

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

|   |  |
|---|--|
| UNITED STATES OF AMERICA,<br><br><p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> OLIVER BROWN BULL,<br><br><p style="text-align: center;">Defendant.</p> | 25-CR-50047-CCT<br><br><b>FINAL INSTRUCTIONS<br/>TO THE JURY</b> |
|---|--|

**TABLE OF CONTENTS**

|   |    |
|---|----|
| FINAL INSTRUCTION NO. 1 – INTRODUCTION .....                                    | 1  |
| FINAL INSTRUCTION NO. 2 – ASSAULT RESULTING IN SERIOUS<br>BODILY INJURY .....   | 2  |
| FINAL INSTRUCTION NO. 3 – ASSAULT WITH A DANGEROUS WEAPON .....                 | 5  |
| FINAL INSTRUCTION NO. 4 – ASSAULT RESULTING IN SERIOUS<br>BODILY INJURY .....   | 7  |
| FINAL INSTRUCTION NO. 5 – INTENT .....  | 8  |
| FINAL INSTRUCTION NO. 6 – IMPEACHMENT .....                                     | 9  |
| FINAL INSTRUCTION NO. 7 – PRIOR CONVICTION .....                                | 10 |
| FINAL INSTRUCTION NO. 8 – EXPERT WITNESS .....                                  | 11 |
| FINAL INSTRUCTION NO. 9 – PRESUMPTION OF INNOCENCE AND BURDEN<br>OF PROOF ..... | 12 |
| FINAL INSTRUCTION NO. 10 – REASONABLE DOUBT .....                               | 13 |
| FINAL INSTRUCTION NO. 11 – DUTY TO DELIBERATE .....                             | 14 |
| FINAL INSTRUCTION NO. 12 – DUTY DURING DELIBERATIONS .....                      | 15 |

VERDICT FORM

FINAL INSTRUCTION NO. 1 – INTRODUCTION

Members of the jury, the written instructions I gave you at the beginning of 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 – ASSAULT RESULTING IN SERIOUS  
BODILY INJURY

For you to find Oliver Brown Bull guilty of “assault resulting in serious bodily injury” as charged in the Indictment, the government must prove the following essential elements beyond a reasonable doubt:

**One, that on or about January 31, 2025, Oliver Brown Bull assaulted Travis Mesteth;**

“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 fear of immediate bodily harm or any intentional and voluntary harmful and offensive touching of another person without justification or excuse.

**Two, that as a result of that assault, Travis Mesteth suffered serious bodily injury;**

“Serious bodily injury” means bodily injury that 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 assault took place within Indian Country in the District of South Dakota;**

The term “Indian Country,” includes: (a) 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; (b) 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 (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

**Four, that Oliver Brown Bull is an Indian;**

A person is considered an “Indian” if that person has some Indian blood and if that person is recognized as an Indian. To determine whether the person is recognized as an Indian, you may consider the following factors:

- 1) Whether the person is enrolled in a tribe.
- 2) Whether the government has provided the person with assistance reserved only to Indians.
- 3) Whether the person enjoys the benefits of tribal affiliation.
- 4) Whether the person is socially recognized as an Indian because he lives on the reservation and participates in Indian social life.

It is not necessary that all of these factors be present. Rather, the jury is to consider all of the evidence in determining whether the government has proved beyond a reasonable doubt that the defendant is an Indian.

***And five, that Oliver Brown Bull did not act in self-defense.***

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

However, self-defense or defense of another 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 the third person from what he reasonably believes to be substantial risk of death or great bodily harm.

Whether an aggressor was armed may be relevant in determining the degree of force a person is entitled to use in defense of themselves or others. However, an aggressor need not have been armed in order for a defendant to raise self-defense or defense of another.

Although a defendant asserting self-defense or defense of another is not required to retreat before resorting to force, the availability of retreat may be a factor for you to consider in evaluating whether reasonable force was used.

The burden is on the government to prove beyond a reasonable doubt that Mr. Brown Bull was not acting in self-defense or in defense of another during the incident alleged.

For you to find Mr. Brown Bull guilty of this offense charged in the Indictment, the government must prove beyond a reasonable doubt all of the essential elements. Otherwise, you must find Mr. Brown Bull not guilty of this offense charged in the Indictment.

FINAL INSTRUCTION NO. 3 – ASSAULT WITH A DANGEROUS WEAPON

For you to find Oliver Brown Bull guilty of “assault with a dangerous weapon” as charged in the Indictment, the government must prove the following essential elements beyond a reasonable doubt:

**One, that on or about January 31, 2025, Oliver Brown Bull assaulted Travis Mesteth with the specific intent to cause bodily harm;**

“Assault” has been defined for you in Instruction No. 2 above.

“Bodily harm” means an injury that is painful and obvious or is of a type for which medical attention would ordinarily be sought, including (A) a cut, abrasion, bruise, burn, or disfigurement; (B) physical pain; (C) illness; (D) impairment of the function of a bodily member, organ, or mental faculty; or (E) any other injury to the body, no matter how temporary.

To find specific intent, there must exist in the mind of the perpetrator the specific intent to do bodily harm to the alleged victim. If the defendant acted without such specific intent, the crime of “assault with a dangerous weapon” has not been committed.

**Two, that Oliver Brown Bull used a dangerous weapon, specifically shod feet;**

“Dangerous weapon” means an object with the capacity to endanger life or inflict bodily harm and used in a manner likely to do so.

**Three, that the assault took place within Indian Country in the District of South Dakota;**

“Indian Country” has been defined for you in Instruction No. 2 above.

**Four, that Oliver Brown Bull is an Indian;**

“Indian” has been defined for you in Instruction No. 2 above.

**And five, that Oliver Brown Bull did not act in self-defense.**

“Self-defense” has been defined for you in Instruction No. 2 above.

For you to find Mr. Brown Bull guilty of this offense charged in the Indictment, the government must prove beyond a reasonable doubt all of the essential elements. Otherwise, you must find Mr. Brown Bull not guilty of this offense charged in the Indictment.

FINAL INSTRUCTION NO. 4 – ASSAULT RESULTING IN SERIOUS  
BODILY INJURY

For you to find Oliver Brown Bull guilty of “assault resulting in serious bodily injury” as charged in the Indictment, the government must prove the following essential elements beyond a reasonable doubt:

**One, that on or about January 31, 2025, Oliver Brown Bull assaulted Samuel Around Him;**

“Assault” has been defined for you in Instruction No. 2 above.

**Two, that as a result of that assault, Samuel Around Him suffered serious bodily injury;**

“Serious bodily injury” has been defined for you in Instruction No. 2 above.

**Three, that the assault took place within Indian Country in the District of South Dakota;**

“Indian Country” has been defined for you in Instruction No. 2 above.

**Four, that Oliver Brown Bull is an Indian;**

“Indian” has been defined for you in Instruction No. 2 above.

**And five, that Oliver Brown Bull did not act in self-defense.**

“Self-defense” has been defined for you in Instruction No. 2 above.

For you to find Mr. Brown Bull guilty of this offense charged in the Indictment, the government must prove beyond a reasonable doubt all of the essential elements. Otherwise, you must find Mr. Brown Bull not guilty of this offense charged in the Indictment.



FINAL INSTRUCTION NO. 5 – INTENT

Intent may be proven like anything else. You may consider any statements made or acts done by the defendant and all the facts and circumstances in evidence that may aid in a determination of the defendant's 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.

## FINAL INSTRUCTION NO. 6 – IMPEACHMENT

In Preliminary Instruction No. 7, 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, the statements were not admitted to prove that the contents of those statements are 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, 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. 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. 7 – PRIOR CONVICTION

You have heard evidence that Oliver Brown Bull was previously convicted of a crime. You may use that evidence only to help you decide whether to believe his testimony and how much weight to give it. The fact that he was previously convicted of a crime does not mean that he committed the crimes charged here, and you must not use that evidence as any proof of the crimes charged in this case.

FINAL INSTRUCTION NO. 8 – EXPERT WITNESS

You have heard testimony from more than one person described as an expert. 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.

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

The presumption of innocence means that the defendant 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 government proves, beyond a reasonable doubt, all of the elements of the offenses charged against him.

The burden is always on the government 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 government's witnesses, or testify.

This burden means that you must find the defendant not guilty of the offense charged against him, unless the government 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 government 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 government's lack of evidence.

The government 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 government'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 government has not proved beyond a reasonable doubt that the defendant is guilty, say so.
- If you are convinced that the government 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 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. 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 guilty or not guilty. If the 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 all Instructions, whether written or not. 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 December 4<sup>th</sup>, 2025.

BY THE COURT:



---

CAMELA C. THEELER  
UNITED STATES DISTRICT JUDGE