

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION**

UNITED STATES OF AMERICA,  Plaintiff,  vs.  EMANUAL SEMON,  Defendant.	24-CR-50099-CCT  <b>FINAL INSTRUCTIONS TO THE JURY</b>
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VERDICT FORM

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 – SEXUAL ABUSE WITHOUT CONSENT

For you to find Emanuel Semon guilty of “sexual abuse without consent” 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 July 3, 2024, Emanuel Semon knowingly engaged in or attempted to engage in a sexual act with J.W., to wit: the intentional touching, not through the clothing, of the genitalia of J.W., without J.W.’s consent or with consent obtained through coercion;**

“Sexual act” means the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

“Coercion” means (A) threats of serious harm to or physical restraint against any person; (B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or (C) the abuse or threatened abuse of law or the legal process.

**Two, that Emanuel Semon knew that the sexual act was performed without the consent of J.W. or the consent of J.W. was obtained through coercion;**

**Three, that the offense was committed in Indian Country in the District of South Dakota; and**

**Four, that Emanuel Semon is an Indian.**

For you to find Emanuel Semon guilty of the offense charged in Count 1 of the Indictment, the government must prove all four of the essential elements beyond a reasonable doubt. Otherwise, you must find Emanuel Semon not guilty of the offense charged in Count 1 of the Indictment.

FINAL INSTRUCTION NO. 3 – SEXUAL ABUSE OF A MINOR

For you to find Emanuel Semon guilty of the offense of “sexual abuse of a minor” 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 July 3, 2024, Emanuel Semon knowingly engaged in or attempted to engage in a sexual act with J.W., to wit: the intentional touching, not through the clothing, of the genitalia of J.W.;**

“Sexual act” has been defined for you above.

**Two, that J.W. was at least 12 years old but less than 16 years old, and at least 4 years younger than Emanuel Semon at the time;**

**Three, that the offense was committed in Indian Country in the District of South Dakota; and**

**Four, that Emanuel Semon is an Indian.**

For you to find Emanuel Semon guilty of the offense charged in Count 2 of the Indictment, the government must prove all four of the essential elements beyond a reasonable doubt. Otherwise, you must find Emanuel Semon not guilty of the offense charged in Count 2 of the Indictment.

FINAL INSTRUCTION NO. 4 – AGGRAVATED SEXUAL ABUSE

For you to find Emanuel Semon guilty of the offense of “aggravated sexual abuse” as charged in Count 3 of the Indictment, the government must prove the following essential elements beyond a reasonable doubt:

**One, that on or about July 3, 2024, Emanuel Semon knowingly engaged in or attempted to engage in a sexual act with J.W., to wit: the intentional touching, not through the clothing, of the genitalia of J.W.;**

“Sexual act” has been defined for you above.

**Two, that Emanuel Semon did so by using force against J.W., by threatening or placing J.W. in fear that any person will be subjected to serious bodily injury, or by attempting to render J.W. unconscious;**

“Force” means the use or threatened use of a weapon; the use of physical force sufficient to overcome, restrain, or injure a person; the use of force sufficient to prevent the victim from escaping the sexual act; or the use of a threat of harm sufficient to coerce or compel submission by the victim.

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

**Three, that J.W. was at least 12 years old but less than 16 years old, and at least 4 years younger than Emanuel Semon at the time;**

**Four, that the offense was committed in Indian Country in the District of South Dakota; and**

**Five, that Emanuel Semon is an Indian.**

For you to find Emanuel Semon guilty of the offense charged in Count 3 of the Indictment, the government must prove all five of the essential elements beyond a reasonable doubt. Otherwise, you must find Emanuel Semon not guilty of the offense charged in Count 3 of the Indictment.

FINAL INSTRUCTION NO. 5 – ATTEMPT

The crimes charged in the Indictment include attempts to engage in a sexual act. A person may be found guilty of an attempt if he intended to engage in a sexual act and voluntarily and intentionally carried out some act which was a substantial step toward engaging in a sexual act.

A substantial step must be something more than mere preparation, yet may be less than the last act necessary before the actual commission of the substantive offense. In order for behavior to be punishable as an attempt, it need not be incompatible with innocence, yet it must be necessary to the consummation of the crime and be of such a nature that a reasonable observer, viewing it in context, could conclude beyond a reasonable doubt that it was undertaken in accordance with a design to commit the substantive offense.

FINAL INSTRUCTION NO. 6 – INDIAN COUNTRY

The Indictment in this case alleges that the offenses occurred in Indian Country. Indian Country means 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. 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 Emanuel Semon to be proven guilty of these offenses, specifically that the offenses happened at or near Sandra Mabin's and Josh Williams's residence in Oglala, South Dakota.

FINAL INSTRUCTION NO. 7 – INDIAN PERSON

The Indictment in this case alleges that Emanuel Semon 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 Emanuel Semon 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 lives on the reservation and participates in Indian social life.

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 Emanuel Semon is an Indian.

FINAL INSTRUCTION NO. 8 – KNOWLEDGE AND INTENT

The government is not required to prove that the defendant knew that his acts or omissions were unlawful. An act is done “knowingly” if the defendant is aware of the act and does not act through ignorance, mistake, or accident. You may consider evidence of the defendant’s words, acts, or omissions, along with all the other evidence, in deciding whether the defendant acted knowingly.

Intent or knowledge may be proved like anything else. You may consider any statements made or acts done by the defendant and all the facts and circumstances in evidence which may aid in a determination of the defendant’s knowledge or 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. 9 – 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. 10 – DEFENDANT’S PRIOR SIMILAR ACTS

You have heard evidence that Emanuel Semon previously committed acts similar to those charged in this case. You may use this evidence to help you decide whether the similarity between the acts previously committed and the ones charged in the Indictment suggests that the same person committed all of them or whether Emanuel Semon had the intent, motive, opportunity, plan or preparation, knowledge, or absence of mistake or accident necessary to commit the crimes charged in the Indictment. If you unanimously find that the evidence of other acts is not more likely true than not true, you must disregard it. You will decide whether the other acts have been proved after considering all of the evidence and deciding what evidence is more believable. This is a lower standard than proof beyond a reasonable doubt.

Remember, Emanuel Semon is on trial only for the crimes charged. You may not convict a person simply because you believe he may have committed similar acts in the past.

FINAL INSTRUCTION NO. 11 – EXPERT WITNESS

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.

FINAL INSTRUCTION NO. 12 – 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 the elements of an 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 an 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. 13 – 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 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. 14 – 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. 15 – DUTY DURING DELIBERATIONS

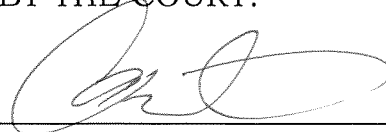
You must follow certain rules while conducting your deliberations and returning your verdict:

- 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 May 7, 2026.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'C. Theeler', written over a horizontal line.

CAMELA C. THEELER  
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION**

UNITED STATES OF AMERICA,  <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> EMANUAL SEMON,  <p style="text-align: center;">Defendant.</p>	5:24-CR-50099-CCT  <b>VERDICT FORM</b>
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We, the Jury, unanimously find the defendant, Emanuel Semon, as follows:

<b>COUNT 1: SEXUAL ABUSE WITHOUT CONSENT</b>	<b>VERDICT</b>
On the charge of “sexual abuse without consent” as explained in Final Instruction No. 2, please mark your verdict.	<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty

<b>COUNT 2: SEXUAL ABUSE OF A MINOR</b>	<b>VERDICT</b>
On the charge of “sexual abuse of a minor” as explained in Final Instruction No. 3, please mark your verdict.	<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty

<b>COUNT 3: AGGRAVATED SEXUAL ABUSE</b>	<b>VERDICT</b>
On the charge of “aggravated sexual abuse” as explained in Final Instruction No. 4, please mark your verdict.	<input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty

Please sign and date this Verdict Form.

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Date

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Foreperson