

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 – INVOLUNTARY MANSLAUGHTER

For you to find Janine Faye Good Lance guilty of the offenses of involuntary manslaughter charged in Counts 1 and 2 of the Superseding Indictment, the prosecution must prove the following five essential elements beyond a reasonable doubt:

One, that on or about November 18, 2022, the defendant, Janine Faye Good Lance, caused the death of:

- **Count 1: Irene Poor Bear**
- **Count 2: Rebecca Roubideaux;**

Two, the defendant did so in the commission of a lawful act which might produce death when done in an unlawful manner or without due caution and circumspection, that is, operating a motor vehicle while under the influence of alcohol;

Under the law, no person shall drive or be in actual physical control of any motor vehicle if there is an amount equal to or above 0.08 percent by weight of alcohol in that person's blood, as measured by a blood test, urine test, or other reliable scientific test, or if that person is under the influence of an alcoholic beverage to such a degree that she is incapable of safe driving.

Three, the defendant acted grossly negligent in that she acted with a wonton or reckless disregard for human life, knowing that her conduct was a threat to the lives of others or having knowledge of such circumstances as could reasonably have enabled her to foresee the peril which her act might subject others;

To constitute the crime of Involuntary Manslaughter, the act done by the defendant to cause the death must amount to gross negligence, and gross negligence must be proved beyond a reasonable doubt. A person acts in a grossly negligent manner when that person acts with a wanton or reckless disregard for human life. If the death in this case was due to ordinary negligence, the existence of gross negligence should not be found.

Ordinary negligence is defined as doing some act that a reasonably prudent person would not do or the failure to do something that a reasonably prudent person would do under the circumstances.

The Government must also prove beyond a reasonable doubt that the defendant had actual knowledge that her conduct was a threat to the lives of others, or had actual knowledge of such circumstances

as could reasonably have enabled her to foresee the peril to which her act might subject others.

In determining whether or not the defendant is guilty of Involuntary Manslaughter, you must measure her conduct against all of the circumstances existing at the place and time alleged in the indictment, and determine from these whether what the defendant did was grossly negligent.

Four, the defendant is an Indian person;

You are instructed that the government and the defendant have agreed that the defendant is an Indian person.

The defendant has not, by entering into this agreement, admitted her 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 Good Lance is an Indian person.

And five, that the offense took place in Indian country in the District of South Dakota.

You are instructed that the government and the defendant have agreed that the alleged offenses occurred in Indian country in the District of South Dakota.

The defendant has not, by entering into this agreement, admitted her 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 alleged offenses took place in Indian Country.

For you to find Janine Faye Good Lance guilty of the offenses charged in Counts 1 and 2 of the Superseding Indictment, the prosecution must prove all five of the essential elements beyond a reasonable doubt as to each count. Otherwise, you must find Janine Faye Good Lance not guilty of the offenses charged in Counts 1 and 2 of the Superseding Indictment.

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

You have heard evidence that the defendant has driven under the influence on three other occasions. You may consider this evidence only if you unanimously find it is more likely true than not that the defendant committed the acts. You should consider all the evidence relating to the alleged acts, then decide what evidence is more believable. This is a lower standard than proof beyond a reasonable doubt.

If you find this evidence has been proved, then you may consider it to decide whether the defendant knowingly operated a motor vehicle while under the influence of alcohol. You can consider it for her state of mind and her knowledge. You should give it the weight and value you believe it is entitled to receive. If you find this evidence has not been proved, you should disregard it.

Remember, even if you find that the defendant may have committed a similar act in the past, this is not evidence that she committed such an act in this case. You may not convict a person simply because you believe she may have committed similar acts in the past. The defendant is on trial only for the crimes charged in the Superseding Indictment, and you may consider the evidence of prior acts only on the issue stated above.

FINAL INSTRUCTION NO. 4 – 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.

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 – 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 she 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 prosecution proves, beyond a reasonable doubt, all of the elements of the offenses charged against her.

The burden is always on the prosecution to prove guilt beyond a reasonable doubt.

- This burden never, ever shifts to the defendant to prove her innocence.
- This burden means that the defendant does not have to call any witnesses, produce any evidence, cross-examine the prosecution's witnesses, or testify.

This burden means that you must find the defendant not guilty of an offense charged against her, unless the prosecution proves beyond a reasonable doubt that she has committed each and every element of that offense.

FINAL INSTRUCTION NO. 6 – REASONABLE DOUBT

A reasonable doubt is a doubt based upon reason and common sense, and not doubt based on speculation.

- A reasonable doubt may arise from evidence produced by the prosecution 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 prosecution's lack of evidence.

The prosecution must prove the defendant's guilt beyond a reasonable doubt.

- Proof beyond a reasonable doubt requires careful and impartial consideration of all the evidence, or lack of evidence, in the case before making a decision.
- Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt.
- 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. 7 – 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 the defendant is guilty, say so.
- If you are convinced that the prosecution 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 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. 8 – 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 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 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 her 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 11, 2024.

BY THE COURT:

A handwritten signature in blue ink that reads "Karen E. Schreier". The signature is written in a cursive style with a large initial 'K'.

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE