two, at some later time, Alvarez-Sorto was found in the United States without having obtained the consent of the Secretary of the Department of Homeland Security or the Attorney General of the United States, to reapply for admission into the United States;***

***And three, that Alvarez-Sorto was an alien at the time of his reentry.***

An alien is a person who is not a citizen or national of the United States.

For you to find Alvarez-Sorto guilty of unlawful reentry after deportation as charged in Count 6 of the Second Superseding Indictment, the prosecution must prove all three of the essential elements beyond a reasonable doubt. Otherwise, you must find Alvarez-Sorto not guilty of unlawful reentry after deportation as charged in Count 6 of the Second Superseding Indictment.



FINAL INSTRUCTION NO. 8 – POSSESSION

The law recognizes several kinds of possession. A person may have actual possession or constructive possession. A person may have sole or joint possession.

A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it.

A person who, although not in actual possession, has both the power and the intention at a given time to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it.

If one person alone has actual or constructive possession of a thing, possession is sole. If two or more persons share actual or constructive possession of a thing, possession is joint.

Whenever the word “possession” has been used in these instructions, it includes actual as well as constructive possession and also sole as well as joint possession.

FINAL INSTRUCTION NO. 9 – 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 has said or done something, or has 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.

You have heard evidence that one or more witnesses has been 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 the witness’s testimony.

You have heard testimony from a witness who stated that she participated in the crime charged against the defendants. That testimony was received in evidence and may be considered by you. You may give that testimony such weight as you think it deserves. Whether or not that testimony may have been influenced by that witness’s desire to please the prosecution or to strike a good bargain with the prosecution about that witness’s own situation is for you to determine.

You have heard that a witness pleaded guilty to a crime that arose out of the same events for which the defendants are on trial here. You must not consider that guilty plea as any evidence of the guilt of the defendants on trial

here. You may consider a witness's guilty plea only for the purpose of determining how much, if at all, to rely upon that witness's testimony.

You have also heard evidence that a witness has made a plea agreement with the prosecution. The witness's testimony was received in evidence and may be considered by you. You may give the witness's testimony such weight as you think it deserves. Whether or not the witness's testimony may have been influenced by the plea agreement or the prosecution's promise is for you to determine. A witness's guilty plea cannot be considered by you as any evidence of Alvarez-Sorto's or Morales's guilt. A witness's guilty plea can be considered by you only for the purpose of determining how much, if at all, to rely upon the witness's testimony.

You have heard evidence that a witness hopes to receive a reduced sentence on criminal charges pending against that witness, in return for the witness's cooperation with the government in this case. If the prosecutor handling the witness's case believed or believes the witness provided substantial assistance, the prosecutor can file a motion to reduce the witness's sentence. If such a motion for reduction of sentence for substantial assistance is filed by the prosecutor, then it is up to the Judge to decide whether to reduce the sentence at all, and if so, how much to reduce it. You may give this witness's testimony such weight as you think it deserves. Whether or not testimony of a witness may have been influenced by the witness's hope of receiving a reduced sentence is for you to decide.

If you believe that a witness has been discredited or impeached, it is your exclusive right to give that witness's testimony whatever weight, if any, you think it deserves.

Your decision on the facts of this case should not be determined by the number of witnesses testifying for or against a party, or whether a party called witnesses. You should consider all the facts and circumstances in evidence to determine which of the witnesses you choose to believe or not believe. You may find that the testimony of a smaller number of witnesses on

one side is more credible than the testimony of a greater number of witnesses on the other side.

FINAL INSTRUCTION NO. 10 – PRESUMPTION OF INNOCENCE AND  
BURDEN OF PROOF

The presumption of innocence means that the defendants are presumed to be absolutely not guilty.

- This presumption means that you must put aside all suspicion that might arise from a defendant's arrest, the charges, or the fact that he is here in court.
- This presumption remains with a defendant throughout the trial.
- This presumption is enough, alone, for you to find a 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 a defendant to prove his innocence.
- This burden means that a defendant does not have to call any witnesses, produce any evidence, cross-examine the prosecution's witnesses, or testify.
- This burden means that, if a defendant does not testify, you must not consider that fact in any way, or even discuss it, in arriving at your verdict.

This burden means that you must find Juan Francisco Alvarez-Sorto or Deyvin Morales 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. 11 – 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 a defendant, keeping in mind that a 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 a 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. 12 – 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 a defendant is guilty, say so.
- If you are convinced that the prosecution has proved beyond a reasonable doubt that a 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 element 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.

FINAL INSTRUCTION NO. 13 – 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 a defendant is guilty or not guilty. If a defendant is guilty, I will decide what the 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 a defendant's race, color, religious beliefs, national origin, or sex. You are not to return a verdict for or against a 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 January 23, 2024

BY THE COURT:

A handwritten signature in blue ink, reading "Karen E. Schreier", is written over a horizontal line.

KAREN E. SCHREIER  
UNITED STATES DISTRICT JUDGE