



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 – ASSAULT WITH A DANGEROUS WEAPON

For you to find Frank Long Black Cat guilty of “assault with a dangerous weapon” as charged in Count 1 of the Indictment, the government must prove the following essential elements beyond a reasonable doubt:

**One, that on or about October 1, 2024, Frank Long Black Cat assaulted Jacob Two Bulls with the specific intent to cause bodily harm;**

“Assault” means any intentional and voluntary attempt or threat to injure another person, combined with the apparent present ability to do so, which is sufficient to put the other person in fear of immediate bodily harm or any intentional and voluntary harmful and offensive touching of another person without justification or excuse.

“Bodily harm” means an injury that is painful and obvious or is of a type for which medical attention would ordinarily be sought, including (A) a cut, abrasion, bruise, burn, or disfigurement; (B) physical pain; (C) illness; (D) impairment of the function of a bodily member, organ, or mental faculty; or (E) any other injury to the body, no matter how temporary.

To find specific intent, there must exist in the mind of the perpetrator the specific intent to do bodily harm to the alleged victim. If the defendant acted without such specific intent, the crime of “assault with a dangerous weapon” has not been committed.

**Two, that Frank Long Black Cat used a dangerous weapon, specifically a knife;**

“Dangerous weapon” means an object with the capacity to endanger life or inflict bodily harm and used in a manner likely to do so.

**Three, that the assault took place in Indian Country in the District of South Dakota;**

“Indian Country” is defined in Final Instruction No. 7.

**Four, that Frank Long Black Cat is an Indian;**

“Indian” is defined in Final Instruction No. 8.

***And Five, that Frank Long Black Cat did not act in self-defense.***

“Self-defense” is defined in Final Instruction No. 4.

For you to find Mr. Long Black Cat 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. Long Black Cat not guilty of Count 1 of the Indictment.

FINAL INSTRUCTION NO. 3 – ASSAULT RESULTING IN SERIOUS BODILY  
INJURY

For you to find Frank Long Black Cat guilty of “assault resulting in serious bodily injury” as charged in Count 2 of the Indictment, the government must prove the following essential elements beyond a reasonable doubt:

**One, that on or about October 1, 2024, Frank Long Black Cat assaulted Jacob Two Bulls;**

The term “assault” has previously been defined for you above.

**Two, that as a result of that assault, Jacob Two Bulls suffered serious bodily injury;**

“Serious bodily injury” means bodily injury that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the functions of a bodily member, organ, or mental faculty.

**Three, that the assault took place in Indian Country in the District of South Dakota;**

“Indian Country” is defined in Final Instruction No. 7.

**Four, that Frank Long Black Cat is an Indian;**

“Indian” is defined in Final Instruction No. 8.

**And Five, that Frank Long Black Cat did not act in self-defense.**

“Self-defense” is defined in Final Instruction No. 4.

For you to find Mr. Long Black Cat guilty of the offense charged in Count 2 of the Indictment, the government must prove all five of the essential elements beyond a reasonable doubt. Otherwise, you must find Mr. Long Black Cat not guilty of Count 2 of the Indictment.

FINAL INSTRUCTION NO. 4 – SELF-DEFENSE

If a person reasonably believes that force is necessary to protect himself from what he reasonably believes to be unlawful physical harm about to be inflicted by another and uses such force, then he acted in self-defense.

However, self-defense which involves using force likely to cause death or great bodily harm is justified only if the person reasonably believes that such force is necessary to protect himself from what he reasonably believes to be substantial risk of death or great bodily harm.

FINAL INSTRUCTION NO. 5 – INTOXICATION

One of the issues in this case is whether the defendant was intoxicated at the time the acts being charged in the Indictment were committed.

Being under the influence of alcohol provides a legal excuse for the commission of a crime only if the effect of the alcohol makes it impossible for the defendant to have the specific intent to commit the offense of “assault with a dangerous weapon.” Evidence that the defendant acted while under the influence of alcohol may be considered by you, together with all the other evidence, in determining whether or not he did in fact have specific intent to commit such crime.

This instruction applies only to Count 1, "assault with a dangerous weapon." Being under the influence of alcohol or drugs does not provide a legal excuse for Count 2, "assault resulting in serious injury."

FINAL INSTRUCTION NO. 6 – INTENT

Intent may be proven like anything else. You may consider any statements made or acts done by the defendant and all the facts and circumstances in evidence that 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.



FINAL INSTRUCTION NO. 7 – INDIAN COUNTRY

The Indictment in this case alleges that the offenses occurred in Indian Country. The existence of this factor is necessary in order for the Court to have jurisdiction over the crimes charged in the Indictment.

The government must prove beyond a reasonable doubt that the offenses occurred in Indian Country in order for the defendant to be proven guilty of the offenses charged.

The term “Indian Country” includes:

- (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;
- (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and
- (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

### FINAL INSTRUCTION NO. 8 – INDIAN PERSON

The indictment in this case alleges that Frank Long Black Cat is an Indian. The existence of this factor is necessary in order for the Court to have jurisdiction over the crimes charged in the Indictment.

The government must prove beyond a reasonable doubt that each offense was committed by an Indian in order for the defendant to be proven guilty of the offenses charged.

A person is considered an “Indian” if that person has some Indian blood and if that person is recognized as an Indian. To determine whether the person is recognized as an Indian, you may consider the following factors:

1. Whether the person is enrolled in a tribe.
2. Whether the government has provided the person with assistance reserved only to Indians.
3. Whether the person enjoys the benefits of tribal affiliation.
4. Whether the person is socially recognized as an Indian because he or she lives on the reservation and participates in Indian social life.
5. It is not necessary that all of these factors be present. Rather, you are to consider all the evidence in determining whether the government has proved beyond a reasonable doubt that Frank Long Black Cat is an Indian.

FINAL INSTRUCTION NO. 9 – AUDIO RECORDINGS

Two audio recordings were played to you during the presentation of evidence. The recordings had portions redacted or edited to ensure that the recordings complied with the Rules of Evidence. You should pay no attention to the fact that the recordings were redacted. You should not concern yourself with the reason for the redactions, nor should you hold it against either party that the redactions occurred. The comments, questions, and statements made by the law enforcement officer are not offered as proof of the matters asserted by the law enforcement officer, but only to provide context for the defendant's side of the conversation.

The law permits interrogating or interviewing law enforcement people to use techniques. They are permitted to lie to a person being interviewed and to present information that is not proven. They are permitted to engage in other tactics or interview techniques that are permitted in the law. You can consider those matters as you consider the interview as a whole. But it is not the words of the officer that are evidence, it is only the words or responses and statements made by the defendant which are evidence.

While you were provided with typewritten transcripts while you listened to the audio recordings, the transcripts will not be available for your use during jury deliberations. It is what you heard, not what you read in the transcript, which is the evidence.

FINAL INSTRUCTION NO. 10 – 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. 11 – 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 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. 12 – 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. 13 – 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. 14 – DUTY DURING DELIBERATIONS

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

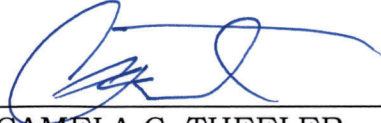
- Select a foreperson to preside over your discussions and to speak for you here in court.
- Do not consider punishment in any way in deciding whether the defendant is guilty or not guilty. If the defendant is guilty, I will decide what the sentence should be.
- Communicate with me by sending me a note 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 April 9, 2025.

BY THE COURT:



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CAMELA C. THEELER  
UNITED STATES DISTRICT JUDGE