



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 – ILLEGAL REENTRY AFTER DEPORTATION

For you to find Celso Diaz-Martinez guilty of illegal reentry after deportation as charged in Count 1, the government must prove the following essential elements beyond a reasonable doubt:

***One, that Celso Diaz-Martinez is an alien;***

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

***Two, that on or about December 30, 2015, Celso Diaz-Martinez was previously denied admission, excluded, removed, or deported from the United States;***

***Three, that after he was deported, Celso Diaz-Martinez was found in the United States;***

***Four, that after Celso Diaz-Martinez entered the United States, he was aware he was in the United States and knowingly and voluntarily remained in the United States; and***

***Five, that at the time he was found in the United States, Celso Diaz-Martinez had not obtained the consent of the Attorney General of the United States or the Secretary of the United States Department of Homeland Security, to apply for readmission into the United States since the time of his deportation.***

For you to find Mr. Diaz-Martinez guilty of the offense charged in Count 1 of the Indictment, the government must prove all five of the essential elements beyond a reasonable doubt. Otherwise, you must find Mr. Diaz-Martinez not guilty of the offense charged in the Indictment.

FINAL INSTRUCTION NO. 3 – DEFENDANT’S PRIOR SIMILAR ACTS

You have heard evidence that Celso Diaz-Martinez was previously excluded, removed, or deported from the United States. You may consider this evidence only if you unanimously find it more likely true than not true that Mr. Diaz-Martinez committed the acts. This is a lower standard than proof beyond a reasonable doubt.

If you find that the acts have not been proved, you must disregard them. If you find the acts have been proved, then you may consider them to help you decide any matter to which they are relevant. You should give them the weight and value you believe they are entitled to receive.

Remember, even if you find Mr. Diaz-Martinez 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 similar acts in the past. Mr. Diaz-Martinez is on trial only for the crime charged, and you may consider the evidence of prior acts only on the issues stated above.

FINAL INSTRUCTION NO. 4 – 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. 5 – IMPEACHMENT BY PRIOR CONVICTION

You have heard evidence that Celso Diaz-Martinez was previously convicted of crimes. 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 crime charged here, and you must not use that evidence as any proof of the crime charged in this case.

FINAL INSTRUCTION NO. 6 – EXPERT WITNESS

You have heard testimony from a person described as an expert. A person who, by knowledge, skill, training, education, or experience, has become an expert in some field may state her opinion on matters in that field and may also state the reasons for her 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. 7 – 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 charge, 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 offense 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, if the 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 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. 8 – 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. 9 – 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. 10 – DUTY DURING DELIBERATIONS

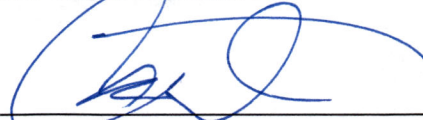
You must follow certain rules while conducting your deliberations and returning your verdict:

- 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 February 18, 2025.

BY THE COURT:



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CAMELA C. THEELER  
UNITED STATES DISTRICT JUDGE

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

UNITED STATES OF AMERICA,  <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> CELSO DIAZ-MARTINEZ,  <p style="text-align: center;">Defendant.</p>	5:24-CR-50171-CCT  <b>VERDICT</b>
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We, the Jury, unanimously find the defendant, Celso Diaz-Martinez, as follows:

<b>ILLEGAL REENTRY AFTER DEPORTATION</b>	<b>VERDICT</b>
On the charge of "illegal reentry after deportation" as explained in Final Instruction No. 2, please mark your verdict.	<input type="checkbox"/> Not Guilty  <input type="checkbox"/> Guilty

Please sign and date this Verdict Form.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Foreperson