

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSEPH LAFFERTY,

Defendant.

3:25-CR-30066-ECS

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 and the documents and other things received as exhibits.

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 these 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.

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, 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.

INSTRUCTION NO. 5

The testimony of a witness may be discredited or, as we sometimes say, impeached by showing that he or she previously made statements which are different than or inconsistent with his or her testimony here in Court. The earlier inconsistent or contradictory statements are admissible only to discredit or impeach the credibility of the witness and not to establish the truth of these earlier statements made somewhere other than here during this trial. It is the province of the jury to determine the credibility of a witness who has made prior inconsistent or contradictory statements.

INSTRUCTION NO. 6

I instruct you that you must presume Mr. Lafferty to be innocent of the crimes charged. Thus the Defendant, although accused of crimes in the Indictment, began the trial with a “clean slate” with no evidence against him. The Indictment, as you already know, is not evidence of any kind. The Defendant is not on trial for any act or crime not contained in the Indictment. The law permits nothing but legal evidence presented before the jury in Court to be considered in support of any charge against a defendant. The presumption of innocence alone, therefore, is sufficient to acquit Mr. Lafferty.

The burden is always upon the prosecution to prove guilt beyond a reasonable doubt. This burden never shifts to a defendant, for the law never imposes on any defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence by cross-examining the witnesses for the Government.

It is not required that the Government prove guilt beyond all possible doubt. The test is one of reasonable doubt. A reasonable doubt is based upon reason and common sense – the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt must, therefore, be proof of such convincing character that a reasonable person would not hesitate to rely and act upon it in the most important of his or her own affairs.

Unless the Government proves, beyond a reasonable doubt, that Mr. Lafferty committed each and every element of the offense charged in the Indictment, you must find him not guilty of the offense. If the jury views the evidence as reasonably permitting either of two conclusions – one of innocence, the other of guilt – the jury must find the Defendant not guilty.

INSTRUCTION NO. 7

The crime of threatening a federal official, as charged in Count I of the Indictment, has the following essential elements, which are:

One, that on or about July 21, 2025, in Eagle Butte, in the District of South Dakota, the Defendant threatened to assault Justin Keckler, an employee at Indian Health Service, an agency of the United States Department of Health and Human Services.

The word “threat” means a statement that is a serious expression of intent to inflict bodily harm on a particular person or a particular group of individuals that a reasonable observer would perceive to be authentic. To qualify as a threat, the statement need not be communicated to the targeted individuals;

Two, that Justin Keckler was a federal official at the time the threat was made;

A “federal official” includes officers and employees of the United States and any person assisting an officer or employee of the United States while such an officer is engaged in the performance of official duties. Officers and employees of Indian Health Service, which is part of the United States Department of Health and Human Services, are officers and employees of the United States.

Three, that the Defendant did so with the intent to impede, intimidate, or interfere with Justin Keckler while he was engaged in the performance of official duties, or with the intent to retaliate against Justin Keckler on account of the performance of his official duties; and

Four, that the Defendant had some subjective understanding of the threatening nature of his statements. It is sufficient to show that the Defendant either knew or intended that others would regard his communication as threatening violence, or that he recklessly disregarded a substantial risk that others could regard his communication as threatening violence.

A person “recklessly disregards” a substantial risk within the meaning of this offense when he is aware that others could regard his statements as threatening violence but delivers them anyway.

If you find all of these elements have been proved beyond a reasonable doubt, then you must find the Defendant guilty of the crime charged; otherwise, you must find the Defendant not guilty of the crime charged.

INSTRUCTION NO. 8

The crime of threatening a federal official, as charged in Count II of the Indictment, has the following essential elements, which are:

One, that on or about May 30, 2025, in Eagle Butte, in the District of South Dakota, the Defendant threatened to assault Jeri Vines, an employee of the United States Department of Interior, Bureau of Indian Affairs.

The word “threat” means a statement that is a serious expression of intent to inflict bodily harm on a particular person or a particular group of individuals that a reasonable observer would perceive to be authentic. To qualify as a threat, the statement need not be communicated to the targeted individual or individuals;

Two, that Jeri Vines was a federal official at the time the threat was made;

A “federal official” includes officers and employees of the United States and any person assisting an officer or employee of the United States while such an officer is engaged in the performance of official duties. Officers and employees of the Bureau of Indian Affairs, which is part of the United States Department of Interior, are officers and employees of the United States.

Three, that the Defendant did so with the intent to impede, intimidate, or interfere with Jeri Vines while she was engaged in the performance of official duties, or with the intent to retaliate against Jeri Vines on account of the performance of her official duties; and

Four, that the Defendant had some subjective understanding of the threatening nature of his statements. It is sufficient to show that the Defendant either knew or intended that others would regard his communication as threatening violence, or that he recklessly disregarded a substantial risk that others could regard his communication as threatening violence.

A person “recklessly disregards” a substantial risk within the meaning of this offense when he is aware that others could regard his statements as threatening violence but delivers them anyway.

If you find all of these elements have been proved beyond a reasonable doubt, then you must find the Defendant guilty of the crime charged; otherwise, you must find the Defendant not guilty of the crime charged.

INSTRUCTION NO. 9

During trial, you heard and saw evidence that the Defendant was involved in an incident on February 6, 2025, at a Tribal Council meeting. You may consider this evidence only if you unanimously find it is more likely true than not true that the Defendant committed the acts as alleged by the Government on February 6, 2025. This is a lower standard than proof beyond a reasonable doubt. You decide that by considering all of the evidence relating to the alleged act, then deciding what evidence is more believable.

If you find that this evidence has not been proved, you must disregard it. If you find this evidence has been proved, then you may consider it only for the limited purpose of deciding whether the Defendant had the state of mind or intent necessary to commit the crimes charged in the indictment; or had a motive or opportunity to commit the acts described in the indictment; or acted according to a plan or in preparation for commission of a crime; or committed the acts he is on trial for not by accident or mistake. You should give it the weight and value you believe it is entitled to receive.

Remember, even if you find that the Defendant may have committed similar acts 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. The Defendant is on trial only for the crimes charged, and you may consider the evidence of prior acts only on the issues stated above.

INSTRUCTION NO. 10

Intent may be proved like anything else. You may consider any statements made and acts done by the Defendant, and all the facts and circumstances in evidence which 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.

INSTRUCTION NO. 11

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.

INSTRUCTION NO. 12

The Indictment charges that the offenses were committed “on or about” a certain date. Although it is necessary for the United States to prove beyond a reasonable doubt that the offenses were committed on a date reasonably near the date alleged in the Indictment, it is not necessary for the United States to prove that the offenses were committed precisely on the date charged.

INSTRUCTION NO. 13

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.

INSTRUCTION NO. 14

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, and on each count of the Indictment—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 smartphone 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, 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
CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. JOSEPH LAFFERTY, Defendant.	3:25-CR-30066-ECS VERDICT FORM
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We, the jury, duly empaneled and sworn to try the issues in this case, find as follows:

1. We find the Defendant, Joseph Lafferty, _____ (fill in either “not guilty” or “guilty”) of threatening a federal official as charged in Count I of the Indictment.
2. We find the Defendant, Joseph Lafferty, _____ (fill in either “not guilty” or “guilty”) of threatening a federal official as charged in Count II of the Indictment.

Dated January ____, 2026.

BY THE COURT:

Foreperson