

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>WILLIAM WALDEMAR GODOY, a/k/a Raul Alexander Vasquez-Godea, a/k/a Juan Carlos Rivas-Rivas, a/k/a Juan Garcia, a/k/a Juan Perez-Garcia,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: right;">4:22-CR-40077-KES</p> <p style="text-align: center;">FINAL INSTRUCTIONS TO THE JURY</p>
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VERDICT FORM

FINAL INSTRUCTION NO. 1 – INTRODUCTION

Members of the jury, the written instructions I gave you at the beginning of the trial and the oral instructions I gave you during the trial remain in effect. I now give you some additional instructions.

The instructions I am about to give you, as well as the preliminary instructions given to you at the beginning of the trial, are in writing and will be available to you in the jury room. *All* instructions, whenever given and whether in writing or not, must be followed. This is true even though some of the instructions I gave you at the beginning of the trial are not repeated here.

FINAL INSTRUCTION NO. 2 – ILLEGAL REENTRY AFTER DEPORTATION

For you to find William Waldemar Godoy guilty of the offense of Illegal Reentry After Deportation, as charged in Count 1 of the Third Superseding Indictment, the prosecution must prove the following three essential elements beyond a reasonable doubt:

One, that on or about June 6, 2016, at Hidalgo, Texas, the defendant was deported from the United States;

Counsel for the United States and counsel for William Waldemar Godoy have agreed or stipulated that William Waldemar Godoy was deported from the United States on or about June 6, 2016, at Hidalgo, Texas.

The defendant has not, by entering into this agreement or stipulation, admitted his guilt of the offense charged, and you may not draw any inference of guilt from the stipulation. The only effect of this stipulation is to present to the jury the fact that William Waldemar Godoy was deported from the United States on or about June 6, 2016, at Hidalgo, Texas.

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

Counsel for the United States and counsel for William Waldemar Godoy have agreed or stipulated that William Waldemar Godoy did not, at any time, request or obtain the consent of the Secretary of the United States Department of Homeland Security to return to the United States.

The defendant has not, by entering into this agreement or stipulation, admitted his guilt of the offense charged, and you may not draw any inference of guilt from the stipulation. The only effect of this stipulation is to present to the jury the fact that William Waldemar Godoy did not request or obtain the consent of the Secretary of the United States Department of Homeland Security to return to the United States.

And three, that the defendant was an alien at the time of the reentry.

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

For you to find William Waldemar Godoy guilty of the offense charged in Count 1 of the Third Superseding Indictment, the prosecution must prove all three of the essential elements beyond a reasonable doubt. If you find that the prosecution has not proved each of the elements, then you must William Waldemar Godoy not guilty of Count 1 charged in the Third Superseding Indictment.

FINAL INSTRUCTION NO. 3 – TRAFFICKING WITH RESPECT TO PEONAGE,
SLAVERY, INVOLUNTARY SERVITUDE OR FORCED LABOR

For you to find William Waldemar Godoy guilty of the offense of Trafficking with Respect to Peonage, Slavery, Involuntary Servitude or Forced Labor, as charged in Counts 2 and 5 of the Third Superseding Indictment, the prosecution must prove the following three essential elements beyond a reasonable doubt:

One, that the defendant recruited, harbored, transported, provided, or obtained by any means or attempted to recruit, harbor, transport, provide, or obtain the person named below for labor or services;

A person may be found guilty of an attempt if he intended to recruit, harbor, transport, provide, or obtain the person named below for labor or services and intentionally carried out some act which was a substantial step toward recruiting, harboring, transporting, providing, or obtaining the person named below for labor or services.

A substantial step must be something more than mere preparation, yet may be less than the last act necessary before the actual commission of the substantive crime. In order for behavior to be punishable as an attempt, it need not be incompatible with innocence, yet it must be necessary to the consummation of the crime and be of such a nature that a reasonable observer, viewing it in context could conclude beyond a reasonable doubt that it was undertaken in accordance to violate the statute.

Two, that the defendant did so through at least one of the following prohibited means:

- a. Force, threat of force, physical restraint, or threats of physical restraint to that person or another person;**
- b. Serious harm or threats of serious harm to that person;**
- c. The abuse or threatened abuse of law or legal process; or**
- d. A scheme, plan or pattern intended to cause the person to believe that if that person did not perform such labor or services that person or another person would suffer serious harm or physical restraint;**

The term “serious harm” includes both physical harm and non-physical harm. A threat of serious harm, therefore, need not involve any threat of physical violence. It includes threats of any consequences, whether physical or non-physical, subtle or overt, that are sufficient, under all

the surrounding circumstances, to compel or coerce a reasonable person in the same situation as the alleged victim to provide, or to continue providing, labor or services.

The words “scheme,” “plan,” and “pattern” under the second prohibited means are to be given their ordinary meanings. A scheme, plan, or pattern need not involve actual threats of serious harm, but may involve any other means – including deception or psychological coercion – used to cause the victims, to believe that they or any other person would suffer serious harm if he refused to continue providing labor or services.

The term “abuse or threatened abuse of law or the legal process” means use or threatened use of a law or a legal process, whether civil or criminal, against another person primarily to accomplish a purpose for which the law or process was not designed.

And three, that the defendant acted knowingly.

An act is done knowingly if the defendant is aware of the act and does not act through ignorance, mistake, or accident. The government is not required to prove that the defendant knew that his actions were unlawful. You may consider evidence of the defendant’s words, acts, or omissions, along with all the other evidence, in deciding whether the defendant acted knowingly.

Count	Approximate Dates	Person Recruited, Harbored, Transported, Provided or Obtained
2	Beginning in approximately October 2020 and continuing through approximately September 8, 2022	Bryan Corado Ordonez
5	Beginning on an unknown date and continuing through approximately September 8, 2022	Juan Rivera Ruiz

For you to find William Waldemar Godoy guilty of the offense charged in Counts 2 and 5 of the Third Superseding Indictment, the prosecution must prove all three of the essential elements beyond a reasonable doubt as to each

count. If you find that the prosecution has not proved each of the elements, then you must William Waldemar Godoy not guilty of Count 2 or 5 charged in the Third Superseding Indictment.

FINAL INSTRUCTION NO. 4 – HARBORING ALIENS

For you to find William Waldemar Godoy guilty of Harboring Aliens, as charged in Counts 3, 6, and 8 of the Third Superseding Indictment, the prosecution must prove the following five essential elements beyond a reasonable doubt:

One, the person named below was an alien;

The same instruction described above for element one of Count 1, detailed in Final Instruction No. 2, applies here.

Two, the person named below was not lawfully in the United States;

Three, the defendant knew or acted in reckless disregard of the fact that the person named below was not lawfully in the United States;

To “recklessly disregard” means that the defendant deliberately closed his eyes to what would otherwise have been obvious to him. A person acts with “reckless disregard” when they are aware of, but consciously disregard, facts and circumstances indicating that the alien came to, entered, or resided in the United States in violation of the law.

Four, the defendant harbored, concealed, or shielded from detection the person named below with intent to violate the law;

The term “harboring” means any conduct tending to substantially facilitate an alien remaining in the United States illegally, including, but not limited to giving shelter, providing housing, providing employment and providing rides to a place of employment.

The term “shielding from detection” includes any conduct which prevents immigration officials from identifying, locating or apprehending an alien.

The term “conceal” means any conduct which impedes the ability of immigration officials from identifying, locating or apprehending an alien.

And five, the defendant did so for the purpose of private financial gain.

“Private financial gain” is understood according to its normal and ordinary meaning.

The government is not required to show that the defendant received a cash benefit in order for this element to be satisfied. If you find beyond a reasonable doubt that the defendant acted in order to receive some economic benefit, then this element has been proven.

Count	Approximate Dates	Named Person
3	Beginning in approximately October 2020 and continuing through approximately September 8, 2022	Bryan Corado Ordonez
6	Beginning on an unknown date and continuing through approximately September 8, 2022	Juan Rivera Ruiz
8	Between approximately July 17, 2021 and September 8, 2022	Luis Alonzo-Argujo

For you to find William Waldemar Godoy guilty of the offense charged in Counts 3, 6, or 8 of the Third Superseding Indictment, the prosecution must prove all five of the essential elements beyond a reasonable doubt as to each count. If you find that the prosecution has not proved each of the elements, then you must find William Waldemar Godoy not guilty of Counts 3, 6, or 8 charged in the Third Superseding Indictment.

FINAL INSTRUCTION NO. 5 – HARBORING ALIENS

For you to find William Waldemar Godoy guilty of Harboring Aliens, as charged in Counts 4, 7, and 9 of the Third Superseding Indictment, the prosecution must prove the following four essential elements beyond a reasonable doubt:

One, the person named below was an alien;

The same instruction described above for element one of Count 1, detailed in Final Instruction No. 2, applies here.

Two, the person named below was not lawfully in the United States;

Three, the defendant knew or acted in reckless disregard of the fact that the person named below was not lawfully in the United States;

The same instruction described above for element three of Counts 3, 6, and 8, detailed in Final Instruction No. 4, applies here.

And four, the defendant encouraged or induced the named person to come to, enter, or reside in the United States.

Count	Approximate Dates	Named Person
4	Beginning in approximately October 2020 and continuing through approximately September 8, 2022	Bryan Corado Ordonez
7	Beginning on an unknown date and continuing through approximately September 8, 2022	Juan Rivera Ruiz
9	Between approximately July 17, 2021 and September 8, 2022	Luis Alonzo-Argujo

For you to find William Waldemar Godoy guilty of the offense charged in Counts 4, 7, or 9 of the Third Superseding Indictment, the prosecution must prove all four of the essential elements beyond a reasonable doubt as to each count. If you find that the prosecution has not proved each of the elements, then you must William Waldemar Godoy not guilty of Counts 4, 7, or 9 charged in the Third Superseding Indictment.

FINAL INSTRUCTION NO. 6 – EXTORTION

For you to find William Waldemar Godoy guilty of Extortion, as charged in Count 10 of the Third Superseding Indictment, the prosecution must prove the following four essential elements beyond a reasonable doubt:

One, the defendant induced Luis Alonzo-Argujo to part with money;

Two, the defendant voluntarily and intentionally did so by extortion, that is, through the wrongful use of actual or threatened force or violence or through the wrongful use of fear;

“Fear” means a state of anxious concern, alarm or apprehension of harm. Fear includes fear of economic loss or injury, as well as fear of physical violence. Extortion by wrongful use of fear requires that the fear be reasonable under the circumstances.

And three, the defendant’s action affected interstate or foreign commerce in some way or degree.

You must decide whether there is an actual effect on commerce. If you decide that there was any effect at all on commerce, then that is enough to satisfy this element. The effect can be minimal.

It is not necessary for the government to show that the defendant actually intended or anticipated an effect on commerce. All that is necessary is that commerce was affected as a natural and probable consequences of the defendant’s actions.

For you to find William Waldemar Godoy guilty of the offense charged in Count 10 of the Third Superseding Indictment, the prosecution must prove all three of the essential elements beyond a reasonable doubt as to each count. If you find that the prosecution has not proved each of the elements, then you must find William Waldemar Godoy not guilty of Count 10 charged in the Third Superseding Indictment.

FINAL INSTRUCTION NO. 7 – POSSESSION OF A FIREARM BY A
PROHIBITED PERSON

For you to find William Waldemar Godoy guilty of the offense of Possession of a Firearm by a Prohibited Person as charged in Count 11 of the Third Superseding Indictment, the prosecution must prove the following four essential elements beyond a reasonable doubt:

One, William Waldemar Godoy was an alien illegally and unlawfully present in the United States;

The same instruction described above for element one of Count 1, detailed in Final Instruction No. 2, applies here.

Two, at that time, Godoy knowingly possessed a firearm or ammunition: a Winchester 12-gauge shotgun, Model 25, bearing serial number 79241, or a FN Herstal Rifle Model PS90, bearing serial number 130662;

Counsel for the United States and counsel for William Waldemar Godoy have agreed or stipulated that a Winchester 12-gauge Shotgun, Model 25, bearing serial number 79241, and a FN Herstal Rifle, Model PS90, bearing serial number 130662 are firearms as defined by federal law.

The defendant has not, by entering into this agreement or stipulation, admitted his guilt of the offense charged, and you may not draw any inference of guilt from the stipulation. The only effect of this stipulation is to present to the jury the fact that a Winchester 12-gauge Shotgun, Model 25, bearing serial number 79241, and a FN Herstal Rifle, Model PS90, bearing serial number 130662 are firearms as defined by federal law.

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” is in these instructions, it includes actual as well as constructive possession and also sole as well as joint possession.

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

Three, at the time Godoy knowingly possessed a firearm or ammunition, he knew that he was an alien illegally and unlawfully present in the United States;

And four, the firearm was transported across a state line at some time during or before Godoy’s possession of the firearm.

Counsel for the United States and counsel for William Waldemar Godoy have agreed or stipulated that the firearms were manufactured in a state other than South Dakota and were transported across state lines.

The defendant has not, by entering into this agreement or stipulation, admitted his guilt of the offense charged, and you may not draw any inference of guilt from the stipulation. The only effect of this stipulation is to present to the jury the fact that the firearms were manufactured in a state other than South Dakota and were transported across state lines.

For you to find William Waldemar Godoy guilty of the offense charged in Count 11 of the Third Superseding Indictment, the prosecution must prove all four of the essential elements beyond a reasonable doubt. If you find that the prosecution has not proved each of the elements, then you must find William Waldemar Godoy not guilty of Count 11 charged in the Third Superseding Indictment.

FINAL INSTRUCTION NO. 8 – 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 the witnesses may receive, or have received, benefits from the government regarding the witnesses’ immigration status, including assistance from law enforcement officers in applying for permanent United States citizenship, a plea agreement, charges being reduced, and/or immunity from prosecution, if he provides assistance to the government in the prosecution of the defendant. The witnesses’ testimony was received in evidence and may be considered by you. You may give the witnesses’ testimony as much weight as you think it deserves. Whether or not their testimony may have been influenced by the government’s promises is for you to determine.

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. 9 – PRESUMPTION OF INNOCENCE AND BURDEN
OF PROOF

The presumption of innocence means that a defendant is 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 William Waldemar Godoy not guilty of an offense charged against him, unless the prosecution proves beyond a reasonable doubt that he has committed each and every element of that offense.

FINAL INSTRUCTION NO. 10 – REASONABLE DOUBT

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

- A reasonable doubt may arise from evidence produced by the prosecution or 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. 11 – DUTY TO DELIBERATE

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

- If you are convinced that the prosecution has not proved beyond a reasonable doubt that 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. 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 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 April 4, 2024.

BY THE COURT:



KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE