

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN ODOM HARRIS, JR., a/k/a “Jezz,”

Defendant.

4:24-CR-40133-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.

The video recordings of Marquez McGee’s two proffer interviews—Exhibits 138 and 139—were received in evidence, yet should be used only to evaluate the credibility of Marquez McGee. Unlike his testimony in court where he was under oath and subject to cross-examination, the proffer interviews were not under oath and involved questioning only by law enforcement.

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.

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.

You should judge the testimony of the defendant in the same manner as you judge the testimony of any other witness.

INSTRUCTION NO. 5

You have heard evidence that one or more witnesses have previously been convicted of a crime. You may consider that evidence, together with all of the other evidence bearing on the witness's credibility, only in deciding whether to believe that witness and how much weight to give that witness's testimony. A prior conviction does not disqualify a witness from testifying, but it is one of the circumstances you may weigh in evaluating the witness's believability. You may not consider a witness's prior conviction for any other purpose.

You have also heard evidence that the defendant 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.

You have heard evidence that one or more witnesses may have used controlled substances during the period of the events at issue or at the time of the events about which they testified. You may consider a witness's use of controlled substances in evaluating the witness's ability to perceive, recall, and relate the events about which the witness testified, and in deciding how much weight, if any, to give that witness's testimony.

INSTRUCTION NO. 6

You have heard evidence that Marquez McGee, Travis Jones, and Ashley Brown entered into plea agreements with the government under which the government may seek a sentence reduction for them. Kelly Poss received an assurance that truthful testimony would not be used against her in future charges. This testimony was received in evidence and may be considered by you. You may give their testimony such weight as you think it deserves. Whether or not the testimony of any witness may have been influenced by the plea agreements or the promises of possible leniency is for you to determine.

A witness's guilty plea cannot be considered by you as any evidence of this defendant's guilt. A witness's guilty plea can be considered by you only for the purpose of determining how much, if at all, to rely upon that witness's testimony.

You may give the testimony of each witness such weight as you think it deserves. Whether or not the testimony of a witness may have been influenced by a hope of receiving a reduced sentence is for you to decide.

INSTRUCTION NO. 7

The Indictment in this case charges the defendant with one crime. The defendant is charged with Conspiracy to Distribute a Controlled Substance. The defendant has pleaded not guilty to this charge.

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

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

There is no burden upon the defendant to prove that he is innocent. Instead, the burden of proof remains on the United States throughout the trial.

INSTRUCTION NO. 8

The crime of Conspiracy to Distribute a Controlled Substance, as charged in the sole count of the Indictment, has four essential elements, which are:

One, beginning on an unknown date and continuing until on or about November 7, 2024, in the District of South Dakota and elsewhere, two or more persons reached an agreement or came to an understanding to distribute a mixture or substance containing methamphetamine, a Schedule II controlled substance;

Methamphetamine is a Schedule II controlled substance.

Two, the defendant, John Odom Harris, Jr., voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect;

Three, at the time John Odom Harris, Jr. joined in the agreement or understanding, he knew the purpose of the agreement or understanding; and

Four, the agreement or understanding involved 500 grams or more of a mixture or substance containing methamphetamine.

One pound is approximately 453.6 grams, and one ounce is approximately 28.3 grams.

If you find unanimously that the government has proved these four elements beyond a reasonable doubt as to the defendant, then you must find the defendant guilty of the crime charged in this count. Otherwise, you must find the defendant not guilty on this count.

The quantity of controlled substances involved in the agreement or understanding includes the controlled substances the defendant possessed or distributed or agreed to distribute. The quantity also includes the controlled substances fellow conspirators distributed or agreed to distribute, if you find that those distributions or agreements to distribute were a necessary or natural consequence of the agreement or understanding and were reasonably foreseeable by the defendant.

INSTRUCTION NO. 9

To find the existence of a “conspiracy,” the government must prove two or more persons reached an agreement or understanding to distribute or to possess with the intent to distribute methamphetamine. It makes no difference whether those persons are named in the indictment.

To assist you in determining whether there was an agreement or understanding to conspire to distribute or to possess with the intent to distribute methamphetamine, you should consider the elements of a “distribution” offense. The elements of distributing methamphetamine are: (1) a person intentionally distributed methamphetamine to another; and (2) at the time of the distribution, the person knew that what he or she was distributing was methamphetamine.

To find the defendant guilty of the “conspiracy” charged against him, you do not have to find the offense of distribution of methamphetamine was actually committed by the defendant or anyone else. It is the agreement to distribute methamphetamine which is illegal. The agreement is the conduct which has been charged in the Indictment and which must be proven beyond a reasonable doubt to establish the defendant’s guilt on the offense charged in the sole count of the Indictment.

The “agreement” or “understanding” need not be an express or formal agreement, or be in writing, or cover all the details of how the conspiracy was to be carried out. It is not necessary that the members have directly stated between themselves the details or purpose of the conspiracy. The conspirators did not have to personally benefit from the conspiracy.

Merely being present at the scene of an event, or merely acting in the same way as others, or merely associating with others, does not prove a defendant has joined in an agreement or understanding. A person who has no knowledge of a conspiracy but who happens to act in a way which advances some purpose of a conspiracy does not thereby become a member of that conspiracy. Similarly, the mere knowledge of an illegal act or association by the defendant with an individual engaged in the illegal conduct of a conspiracy is not enough to prove he joined the conspiracy. The defendant must know of the existence and purpose of the conspiracy. Without such knowledge, the defendant cannot be guilty of conspiracy, even if his acts furthered the conspiracy.

On the other hand, a person may join in an agreement or understanding without knowing all the details of the agreement or understanding, and without knowing all the other members of the conspiracy. Further, it is not necessary that a person agree to play any particular part in carrying out the agreement or understanding. A person may become a member of a conspiracy even if that person agrees to play only a minor part in the conspiracy, as long as that person has an understanding of the unlawful nature of the plan and voluntarily and intentionally joins in it. The defendant did not have to join the agreement at the same time as all the other conspirators.

In deciding whether the defendant voluntarily and intentionally joined in the agreement, you must consider only evidence of the defendant’s own actions and statements. You may not consider actions and statements of others, except to the extent any statement of another describes something which was said or done by the defendant.

INSTRUCTION NO. 10

You may consider acts knowingly done and statements knowingly made by a defendant's co-conspirators during the existence of the conspiracy and in furtherance of the conspiracy as evidence pertaining to the defendant even though the acts or statements were done or made in the absence of and without the knowledge of the defendant. This includes acts done or statements made before the defendant joined in the conspiracy because a person who knowingly, voluntarily and intentionally joins an existing conspiracy is responsible for all of the conduct of the co-conspirator from the beginning of the conspiracy.

INSTRUCTION NO. 11

The quantity of methamphetamine involved in the agreement or understanding includes the methamphetamine the Defendant possessed, distributed, or agreed to distribute. The quantity also includes the methamphetamine fellow conspirators distributed or agreed to distribute, if you find that those distributions or agreements to distribute were a necessary or natural consequence of the agreement or understanding and were reasonably foreseeable by the Defendant. Do not double count any quantities of methamphetamine if more than one co-conspirator was involved in conspiring to distribute that particular quantity of methamphetamine. Instead, you must determine the amount of methamphetamine involved in the conspiracy for which the Defendant can be held responsible.

INSTRUCTION NO. 12

You have heard testimony that the offense is alleged to have occurred in the District of South Dakota and elsewhere. Any offense against the United States begun in one district and completed in another, or committed in more than one district, may be prosecuted in any district in which such offense was begun, continued, or completed. Any offense involving transportation in interstate commerce is a continuing offense and may be prosecuted in any district from, through, or into which such commerce or object moves.

INSTRUCTION NO. 13

“Intent” and “knowledge” are elements of the offenses charged in this case and must be proven beyond a reasonable doubt. The government is not required to prove the defendant knew his acts or omissions were unlawful. An act is done “knowingly” if the defendant realizes what he is doing and does not act through ignorance, mistake, or accident. You may consider the evidence of the defendant’s words, acts, or omissions, along with all other evidence, in deciding whether the defendant acted knowingly.

Intent may be proved like anything else. You may consider any statements made and acts done by a defendant, and all the facts and circumstances in evidence which may aid in the determination of a defendant’s intent. You may, but are not required to, infer that a person intends the natural and probable causes of acts knowingly done or knowingly omitted.

INSTRUCTION NO. 14

You have heard testimony that the defendant made statements orally and in writing to others. It is for you to decide:

First, whether the statement was made; and

Second, if so, how much weight you should give the statement.

In making these two decisions, you should consider all of the evidence including the circumstances under which the statement may have been made.

INSTRUCTION NO. 15

You have heard testimony from persons described as experts. Persons who, by knowledge, skill, training, education or experience, have become 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. 16

Certain charts and summaries have been shown to you in order to help explain the facts disclosed by the books, records, or other underlying evidence in the case. Those charts or summaries are used for convenience. They are not themselves evidence or proof of any facts. If they do not correctly reflect the facts shown by the evidence in the case, you should disregard these charts and summaries and determine the facts from the books, records, or other underlying evidence.

INSTRUCTION NO. 17

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.

The government must prove beyond a reasonable doubt each element of the crime charged as set forth in Instruction No. 8, including that the defendant voluntarily and intentionally joined in the conspiracy to distribute methamphetamine and did so knowing the purpose or understanding.

INSTRUCTION NO. 18

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 smart phone, 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
SOUTHERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. JOHN ODOM HARRIS, JR., a/k/a “Jezz,” Defendant.	4:24-CR-40133-RAL VERDICT FORM
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We, the jury, duly empaneled and sworn to try the issues in this case, find as follows:

We find the defendant John Odom Harris, Jr. _____ (fill in either “not guilty” or “guilty”) of the crime of conspiracy to distribute a controlled substance, specifically 500 grams or more of a mixture or substance containing methamphetamine, as charged in the sole count of the Indictment.

Dated July _____, 2026.

Foreperson