

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

THEODORA BELT, a/k/a Theo Belt, and
BAILEY BELT,

Defendants.

3:23-CR-30067-RAL

FINAL JURY INSTRUCTIONS

INSTRUCTION NO. 1

Members of the jury, the instructions I gave you at the beginning of the trial and during the trial remain in effect. I now give you some additional instructions. The instructions I am about to give you now are in writing and will be available to you in the jury room.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all are important.

All instructions, whenever given and whether in writing or not, must be followed.

INSTRUCTION NO. 2

It is your duty to find from the evidence what the facts are. You will then apply the law, as I give it to you, to those facts. You must follow my instructions on the law, even if you thought the law was different or should be different.

Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, unaffected by anything except the evidence, your common sense, and the law as I give it to you.

INSTRUCTION NO. 3

I have mentioned the word “evidence.” The “evidence” in this case consists of the testimony of witnesses, the documents and other things received as exhibits, and the facts that have been stipulated—that is, formally agreed to by the parties.

You may use reason and common sense to draw deductions or conclusions from facts which have been established by the evidence in the case.

Certain things are not evidence. I shall list those things again for you now:

1. Statements, arguments, questions, and comments by lawyers representing the parties in the case are not evidence.
2. Objections are not evidence. Lawyers have a right to object when they believe something is improper. You should not be influenced by the objection. If I sustained an objection to a question, you must ignore the question and must not try to guess what the answer might have been.
3. Testimony that I struck from the record, or told you to disregard, is not evidence and must not be considered.
4. Anything you saw or heard about this case outside the courtroom is not evidence.

When you were instructed that evidence was received for a limited purpose, you must follow that instruction.

Some of you may have heard the terms “direct evidence” and “circumstantial evidence.” You are instructed that you should not be concerned with those terms. The law makes no distinction between direct and circumstantial evidence. You should give all evidence the weight and value you believe it is entitled to receive.

INSTRUCTION NO. 4

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it.

In deciding what testimony of any witness to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe.

The value of eyewitness testimony depends on the opportunity the witness had to observe the offender at the time of the offense. In evaluating such testimony, you should consider all of the factors mentioned in this instruction concerning your assessment of the credibility of any witness, and you should also consider, in particular, whether the witness had an adequate opportunity to observe the person in question at the time of the offense and whether the identification is reliable. You may consider, in that regard, such matters as the witness's eyesight and ability to observe the person in question under the circumstances, the length of time the witness had to observe the person in question, any intoxication or other impairment of the witness at the time the witness observed the person in question, the prevailing conditions at that time in terms of lighting, visibility or distance and the like, whether the witness had known or observed the person at earlier times, and any description provided by the witness after the event.

In deciding whether or not to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You need to consider therefore whether a contradiction is an innocent misrecollection or lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or only a small detail.

INSTRUCTION NO. 5

As you know, there are two defendants on trial here: Theodora Belt, a/k/a Theo Belt, and Bailey Belt. Each defendant is entitled to have his or her case decided solely on the evidence which applies to him or her. When considering whether the United States has proved its case beyond a reasonable doubt against one defendant, you may not consider evidence that related only to the other defendant in making that determination.

INSTRUCTION NO. 6

The Indictment in this case charges the defendants, Theodora Belt, a/k/a Theo Belt, and Bailey Belt, with one count of murder in the second degree, one count of assault with a dangerous weapon, and one count of assault resulting in serious bodily injury relating to the injury and death of Elijah Morrison. Defendant Bailey Belt is charged with additional counts of assault with a dangerous weapon and assault resulting in serious bodily injury relating to the injury to Conan Morrison. The defendants have pleaded not guilty to the charged offenses.

The Indictment is simply the document that formally charges the defendants with the crimes for which they are on trial. The Indictment is not evidence of anything. At the beginning of the trial, I instructed you that you must presume the defendants to be innocent. Thus, the defendants began the trial with a clean slate, with no evidence against them. The presumption of innocence alone is sufficient to find the defendants not guilty. This presumption can be overcome only if the United States proved during the trial, beyond a reasonable doubt, each element of the crimes charged.

Please remember that only the defendants, not anyone else, are on trial here, and that the defendants are on trial only for the crimes charged, not for anything else.

There is no burden upon the defendants to prove that they are innocent. Instead, the burden of proof remains on the United States throughout the trial. Accordingly, the fact that the defendants did not testify must not be considered by you in any way, or even discussed, in arriving at your verdict.

INSTRUCTION NO. 7

Part A:

The crime of murder in the second degree, as charged in Count I of the Indictment as to Theodora Belt, a/k/a Theo Belt, has four elements:

One, on or about May 27, 2023, in Bridger, South Dakota, defendant, Theodora Belt, a/k/a Theo Belt, unlawfully killed Elijah Morrison or aided and abetted Bailey Belt in unlawfully killing Elijah Morrison;

Two, Theodora Belt, a/k/a Theo Belt, did so with malice aforethought;

Malice aforethought is defined in Instruction No. 8.

Three, Theodora Belt, a/k/a Theo Belt, is an Indian; and

Four, the offense took place in Indian Country.

If all these elements have been proved beyond a reasonable doubt as to Theodora Belt, a/k/a Theo Belt, then you must find her guilty of the crime charged; otherwise, you must find her not guilty of this crime.

Part B:

The crime of murder in the second degree, as charged in Count I of the Indictment as to Bailey Belt has four elements:

One, on or about May 27, 2023, in Bridger, South Dakota, defendant, Bailey Belt, unlawfully killed Elijah Morrison or aided and abetted Theodora Belt, a/k/a Theo Belt, in unlawfully killing Elijah Morrison;

Two, Bailey Belt did so with malice aforethought;

Malice aforethought is defined in Instruction No. 8.

Three, Bailey Belt is an Indian; and

Four, the offense took place in Indian Country.

If all of these elements have been proved beyond a reasonable doubt as to Defendant Bailey Belt, then you must find him guilty of the crime charged; otherwise, you must find him not guilty of this crime.

INSTRUCTION NO. 8

As used in Instruction No. 7 and Instruction No. 9, “malice aforethought” means an intent, at the time of killing, willfully to take the life of a human being, or an intent to willfully act in callous and wanton disregard of the consequences to human life. But “malice aforethought” does not necessarily imply any ill will, spite or hatred towards the individual killed.

Malice may be established by evidence of conduct which is reckless and wanton, and a gross deviation from a reasonable standard of care, of such a nature that a jury is warranted in inferring that the defendants were aware of a serious risk of death or serious bodily harm.

In determining whether Elijah Morrison was unlawfully killed with malice aforethought, you should consider all the evidence concerning the facts and circumstances preceding, surrounding, and following the killing which tend to shed light upon the question of intent.

INSTRUCTION NO. 9

A person may also be found guilty of murder in the second degree as charged in Count I of the Indictment even if he or she did not do every act constituting the offense charged if he or she aided and abetted the commission of murder in the second degree.

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

***One*, have known that murder in the second degree was being committed or was going to be committed;**

***Two*, have had enough advanced knowledge of the extent and character of the crime that he or she was able to make the relevant choice to walk away from the crime before all elements of crime of murder in the second degree were complete;**

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

***Four*, have intended with malice aforethought for Elijah Morrison to be unlawfully killed.**

For you to find either Defendant Theodora Belt, a/k/a Theo Belt, or Defendant Bailey Belt guilty of murder in the second degree by reason of aiding and abetting, the United States must prove beyond a reasonable doubt that all of the elements of the crime of murder in the second degree were committed by one of the defendants and that the other defendant aided and abetted that crime; otherwise, you must find the defendants not guilty of this crime.

You should understand that merely being present at the scene of an event, or merely acting in the same way as another 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 about to be committed, but who happens to act in a way which advances some offense, does not thereby become an aider and abettor.

INSTRUCTION NO. 10

Part A:

If your verdict is “not guilty” as to the offense of murder in the second degree as charged in Count I of the Indictment as to Defendant Theodora Belt, a/k/a Theo Belt, or if after all reasonable efforts, you are unable to reach a verdict on the charge of murder in the second degree as to Defendant Theodora Belt, a/k/a Theo Belt, you should record that decision on the verdict form and go on to consider whether Defendant Theodora Belt, a/k/a Theo Belt, is guilty of the crime of voluntary manslaughter. The crime of voluntary manslaughter, a lesser included offense of the crime of murder in the second degree as charged in Count I of the Indictment, has the following four elements:

One, on or about May 27, 2023, in Bridger, South Dakota, the defendant, Theodora Belt, a/k/a Theo Belt, voluntarily, intentionally, and unlawfully caused the death of Elijah Morrison or aided and abetted Bailey Belt in so doing;

Two, that Defendant Theodora Belt, a/k/a Theo Belt, acted in the heat of passion caused by adequate provocation;

“Heat of passion” is defined in Instruction No. 11

Three, that Defendant Theodora Belt, a/k/a Theo Belt, is an Indian; and

Four, that the offense took place in Indian country.

If all of these elements have been proved beyond a reasonable doubt as to Theodora Belt, a/k/a Theo Belt, then you must find her guilty of the crime charged; otherwise, you must find her not guilty of this crime.

Part B:

If your verdict is “not guilty” as to the offense of murder in the second degree as charged in Count I of the Indictment as to Defendant Bailey Belt or if after all reasonable efforts, you are unable to reach a verdict on the charge of murder in the second degree as to Defendant Bailey Belt, you should record that decision on the verdict form and go on to consider whether Defendant Bailey Belt is guilty of the crime of voluntary manslaughter. The crime of voluntary manslaughter, a lesser included offense of the crime of murder in the second degree as charged in Count I of the Indictment, has the following four elements:

One, on or about May 27, 2023, in Bridger, South Dakota, the defendant, Bailey Belt, voluntarily, intentionally, and unlawfully caused the death of Elijah Morrison or aided and abetted Theodora Belt, a/k/a Theo Belt, in so doing;

Two, that Defendant Bailey Belt acted in the heat of passion caused by adequate provocation;

“Heat of passion” is defined in Instruction No. 11

Three, that Defendant Bailey Belt is an Indian; and

Four, that the offense took place in Indian country.

If all of these elements have been proved beyond a reasonable doubt as to Defendant Bailey Belt then you must find him guilty of the crime charged; otherwise, you must find him not guilty of this crime.

INSTRUCTION NO. 11

A defendant acted upon heat of passion caused by adequate provocation, if:

***One*, the defendant was provoked in a way that would cause a reasonable person to lose his or her self-control;**

***Two*, a reasonable person subject to the same provocation would not have regained self-control in the time between the provocation and the killing; and**

***Three*, the defendant did not regain his or her self-control in the time between the provocation and the killing.**

Heat of passion may result from anger, rage, resentment, terror, or fear. The question is whether the defendant, while in such an emotional state, lost self-control, and acted on impulse and without reflection.

Provocation, in order to be adequate under the law, must be such as would naturally induce a reasonable person in the passion of the moment to temporarily lose self-control and kill on impulse without reflection. A blow or other personal violence may constitute adequate provocation, but trivial or slight provocation, entirely disproportionate to the violence of the retaliation, is not adequate provocation.

It must be such provocation as would arouse a reasonable person. If the provocation aroused the defendant because he or she was intoxicated, and would not have aroused a sober person, it does not reduce the offense to manslaughter.

INSTRUCTION NO. 12

A person may also be found guilty of voluntary manslaughter even if he or she did not do every act constituting the lesser included offense of voluntary manslaughter if he or she aided and abetted the commission of voluntary manslaughter.

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

***One*, have known voluntary manslaughter was being committed or was going to be committed;**

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

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

***Four*, have intended in the heat of passion caused by adequate provocation for Elijah Morrison to be unlawfully killed.**

For you to find either Defendant Theodora Belt, a/k/a Theo Belt, or Defendant Bailey Belt guilty of voluntary manslaughter by reason of aiding and abetting, the United States must prove beyond a reasonable doubt that all the elements of voluntary manslaughter were committed by one of the defendants and that the other defendant aided and abetted that crime; otherwise, you must find the defendants not guilty of this crime.

You may infer that the defendants had the requisite advance knowledge of the voluntary manslaughter if you find the defendant failed to object or withdraw from actively participating in the commission of voluntary manslaughter after the defendant observed another participant complete voluntary manslaughter.

You should understand that merely being present at the scene of an event, or merely acting in the same way as another 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 about to be committed, but who happens to act in a way which advances some offense, does not thereby become an aider and abettor.

INSTRUCTION NO. 13

Part A:

The crime of assault with a dangerous weapon, as charged in Count II of the Indictment as to Defendant Theodora Belt, a/k/a Theo Belt, has five elements, which are:

One, that on or about May 27, 2023, in Bridger, South Dakota, the defendant, Theodora Belt, a/k/a Theo Belt, assaulted Elijah Morrison with the specific intent to cause bodily harm or aided and abetted Bailey Belt in so doing;

Two, that the defendant used a dangerous weapon, that is a shovel and/or a car, in the assault;

The phrase “dangerous weapon” as used in these instructions means an object with the capacity to inflict bodily harm and used in a manner likely to do so.

To convict, you must reach a unanimous verdict that the assault with a dangerous weapon involved a shovel, or you must reach a unanimous verdict that the assault with a dangerous weapon involved a car. You need not find that a shovel and a car were both used, but you must be unanimous in your decision as to whether a shovel or a car or both were used.

Three, that the defendant is an Indian;

Four, that the alleged offense took place in Indian country; and

Five, that the defendant did not act in self-defense.

If all of these elements have been proved beyond a reasonable doubt as Defendant Theodora Belt, a/k/a Theo Belt, and if it has further been proved beyond a reasonable doubt that the Defendant Theodora Belt, a/k/a Theo Belt, was not acting in self-defense as defined in Instruction No. 14, then you must find her guilty of the crime charged; otherwise, you must find her not guilty of this crime.

Part B:

The crime of assault with a dangerous weapon, as charged in Count II of the Indictment as to Defendant Bailey Belt has five elements, which are:

One, that on or about May 27, 2023, in Bridger, South Dakota, the defendant, Bailey Belt, assaulted Elijah Morrison with the specific intent to cause bodily harm or aided and abetted Theodora Belt, a/k/a Theo Belt, in so doing;

Two, that the defendant used a dangerous weapon, that is a shovel and/or a car, in the assault;

The phrase “dangerous weapon” as used in these instructions means an object with the capacity to inflict bodily harm and used in a manner likely to do so.

To convict, you must reach a unanimous verdict that the assault with a dangerous weapon involved a shovel, or you must reach a unanimous verdict that the assault with a dangerous weapon involved a car. You need not find that a shovel and a car were both used, but you must be unanimous in your decision as to whether a shovel or a car or both were used.

Three, that the defendant is an Indian;

Four, that the alleged offense took place in Indian country; and

Five, that the defendant did not act in self-defense.

If all these elements have been proved beyond a reasonable doubt as to Defendant Bailey Belt, and if it has further been proved beyond a reasonable doubt that Defendant Bailey Belt was not acting in self-defense as defined in Instruction No. 14, then you must find him guilty of the crime charged; otherwise, you must find him not guilty of this crime.

INSTRUCTION NO. 14

If a person reasonably believes that force is necessary to protect himself or herself from what he or she reasonably believes to be unlawful physical harm about to be inflicted by another and uses such force, then he or she acted in self-defense.

However, self-defense which involves using force likely to cause death or great bodily harm is justified only if the person reasonably believes that such force is necessary to protect himself or herself from what he or she reasonably believes to be a substantial risk of death or great bodily harm.

INSTRUCTION NO. 15

A person may also be found guilty of assault with a dangerous weapon even if he or she did not do every act constituting the offense charged if he or she aided and abetted the commission of assault with a dangerous weapon.

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

***One*, have known assault with a dangerous weapon was being committed or was going to be committed;**

***Two*, have had enough advanced knowledge of the extent and character of the crime that he or she was able to make the relevant choice to walk away from the crime before all elements of assault with a dangerous weapon were complete;**

***Three*, have knowingly acted in some way for the purpose of causing, encouraging, or aiding the commission of assault with a dangerous weapon; and**

***Four*, have specifically intended that Elijah Morrison sustain bodily harm.**

For you to find either Defendant Theodora Belt, a/k/a Theo Belt, or Defendant Bailey Belt guilty of assault with a dangerous weapon by reason of aiding and abetting, the United States must prove beyond a reasonable doubt that all of the elements of assault with a dangerous weapon were committed by one of the defendants and that the other defendant aided and abetted that crime; otherwise, you must find the defendants not guilty of this crime.

You should understand that merely being present at the scene of an event, or merely acting in the same way as another 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 about to be committed, but who happens to act in a way which advances some offense, does not thereby become an aider and abettor.

INSTRUCTION NO. 16

The crime of assault with a dangerous weapon, as charged in Counts II and IV of the Indictment, requires that there exists in the mind of the perpetrator the specific intent to do bodily harm to the alleged victim. If the defendants acted without such specific intent, the crime of assault with a dangerous weapon has not been committed. There is no such requirement for the crime of assault resulting in serious bodily injury as charged in Counts III and V of the Indictment.

INSTRUCTION NO. 17

Part A:

The crime of assault resulting in serious bodily injury, as charged in Count III of the Indictment as to Defendant Theodora Belt, a/k/a Theo Belt, has five elements, which are:

One, that on or about May 27, 2023, in Bridger, South Dakota, the defendant, Theodora Belt, a/k/a Theo Belt, assaulted Elijah Morrison or aided and abetted Bailey Belt in such an assault;

“Assault” means any intentional and voluntary attempt or threat to injure another person, combined with the apparent present ability to do so, which is sufficient to put the other person in reasonable fear of immediate bodily harm or any intentional and voluntary harmful and offensive touching of another person without justification or excuse.

Two, as a result of that assault, Elijah Morrison suffered serious bodily injury;

“Serious bodily injury” means bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the functions of a bodily member, organ, or mental faculty.

Three, that the defendant is an Indian;

Four, that the alleged offense took place in Indian country; and

Five, that the defendant did not act in self-defense.

If you find unanimously that the United States has proved these five elements beyond a reasonable doubt as to Defendant Theodora Belt, a/k/a Theo Belt, then you must find her guilty of this crime; otherwise, you must find her not guilty of this offense.

Part B:

The crime of assault resulting in serious bodily injury, as charged in Count III of the Indictment as to Defendant Bailey Belt has five elements, which are:

One, that on or about May 27, 2023, in Bridger, South Dakota, the defendant, Bailey Belt, assaulted Elijah Morrison or aided and abetted Theodora Belt, a/k/a Theo Belt, in such an assault;

“Assault” means any intentional and voluntary attempt or threat to injure another person, combined with the apparent present ability to do so, which is sufficient to put the other person in reasonable fear of immediate bodily harm or any intentional and voluntary harmful and offensive touching of another person without justification or excuse.

Two, as a result of that assault, Elijah Morrison suffered serious bodily injury;

“Serious bodily injury” means bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the functions of a bodily member, organ, or mental faculty.

Three, that the defendant is an Indian;

Four, that the alleged offense took place in Indian country; and

Five, that the defendant did not act in self-defense.

If you find unanimously that the United States has proved these five elements beyond a reasonable doubt as to Defendant Bailey Belt, then you must find him guilty of this crime; otherwise, you must find him not guilty of this offense.

INSTRUCTION NO. 18

A person may also be found guilty of assault resulting in serious bodily injury as charged in Count III of the Indictment even if he or she did not do every act constituting the offense charged, if he or she aided and abetted the commission of assault resulting in serious bodily injury.

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

***One*, have known assault resulting serious bodily injury was being committed or was going to be committed;**

***Two*, have had enough advanced knowledge of the extent and character of the crime that he or she was able to make the relevant choice to walk away from the crime before all elements of assault resulting in serious bodily injury were complete;**

***Three*, have knowingly acted in some way for the purpose of causing, encouraging, or aiding the commission of assault resulting in serious bodily injury; and**

***Four*, have intended for Elijah Morrison to be injured.**

For you to find either Defendant Theodora Belt, a/k/a Theo Belt, or Defendant Bailey Belt guilty of assault resulting in serious bodily injury by reason of aiding and abetting, the United States must prove beyond a reasonable doubt that all of the elements of assault resulting in serious bodily injury were committed by one of the defendants and that the other defendant aided and abetted that crime; otherwise, you must find the defendants not guilty of this crime.

You should understand that merely being present at the scene of an event, or merely acting in the same way as another 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 about to be committed, but who happens to act in a way which advances some offense, does not thereby become an aider and abettor.

INSTRUCTION NO. 19

The crime of assault with a dangerous weapon, as charged in Count IV of the Indictment, has four elements, which are:

One, that on or about May 27, 2023, in Bridger, South Dakota, the defendant, Bailey Belt, assaulted Conan Morrison with the specific intent to cause bodily harm;

Two, that the defendant used a dangerous weapon, that is a shovel, in the assault;

The phrase “dangerous weapon” as used in these instructions means an object with the capacity to inflict bodily harm and used in a manner likely to do so.

Three, that the defendant is an Indian; and

Four, that the alleged offense took place in Indian country.

If you find unanimously that the United States has proved these four elements beyond a reasonable doubt as to Defendant Bailey Belt, then you must find him guilty of this crime; otherwise, you must find him not guilty of this offense.

INSTRUCTION NO. 20

The crime of assault resulting in serious bodily injury, as charged in Count V of the Indictment, has four elements, which are:

One, that on or about May 27, 2023, in Bridger, South Dakota, the defendant, Bailey Belt, assaulted Conan Morrison;

“Assault” means any intentional and voluntary attempt or threat to injure another person, combined with the apparent present ability to do so, which is sufficient to put the other person in reasonable fear of immediate bodily harm or any intentional and voluntary harmful and offensive touching of another person without justification or excuse.

Two, as a result of that assault, Conan Morrison suffered serious bodily injury;

“Serious bodily injury” means bodily injury which involves a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the functions of a bodily member, organ, or mental faculty.

Three, that the defendant is an Indian; and

Four, that the alleged offense took place in Indian country.

If you find unanimously that the United States has proved these four elements beyond a reasonable doubt as to Defendant Bailey Belt, then you must find him guilty of this crime; otherwise, you must find him not guilty of this offense.

INSTRUCTION NO. 21

As used in these instructions, the term “Indian” means a person who:

1. Has some degree of Indian blood; and
2. Is recognized as an Indian by a Tribe or the federal government, such as by tribal enrollment.

The term “Indian county” means:

1. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;
2. All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and
3. All Indian allotments, the Indian titles to which have not been extinguished, including rights of way through the same.

INSTRUCTION NO. 22

You may consider any statement of Defendant Theodora Belt, a/k/a Theo Belt, only in the case against her, and not against the other defendant, Bailey Belt.

INSTRUCTION NO. 23

You have heard testimony from persons described as experts. Persons who, by knowledge, skill, training, education, or experience, have become an expert in some field may state their opinions on matters in that field and may also state the reasons for their opinion.

Expert testimony should be considered just like any other testimony. You may accept or reject it and give it as much weight as you think it deserves, considering the witness's education and experience, the soundness of the reasons given for the opinion, the acceptability of the methods used, and all the other evidence in the case.

INSTRUCTION NO. 24

The Indictment charges that the offense was committed “on or about” a certain date. The proof need not establish with certainty the exact date of the alleged offense. It is sufficient if the evidence in the case establishes beyond a reasonable doubt that the offense was committed on a date reasonably near the date alleged.

INSTRUCTION NO. 25

Intent or knowledge may be proved like anything else. You may consider any statements made and acts done by the defendant in connection with the offense, and all the facts and circumstances in evidence which 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.

INSTRUCTION NO. 26

Being under the influence of alcohol provides a legal excuse for the commission of a crime only if the effect of the alcohol makes it impossible for the defendant to have the intent required by an element of the crime at issue. Evidence that any defendant acted while under the influence of alcohol may be considered by you, together with all the other evidence, in determining whether or not the defendant did in fact have the intent required by an element of the crime at issue. Being under the influence of alcohol is not a defense to assault resulting in serious bodily injury, which are Courts III and V as alleged in the Indictment.

INSTRUCTION NO. 27

Reasonable doubt is doubt based upon reason and common sense, and not doubt based on speculation. A reasonable doubt may arise from careful and impartial consideration of all the evidence, or from a lack of evidence. Proof beyond a reasonable doubt is proof of such a convincing character that a reasonable person, after careful consideration, would not hesitate to rely and act upon that proof in life's most important decisions. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. Proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NO. 28

In conducting your deliberations and returning your verdict, there are certain rules you must follow. I shall list those rules for you now.

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, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach agreement if you can do so without violence to individual judgment, because a verdict—whether guilty or not guilty—must be unanimous. Each of you must make your own conscientious decision, but only after you have considered all the evidence, discussed it fully with your fellow jurors, and listened to the views of your fellow jurors. Do not be afraid to change your opinions if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right, or simply to reach a verdict.

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

Fourth, 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.

Fifth, during your deliberations, you must not communicate with or provide any information to anyone other than by note to me by any means about this case. You may not use any electronic device or media, such as a cell phone, smart phone, iPhone, or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, Snapchat, LinkedIn, Instagram, YouTube, TikTok, X (formerly known as Twitter), or Truth Social, to communicate to anyone information about this case or to conduct any research about this case until I accept your verdict.

Sixth, your verdict must be based solely on the evidence and on the law which I have given to you in my instructions. 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.

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. THEODORA BELT, a/k/a Theo Belt, and BAILEY BELT, Defendants.	3:23-CR-30067-RAL VERDICT FORM
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We, the jury, duly empaneled and sworn to try the issues in this case, find as follows:

- 1. Part A:** We find the defendant, Theodora Belt, a/k/a Theo Belt, _____ (fill in either “not guilty” or “guilty”) of murder in the second degree as charged in Count I of the Indictment.

Part B: We find the defendant, Bailey Belt, _____ (fill in either “not guilty” or “guilty”) of murder in the second degree as charged in Count I of the Indictment.

[Lesser Included Offense] Answer if, and only if, you found the defendant “not guilty” or you are not able to reach a verdict after all reasonable efforts as to the charge of murder in the second degree, otherwise leave this blank.

Part A: We find the defendant, Theodora Belt, a/k/a Theo Belt, _____ (fill in either “not guilty” or “guilty”) of the lesser included offense of voluntary manslaughter.

Part B: We find the defendant, Bailey Belt, _____ (fill in either “not guilty” or “guilty”) of the lesser included offense of voluntary manslaughter.

- 2. Part A:** We find the defendant, Theodora Belt, a/k/a Theo Belt, _____ (fill in either “not guilty” or “guilty”) of assault with a dangerous weapon as charged in Count II of the Indictment.

Part B: We find the defendant, Bailey Belt, _____ (fill in either “not guilty” or “guilty”) of assault with a dangerous weapon as charged in Count II of the Indictment.

3. **Part A:** We find the defendant, Theodora Belt, a/k/a Theo Belt, _____ (fill in either “not guilty” or “guilty”) of assault resulting in serious bodily injury as charged in Count III of the Indictment.

Part B: We find the defendant, Bailey Belt, _____ (fill in either “not guilty” or “guilty”) of assault resulting in serious bodily injury as charged in Count III of the Indictment.

4. We find the defendant, Bailey Belt, _____ (fill in either “not guilty” or “guilty”) of assault with a dangerous weapon as charged in Count IV of the Indictment.
5. We find the defendant, Bailey Belt, _____ (fill in either “not guilty” or “guilty”) of assault resulting in serious bodily injury as charged in Count V of the Indictment.

Dated June _____, 2024

Foreperson