

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION

UNITED STATES OF AMERICA,  Plaintiff,  vs.  JUSTIN JAMES SCHNEIDER,  Defendant.	1:23-CR-10027-CBK  JURY INSTRUCTIONS
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INSTRUCTION NO. 4

Ladies and gentlemen of the jury, it is my duty now to explain the rules of law you must apply to this case.

You as jurors are the sole judges of the facts. But it is your duty to follow the law stated in these instructions, and to apply that law to the facts as you find them from the evidence before you. I also gave you instructions during the trial and you must follow those instructions. It would be a violation of your sworn duty to base your verdicts upon any rules of law other than the ones given you in these instructions, regardless of your personal feelings as to what the law ought to be.

You are not to single out one instruction alone as stating the law, but must consider the instructions as a whole.

INSTRUCTION NO. 2

You have been chosen and sworn as jurors to try the issues of fact presented by the allegations of the indictment and the denials made by the defendant in his pleas of “not guilty.” You are to perform this duty without bias or prejudice, because the law does not permit jurors to be governed by sympathy or public opinion. The accused and the public expect that you will carefully and impartially consider all of the evidence and will follow the law as stated by the Court, in order to reach just verdicts, regardless of the consequences to any party.

INSTRUCTION NO. 3

The indictment in this case charges the defendant with the crimes of resisting or impeding a federal officer and a prohibited person in possession of a firearm. The defendant has pleaded not guilty to these charges.

As I told you at the beginning of the trial, an indictment is simply an accusation. It is not evidence of anything. To the contrary, the defendant is presumed to be innocent. Therefore, the defendant, even though charged, begins the trial with no evidence against him. This presumption of innocence alone is sufficient to find the defendant not guilty and can be overcome only if the government proves, beyond a reasonable doubt, each essential element of the crimes charged.

There is no burden upon the defendant to prove that he is innocent. Accordingly, the fact that the defendant did not testify must not be considered by you in any way, or even discussed, in arriving at your verdicts.

Keep in mind that each count charges a separate crime. You must consider each count separately, and return a separate verdict for each count.

INSTRUCTION NO. 4

A reasonable doubt is a doubt based upon reason and common sense, and not the mere possibility of innocence. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NO. 5

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 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 and questions that I struck from the record, or told you to disregard, are not evidence and must not be considered.

4. Anything you saw or heard about this case outside the courtroom is not evidence.

Finally, you were instructed that some evidence was received for a limited purpose only and you must follow that instruction.

INSTRUCTION NO. 6

There are two types of evidence from which you may find the truth as to the facts of a case -- direct and circumstantial evidence. Direct evidence is the testimony of one who asserts actual knowledge of a fact, such as an eyewitness; circumstantial evidence is proof of a chain of facts and circumstances indicating the guilt or innocence of the defendant. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. Nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. You should weigh all the evidence in the case. After weighing all the evidence, if you are not convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant not guilty.

INSTRUCTION NO. 7

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 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. 8

You have heard evidence that the defendant was previously convicted of crimes. The fact that he was previously convicted of a crime does not mean that he committed any of the crimes charged in this case. You may not convict a person simply because you believe he may have committed a crime in the past.

The defendant is on trial only for the crimes charged. You may use such evidence only to determine whether the government has proven beyond a reasonable doubt that the defendant has a prior felony conviction and defendant knowingly and intentionally possessed a firearm.

INSTRUCTION NO. 9

You have heard testimony about “suicide by cop.” If this existed, this is not a defense to either of the charges in this case.

INSTRUCTION NO. 10

You have heard testimony from a person described as an expert. A person who, by knowledge, skill, training, education or experience, has become an expert in some field may state opinions on matters in that field and may also state the reasons for those opinions.

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. 11

The crime of resisting or impeding a federal officer, as charged in Count I of the indictment, has four elements, which are:

1. On or about June 20, 2023, in Corson County, in the District of South Dakota, defendant voluntarily and intentionally forcibly, resisted, opposed, impeded, intimidated, or interfered with Wayland Bad Hand.
2. At the time of such act or acts, Wayland Bad Hand was employed as a federal law enforcement officer with the Bureau of Indian Affairs.
3. At the time of such act or acts, Wayland Bad Hand was engaged in the performance of his official duties.
4. In doing such act or acts, the defendant used a deadly or dangerous weapon, that is, a firearm.

For you to find the defendant guilty of this crime charged in Count I of the indictment, the government must prove all of these essential elements beyond a reasonable doubt. Otherwise, you must find the defendant not guilty of this crime.

INSTRUCTION NO. 12

The Court has determined as a matter of law that Wayland Bad Hand was a federal law enforcement officer on June 20, 2023.

Defendant need not have known that Wayland Bad Hand was a federal officer at the time of the acts alleged in Count I of the Indictment.

INSTRUCTION NO. 13

The term “forcibly” means by use of force. You may also find that a person who, in fact, has the present ability to inflict bodily harm upon another and who threatens or attempts to inflict bodily harm upon such person acts forcibly. In such case, the threat must be a present one.

The element of force may be satisfied by proof of actual physical contact or proof of a threat or display of physical aggression towards the officer that would reasonably inspire fear of pain, bodily harm, or death in a reasonable person. No direct contact is required, simply conduct that places the officer in fear for his life and safety.

Congress created a single crime of resisting, or impeding a federal officer and specified six ways by which the crime could be committed:

To “assault” means any intentional and voluntary attempt or threat to do injury to the person of another, when coupled with the apparent present ability to do so sufficient to put the person against whom the attempt is made in fear of immediate bodily harm.

To “resist” means to exert force in opposition to; to exert oneself so as to counteract or defeat; to withstand the force or effect of.

To “oppose” means to offer resistance to.

To “impede” means to interfere with or slow the progress of.

To “interfere” means to interpose in a way that hinders or impedes.

To “intimidate” means to make timid or fearful; to compel or deter by or as if by threats.

Proof beyond a reasonable doubt of any of these six methods will support a finding of guilt in regard to this crime.

Before you may find the defendant guilty it is required that you unanimously agree that the defendant committed at least one of the acts described in this Instruction.

INSTRUCTION NO. 14

The phrase “engaged in the performance of his official duties” simply means acting within the scope of what the person is employed to do. It is not defined by whether the officer is abiding by laws and regulations in effect at the time of the incident. The test is whether the person is acting within that area of responsibility, that is, whether the officer’s actions fall within the agency’s overall mission, in contrast to engaging in a personal frolic of his own.

INSTRUCTION NO. 15

The phrase “dangerous weapon” means an object used in a manner likely to endanger life or inflict serious bodily harm or capable of doing so.



INSTRUCTION NO. 12

If you should unanimously find the defendant “Not Guilty” of the crime of resisting or impeding a federal officer as charged in Count I of the indictment, or if, after all reasonable efforts, you are unable to reach a verdict as to the crime charged in Count I of the indictment, then you must proceed to determine the guilt or innocence of the defendant as to the crime of simple assault of a federal officer under this Instruction.

The crime of simple assault of a federal officer, a lesser included offense of the crime of resisting or impeding a federal officer, has three essential elements, which are:

1. On or about April 20, 2023, the defendant, without just cause or excuse, voluntarily and intentionally assaulted Wayland Bad Hand.
2. At the time of such act, Wayland Bad Hand was employed as a federal law enforcement officer with the Bureau of Indian Affairs.
3. At the time of such act, Wayland Bad Hand was engaged in the performance of his official duties.

For you to find the defendant guilty of this crime, a lesser included offense of the crime of resisting or impeding a federal officer as charged in Count I of the indictment, the government must prove all of the essential elements of this lesser included offense beyond a reasonable doubt. Otherwise you must find the defendant not guilty of this crime.

INSTRUCTION NO. 17

The crime of possession of a firearm by a prohibited person as charged in Count II of the indictment has four essential elements, which are:

1. Prior to June 20, 2023, the defendant was a prohibited person.
2. The defendant knew on or about June 20, 2023, that he was a prohibited person.
3. On or about June 20, 2023, in the District of South Dakota, defendant knowingly and intentionally possessed a firearm.
4. The firearm was transported across a state line at some time during or before the defendant's possession of it.

For you to find the defendant guilty of this crime charged in the indictment, the government must prove all of these essential elements beyond a reasonable doubt. Otherwise, you must find the defendant not guilty of this crime.

INSTRUCTION NO. 18

The government and the defendant have stipulated or agreed that the defendant has been convicted of a crime punishable by imprisonment for a term exceeding one year, that is, a felony, prior to the date charged in the indictment, and that the defendant knew that he had been so convicted. The defendant has not, by entering 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 establish the fact that the defendant had been convicted of a crime punishable by imprisonment for a term exceeding one year prior to the date charged in the indictment, and that the defendant knew he had been so convicted.

INSTRUCTION NO. 19

The term “firearm” means any weapon which will, or is designed to, or may be readily converted to expel a projectile by the action of an explosive.

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

INSTRUCTION NO. 26

If you have found beyond a reasonable doubt that the firearm in question was manufactured in a state or country other than the State of South Dakota and that the defendant possessed that firearm in the State of South Dakota, then you may, but are not required to, find that the firearm was transported across a state line.

The government is not required to prove that the defendant knew the firearm had crossed a state line.

INSTRUCTION NO. 21

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. 22

The indictment charges that the offenses were committed “on or about” a certain date. The proof need not establish with certainty the exact date of the alleged offenses. It is sufficient if the evidence in the case establishes beyond a reasonable doubt that the offenses were committed on a date reasonably near the date alleged.

INSTRUCTION NO. 23

Upon retiring to the jury room, you will select one of your number to act as your foreperson. The foreperson will preside over your deliberations, and will be your spokesperson here in Court.

A verdict form has been prepared for your convenience.

You will take this form to the jury room and, when you have reached unanimous agreement as to your verdicts, you will have your foreperson fill in, date, and sign the form to state the verdicts upon which you unanimously agree, and then notify the marshal that you have a verdict.



INSTRUCTION NO. 24

The verdicts must represent the considered judgment of each juror. In order to return any verdict, it is necessary that each juror agree thereto. Any verdict must be unanimous.

It is your duty, as jurors, to consult with one another, and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for himself or herself, but do so only after an impartial consideration of the evidence in the case with the other jurors. In the course of your deliberations, do not hesitate to re-examine your own views, and change your opinion, if convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of the evidence, solely because of the opinion of the other jurors, or for the mere purpose of returning a verdict.

Remember at all times, you are not partisans. You are judges - judges of the facts. Your sole interest is to seek the truth from the evidence in the case.

INSTRUCTION NO. 25

If you have questions, you may send a note by a marshal, signed by your foreperson, or by one or more members of the jury.

You will note from the oath about to be taken by the marshal that he, as well as all other persons, are forbidden to communicate in any way or manner with any member of the jury on any subject touching the merits of the case.

Bear in mind also that you are never to reveal to any person--not even to the Court--how the jury stands, numerically or otherwise, on the question of the guilt or innocence of the accused, until after you have reached unanimous verdicts.

INSTRUCTION NO. 26

It is proper to add a final caution.

Nothing that I have said in these instructions, and nothing that I have said or done during the trial, has been said or done to suggest to you what I think your verdicts should be.

What the verdicts shall be is your exclusive duty and responsibility.

UNITED STATES DISTRICT COURT  
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JUSTIN JAMES SCHNEIDER,  
Defendant.

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VERDICT

Please return a verdict by placing an "X" in the space provided.

COUNT I

We, the jury in the above-entitled action, as to the crime of resisting or impeding a federal officer, as charged in Count I of the indictment, find Justin James Schneider:

\_\_\_\_\_ NOT GUILTY      \_\_\_\_\_ GUILTY

If, and only if, you found Justin James Schneider NOT GUILTY of the crime charged in Count I of the indictment, or if, after all reasonable efforts, you are unable to reach a verdict as to the crime charged in Count I of the indictment, then you must deliberate on the lesser included offense of simple assault and complete the following:

We the jury in the above-entitled action, as to the crime of simple assault, a lesser included offense of the crime charged in Count I of the indictment, find Justin James Schneider:

\_\_\_\_\_ NOT GUILTY      \_\_\_\_\_ GUILTY

COUNT II

We, the jury in the above-entitled action, as to the crime of felon in possession of a firearm, as charged in Count II of the indictment, find Justin James Schneider:

\_\_\_\_\_ NOT GUILTY      \_\_\_\_\_ GUILTY

Dated this \_\_\_\_\_ day August, 2024.

\_\_\_\_\_  
Foreperson