

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RAY NOEL CAMACHO, SR. a/k/a "Pato,"

Defendant.

CR 21-40042

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.

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. This is true even though some of those I gave you at the beginning of the trial are not repeated here.

The instructions I am about to give you now are in writing and will be available to you in the jury room. I emphasize, however, that this does not mean they are more important than my earlier instructions. Again, 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.

You should not be influenced by any person's race, color, ethnicity, national origin, religion, gender, gender identity, sexual orientation, disability, or economic circumstances. You must decide the case solely on the evidence and the law before you and must not be influenced by any personal likes or dislikes, opinions, prejudices, sympathy, or biases, including unconscious bias. Unconscious biases are stereotypes, attitudes, or preferences that people may consciously reject but may express without conscious awareness, control, or intention. Like conscious bias, unconscious bias, too, can affect how we evaluate information and make decisions.

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 any facts that have been stipulated—that is, formally agreed to by the parties, and any facts that have been judicially noticed—that is, facts which I say you may, but are not required to, accept as true, even without evidence.

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 will 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.

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

INSTRUCTION NO. 4

You have heard recordings of conversations. These conversations were legally recorded, and you may consider the recordings just like any other evidence.

INSTRUCTION NO. 5

The exhibits admitted during the trial included recordings of conversations in the Spanish language. You were also given English transcripts of those conversations. The transcripts were prepared by the government so that you can understand the recordings. Whether a transcript is an accurate translation, in whole or in part, is for you to decide. You should not rely in any way on any knowledge you may have of the language spoken on the recording; your consideration of the transcripts should be based on the evidence introduced in the trial.

In considering whether a transcript is accurate, you should consider the testimony presented to you regarding how, and by whom, the transcript was made. You may consider the knowledge, training, and experience of the translator, as well as the nature of the conversation and the reasonableness of the translation in light of all the evidence in the case.

INSTRUCTION NO. 6

You have heard evidence that some witnesses were once convicted of a crime. You may use that evidence only to help you decide whether to believe the witness and how much weight to give his or her testimony.

INSTRUCTION NO. 7

You have heard that some witnesses pleaded guilty to a crime which arose out of the same events for which the defendant is on trial here. You must not consider that guilty plea as any evidence of this defendant's guilt. You may consider that witness' guilty plea only for the purpose of determining how much, if at all, to rely upon his or her testimony.

INSTRUCTION NO. 8

Some witnesses entered into an agreement with the government which provides that in return for their assistance, the government will make a motion for a reduced sentence. You have heard evidence that some witnesses received a reduced sentence on criminal charges pending against them in return for their cooperation with the government in this case.

Some witnesses entered into an agreement with the government which provides that in return for their testifying truthfully, the government will make a motion to the court for a reduction in sentence due to substantial assistance. You have heard that some witnesses hope to receive a reduced sentence on criminal charges pending against them in return for their cooperation with the government. Some witnesses are subject to a mandatory minimum sentence, that is, a sentence that the law provides must be of a certain minimum length. If the prosecutor handling their cases believes they provided substantial assistance, that prosecutor can file in the court in which the charges are pending against these witnesses a motion to reduce their sentence below the statutory minimum, or to otherwise reduce their sentence. The judge has no power to reduce a sentence for substantial assistance unless the government acting through the United States Attorney, files such a motion. If such a motion for reduction of sentence for substantial assistance is filed by the government, then it is up to the judge to decide whether to reduce the sentence at all, and if so, how much to reduce it.

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

INSTRUCTION NO. 9

As I instructed previously, Mr. Camacho decided to represent himself in this trial and not to use the services of a lawyer. He has a constitutional right to do that. This decision must not affect your consideration and your decision whether he is not guilty or guilty.

Because Mr. Camacho decided to act as his own lawyer, you heard him speak during the trial. I want to remind you that when Mr. Camacho spoke in opening statement, closing argument, and questioning witnesses, he was acting as a lawyer in the case, and his words are not evidence. The only evidence in this case comes from witnesses who testify under oath on the witness stand and from exhibits that are admitted.

Although Mr. Camacho chose to represent himself, the court has appointed Mr. Manuel de Castro to assist Mr. Camacho as standby counsel. This is standard procedure.

INSTRUCTION NO. 10

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. 11

There is nothing particularly different in the way that you should consider the evidence in a trial from that in which any reasonable and careful person would treat any very important question that must be resolved by examining facts, opinions, and evidence. You are expected to use your good sense in considering and evaluating the evidence in the case. Use the evidence only for those purposes for which it has been received and give the evidence a reasonable and fair construction in the light of your common knowledge of the natural tendencies and inclinations of human beings.

Keep constantly in mind that it would be a violation of your sworn duty to base a verdict upon anything other than the evidence received in the case and the instructions of the Court. Remember as well that the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence because the burden of proving guilt beyond a reasonable doubt is always assumed by the government.

O'Malley, Grenig and Lee, *Federal Jury Practice and Instructions*, § 12.02 (6th ed. 2008) (modified).

INSTRUCTION NO. 12

There are two types of evidence which are generally presented during a trial—direct evidence and circumstantial evidence. Direct evidence is the testimony of a person who asserts or claims to have actual knowledge of a fact, such as an eyewitness. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. The law makes no distinction between the weight or value 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 him not guilty.

INSTRUCTION NO. 13

If you took notes during the trial, your notes should be used only as memory aids. You should not give your notes precedence over your independent recollection of the proceedings. If you did not take notes, you should rely on your own independent recollection of the proceedings and you should not be influenced by the notes of other jurors. I emphasize that notes are not entitled to any greater weight than the recollection or impression of each juror as to what the testimony may have been.

If any reference by the Court, by counsel, or by Mr. Camacho to matters of testimony or exhibits does not coincide with your own recollection of that evidence, it is your recollection which should control during your deliberations and not the statements of the Court or of counsel.

You are the sole judges of the evidence received in this case.

United States v. Rhodes, 631 F.2d 43, 46 n.3 (5th Cir. 1980); O'Malley, Grenig, and Lee, *Federal Jury Practice and Instructions*, § 12.07 (6th ed. 2008).

INSTRUCTION NO. 14

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. 15

You will remember that certain schedules, summaries, and charts were admitted in evidence. You may use those schedules, summaries and charts as evidence, even though the underlying documents and records are not here.

INSTRUCTION NO. 16

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. 17

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

INSTRUCTION NO. 18

The Superseding Indictment in this case charges two crimes against the defendant, Ray Noel Camacho.

Count 1 of the Superseding Indictment charges that beginning on an unknown date and continuing until on or about February 2020, in the District of South Dakota and elsewhere, Ray Noel Camacho, a/k/a “Pato,” did knowingly and intentionally combine, conspire, confederate, and agree together, with others known and unknown to the Grand Jury, to knowingly and intentionally distribute 500 grams or more of a mixture and substance containing methamphetamine, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 841(a)(1) and 846.

Count 2 of the Superseding Indictment charges that beginning on an unknown date and continuing until on or about February 2020, in the District of South Dakota and elsewhere, Ray Noel Camacho, a/k/a “Pato,” did knowingly and intentionally combine, conspire, confederate, and agree together, with others known and unknown to the Grand Jury, to knowingly conduct and attempt to conduct financial transactions affecting interstate and foreign commerce, to wit: depositing U.S. Currency and conducting wire/money transfers at financial institutions, which involved the proceeds of a specified unlawful activity, that is, conspiracy to distribute a controlled substance, knowing that the transactions were designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of said specified lawful activity, and that while conducting and attempting to conduct such financial transactions, knew that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, all in violation of 18 U.S.C. §§ 1956(h) and 1956(a)(1)(B)(i).

The defendant has pleaded not guilty to these charges. There is no burden upon the defendant to prove that he is innocent of the charges against him.

INSTRUCTION NO. 19

You must presume that the defendant is innocent of the crimes charged against him. The Superseding Indictment is only a formal method of beginning a criminal case. It does not create any presumption of guilt; it is merely an accusation. The fact that a person has been indicted does not create any inference, nor is it evidence, that he is guilty of a crime. The presumption of innocence alone is sufficient to acquit the defendant unless you as jurors are satisfied beyond a reasonable doubt of the defendant's guilt of the crimes charged from all the evidence that has been introduced in the case against him.

The burden is always upon the government to prove guilt beyond a reasonable doubt. This burden never shifts to a defendant for the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. Unless the government proves, beyond a reasonable doubt, that the defendant committed each and every element of an offense charged against him in the Superseding Indictment, you must find the defendant not guilty of that offense.

There is no burden upon the defendant to prove that he is innocent.

INSTRUCTION NO. 20

Section 841(a)(1) of Title 21 of the United States Code provides, in part, that:

- (a) . . . it shall be unlawful for any person knowingly or intentionally -
(1) to . . . distribute . . . a controlled substance [.]

INSTRUCTION NO. 21

The crime of conspiracy to distribute a controlled substance, as charged in Count 1 of the Superseding Indictment, has four essential elements, which are:

- One*, beginning on an unknown date and continuing until on or about February 2020, two or more persons reached an agreement or came to an understanding to distribute a mixture or substance containing methamphetamine;
- Two*, the defendant 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 the defendant 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.

These elements are further explained in the immediately following Instruction.

If you find these four elements unanimously and beyond a reasonable doubt as to the defendant, then you must find the defendant guilty of the crime of conspiracy to distribute 500 grams or more of a mixture or substance containing methamphetamine. Record your determination on the Verdict Form that is submitted to you with these instructions.

If you do not find the defendant guilty of this crime, go on to consider whether the defendant conspired to distribute 50 grams or more of a mixture or substance containing methamphetamine.

If you find unanimously and beyond a reasonable doubt:

The first three elements set forth above; and

Fourth, you find that the agreement or understanding involved 50 grams or more of a mixture or substance containing methamphetamine, then you must find the defendant guilty of the crime of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine. Record your determination on the Verdict Form.

If you do not find the defendant guilty of this crime, go on to consider whether the defendant conspired to distribute some amount of a mixture or substance containing methamphetamine.

INSTRUCTION NO. 21, continued

If you find the first three elements set forth above unanimously and beyond a reasonable doubt, you must find the defendant guilty of the crime of conspiracy to distribute some amount of a mixture or substance containing methamphetamine. Otherwise, you must find the defendant not guilty. Record your determination on the Verdict Form.

The quantity of mixture or substance containing methamphetamine involved in the agreement or understanding includes the mixture or substance containing methamphetamine the defendants possessed for personal use or distributed or agreed to distribute. The quantity also includes the mixture or substance containing 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.

INSTRUCTION NO. 22

Element One –

Element One of the conspiracy alleged in Count 1 requires that two or more people reached an agreement to commit the crime of distributing a controlled substance. For you to find that the government has proved a conspiracy, you must unanimously find that there was an agreement to act for this purpose.

The agreement between two or more people to commit the crime of distributing a controlled substance does not need to be a formal agreement or be in writing. A verbal or oral understanding can be sufficient to establish an agreement.

It does not matter whether the crime of distributing a controlled substance was actually committed or whether the alleged participants in the agreement actually succeeded in accomplishing their unlawful plan.

The agreement may last a long time or a short time. The members of an agreement do not all have to join it at the same time. You may find that someone joined the agreement even if you find that person did not know all of the details of the agreement.

A person may be a member of the agreement even if the person does not know all of the other members of the agreement or the person agreed to play only a minor part in the agreement.

Element Two –

Element Two of the conspiracy alleged in Count 1 requires that the defendant voluntarily and intentionally joined the agreement to commit the crime of distributing a controlled substance.

If you have determined that two or more people reached an agreement to commit the crime of distributing a controlled substance, you must next decide whether the defendant voluntarily and intentionally joined that agreement, either at the time it was first formed or at some later time while it was still in effect.

Earlier, in deciding whether two or more persons reached an agreement to commit the crime of distributing a controlled substance, you could consider the acts and statements of each person alleged to be part of the agreement. Now, in deciding whether the defendant joined the agreement, you may consider only the acts and statements of the defendant.

A person joins an agreement to commit the crime of distributing a controlled substance by voluntarily and intentionally participating in the unlawful plan with the intent to further the crime of distributing a controlled substance. It is not necessary for you to find that the defendant knew all the details of the unlawful plan.

It is not necessary for you to find that the defendant reached an agreement with every person you determine was a participant in the agreement.

Evidence that a person was present at the scene of an event, or acted in the same way as others or associated with others, does not, alone, prove that the person joined a conspiracy. A person who has no knowledge of a conspiracy, but who happens to act in a way that advances the purpose of the conspiracy, does not thereby become a member. A person's mere knowledge of the existence of a conspiracy, or mere knowledge that an objective of a conspiracy was being considered or attempted, or mere approval of the purpose of the conspiracy, is not enough to prove that the person joined in a conspiracy.

Element Three –

Element Three of the conspiracy alleged in Count 1 requires that the defendant knew the purpose of the agreement to commit the crime of distributing a controlled substance at the time the defendant joined the agreement.

A person knows the purpose of the agreement if he is aware of the agreement and does not participate in it through ignorance, mistake, carelessness, negligence, or accident. It is seldom, if ever, possible to determine directly what was in the defendant's mind. Thus, the defendant's knowledge of the agreement and its purpose can be proved like anything else, from reasonable conclusions drawn from the evidence.

It is not enough that the defendant and other alleged participants in the agreement to commit the crime of distributing a controlled substance simply met, discussed matters of common interest, acted in similar ways, or perhaps helped one another. The defendant must have known of the existence and purpose of the agreement. Without such knowledge, the defendant cannot be guilty of conspiracy, even if his acts furthered the conspiracy.

INSTRUCTION NO. 23

It is not necessary for the government to prove that a defendant knew the precise nature of the controlled substance that he conspired to distribute.

The government must prove beyond a reasonable doubt, however, that the defendant did know that some type of controlled substance was distributed.

Devitt, Blackmar, and O'Malley, *Federal Jury Practice and Instructions*, § 54.15 (4th ed. 1992) (modified); *Eighth Circuit Manual of Model Jury Instructions Criminal*, § 6.21.841A, n2; *United States v. Martin*, 274 F.3d 1208, 1210 (8th Cir. 2001).

INSTRUCTION NO. 24

You are instructed, as a matter of law, that methamphetamine is a controlled substance.

It is solely for you to determine, however, whether the government has proven beyond a reasonable doubt that a defendant conspired to distribute a mixture or substance containing methamphetamine and the quantity of the drug involved in the particular offense.

Devitt, Blackmar, and O'Malley, *Federal Jury Practice and Instructions*, § 54.13 (4th ed. 1992), (modified).

INSTRUCTION NO. 25

The following conversion chart may be helpful:

OUNCES/POUNDS	GRAMS/KILOGRAMS
1 ounce	28.35 grams / 0.028 kilogram
1 pound	453.59 grams / 0.4536 kilogram

INSTRUCTION NO. 26

Section 1956 of Title 18 of the United States Code makes it a crime to conduct or attempt to conduct a financial transaction which in any way or degree affects interstate or foreign commerce, knowing that the property involved in the financial transaction represents the proceeds of some form of specified unlawful activity, and knowing that the transaction is designed in whole or in part to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of the specified unlawful activity. This crime is also referred to as “money laundering.”

Source: 18 U.S.C. § 1956(a)(1)(B)(i).

INSTRUCTION NO. 27

It is a crime for two or more people to agree to commit a crime. The crime of conspiracy to commit money laundering, as charged in Count 2 of the Superseding Indictment, has three elements, which are:

One, beginning on an unknown date and continuing until on or about February 2020, two or more people reached an agreement or came to an understanding to commit the crime of money laundering;

Two, the defendant 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; and

Three, at the time the defendant joined in the agreement, he knew the purpose of the agreement or understanding.

The immediately following Instruction further explains these elements.

If all of these elements have been proved beyond a reasonable doubt as to the defendant, then you must find the defendant guilty of the crime charged under Count 2; otherwise you must find the defendant not guilty of this crime under Count 2.

18 U.S.C. §§ 371, 1956(h); *Eighth Circuit Manual Model Jury Instructions Criminal*, §§ 5.06A-1, 3.09, 6.18.1956A (2021) (modified); *United States v. Anwar*, 880 F.3d 958, 968 (8th Cir. 2018); *United States v. Jarrett*, 684 F.3d 800, 802 (8th Cir. 2012).

INSTRUCTION NO. 28

Element One –

Element One of the conspiracy alleged in Count 2 requires that two or more people reached an agreement to commit the crime of money laundering. For you to find that the government has proved a conspiracy, you must unanimously find that there was an agreement to act for this purpose.

The agreement between two or more people to commit the crime of money laundering does not need to be a formal agreement or be in writing. A verbal or oral understanding can be sufficient to establish an agreement.

It does not matter whether the crime of money laundering was actually committed or whether the alleged participants in the agreement actually succeeded in accomplishing their unlawful plan.

The agreement may last a long time or a short time. The members of an agreement do not all have to join it at the same time. You may find that someone joined the agreement even if you find that person did not know all of the details of the agreement.

A person may be a member of the agreement even if the person does not know all of the other members of the agreement or the person agreed to play only a minor part in the agreement.

Element Two –

Element Two of the conspiracy alleged in Count 2 requires that the defendant voluntarily and intentionally joined the agreement to commit the crime of money laundering.

If you have determined that two or more people reached an agreement to commit the crime of money laundering, you must next decide whether the defendant voluntarily and intentionally joined that agreement, either at the time it was first formed or at some later time while it was still in effect.

Earlier, in deciding whether two or more persons reached an agreement to commit the crime of money laundering, you could consider the acts and statements of each person alleged to be part of the agreement. Now, in deciding whether the defendant joined the agreement, you may consider only the acts and statements of the defendant.

A person joins an agreement to commit the crime of money laundering by voluntarily and intentionally participating in the unlawful plan with the intent to further the crime of money laundering. It is not necessary for you to find that the defendant knew all the details of the unlawful plan.

It is not necessary for you to find that the defendant reached an agreement with every person you determine was a participant in the agreement.

Evidence that a person was present at the scene of an event, or acted in the same way as others or associated with others, does not, alone, prove that the person joined a conspiracy. A person who has no knowledge of a conspiracy, but who happens to act in a way that advances the purpose of the conspiracy, does not thereby become a member. A person's mere knowledge of the existence of a conspiracy, or mere knowledge that an objective of a conspiracy was being considered or attempted, or mere approval of the purpose of the conspiracy, is not enough to prove that the person joined in a conspiracy.

To help you decide whether the defendant agreed to commit the crime of money laundering, you should consider the elements of that crime, which are the following:

- 1) the defendant conducted, or attempted to conduct a financial transaction which in any way or degree affected interstate commerce or foreign commerce;
- 2) the financial transaction involved proceeds of illegal activity;
- 3) the defendant knew the property represented proceeds of some form of unlawful activity;
and
- 4) the defendant conducted or attempted to conduct the financial transaction knowing the transaction was designed in whole or in part to conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified unlawful activity.

You may consider these elements in determining whether the defendant agreed to commit the crime of money laundering, keeping in mind that this count of the indictment only charges a conspiracy to commit the crime of money laundering, and does not charge that the crime of money laundering was committed.

Element Three –

Element Three of the conspiracy alleged in Count 2 requires that the defendant knew the purpose of the agreement to commit the crime of money laundering at the time the defendant joined the agreement.

A person knows the purpose of the agreement if he is aware of the agreement and does not participate in it through ignorance, mistake, carelessness, negligence, or accident. It is seldom, if ever, possible to determine directly what was in the defendant's mind. Thus, the defendant's knowledge of the agreement and its purpose can be proved like anything else, from reasonable conclusions drawn from the evidence.

It is not enough that the defendant and other alleged participants in the agreement to commit the crime of money laundering simply met, discussed matters of common interest, acted in similar ways, or perhaps helped one another. The defendant must have known of the existence and purpose of the agreement. Without such knowledge, the defendant cannot be guilty of conspiracy, even if his acts furthered the conspiracy.

Eighth Circuit Manual of Model Jury Instructions Criminal, § 5.06A-2 (modified); *United States v. Anwar*, [880 F.3d 958, 968](#) (8th Cir. 2018); *United States v. Slagg*, [651 F.3d 832, 844](#) (8th Cir. 2011).

INSTRUCTION NO. 29

You are further instructed that regarding the crime of conspiracy to commit money laundering as alleged in Count 2 of the Superseding Indictment, the following definitions apply:

CONDUCTED

The term “conducted,” as used in the money laundering instruction includes initiating, concluding, or participating in initiating, or concluding a transaction.

FINANCIAL TRANSACTION

The phrase “financial transaction,” as used in the money laundering instruction means a transaction which in any way or degree affects interstate or foreign commerce involving the movement of funds by wire or other means; or involving one or more monetary instruments; or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree.

The term “transaction,” as used above, means a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition; or with respect to a financial institution, includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means.

The phrase “monetary instrument” means, among other things, coin or currency of the United States or of any other country, traveler’s checks, cashier’s checks, personal checks, bank checks, money orders, investment securities, negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery.

INTERSTATE AND FOREIGN COMMERCE

The phrase “interstate commerce,” as used above, means commerce between any combination of states, territories, and possessions of the United States, including the District of Columbia. The phrase “foreign commerce,” as used above, means commerce between any state, territory or possession of the United States and a foreign country. The term “commerce” includes, among other things, travel, trade, transportation and communication.

It is not necessary for the government to show that the defendant actually intended or anticipated an effect on interstate or foreign commerce. All that is necessary is that interstate or foreign commerce was affected as a natural and probable consequence of the defendants’ actions.

You may find an effect on interstate or foreign commerce has been proven if you find from the evidence beyond a reasonable doubt: that funds were moved, transported, or transferred between multiple states or between a state and a foreign country.

It is not necessary for the government to show that the defendant's transaction or transactions with a financial institution, that is, with Western Union, Money Gram, Wal-Mart, or Ria Financial itself, affected interstate or foreign commerce. All that is necessary is that at the time of the alleged offense, Western Union, Money Gram, Wal-Mart, and Ria Financial were engaged in or had other activities which affected interstate or foreign commerce in any way or degree.

You may find that the transaction involved the use of a financial institution which engaged in or the activities of which affected interstate or foreign commerce in any way or degree if you find from the evidence beyond a reasonable doubt: evidence at trial that Western Union, Money Gram, Wal-Mart, and Ria Financial engaged in or affected interstate or foreign commerce, e.g., that it transferred funds from one state to another or to a foreign country during the course of the conspiracy.

PROCEEDS

The term "proceeds" means any property, or any interest in property, that someone derives from, or obtains or retains, either directly or indirectly, as a result of the commission of unlawful distribution of a controlled substance.

It does not matter whether or not the person who committed the underlying crime, and thereby acquired or retained the proceeds, was the defendant. It is a crime to conduct a financial transaction and to transport, transmit or transfer monetary instruments or funds involving property that is the proceeds of a crime, even if that crime was committed by another person, as long as all of the elements of the offense are satisfied.

The government is not required to trace the property it alleges to be proceeds of unlawful distribution of a controlled substance to a particular underlying offense. It is sufficient if the government proves that the property was the proceeds of unlawful distribution of a controlled substance generally. For example, in a case involving alleged drug proceeds, the government need not trace the money to a particular drug offense, but could satisfy the requirement by proving that the money was the proceeds of drug trafficking generally.

The government need not prove that all of the property involved in the transaction, transportation, transmission or transfer was the proceeds of unlawful distribution of a controlled substance. It is sufficient if the government proves that at least part of the property represents such proceeds.

SPECIFIED UNLAWFUL ACTIVITY

The phrase “specified unlawful activity” means any one of a large variety of offenses defined by statute. You are instructed as a matter of law that unlawful distribution of a mixture or substance containing methamphetamine falls within the definition.

KNOWLEDGE

The phrase “knew the property represented the proceeds of some form of unlawful activity” means that the defendant knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony offense under state or federal law. Thus, the government need not prove that the defendant specifically knew that the property involved in the financial transaction represented the proceeds of unlawful distribution of a controlled substance or any other specific offense; it need only prove that he knew it represented the proceeds of some form, though not necessarily which form, of felony under state or federal law. You are instructed as a matter of law that unlawful distribution of a mixture or substance containing methamphetamine is a felony under federal law.

INSTRUCTION NO. 30

If you determined that an agreement existed as to Count 1 and/or Count 2 and that the defendant joined the agreement, then acts and statements knowingly done or made by a member of the agreement and in furtherance of it, may be considered by you as evidence pertaining to the defendant, even though the acts and 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 the agreement, because a person who knowingly, voluntarily and intentionally joins an existing conspiracy becomes responsible for all of the conduct of the co-conspirators from the beginning of the conspiracy.

Acts and statements which are made before the conspiracy in issue began or after it ended are admissible only against the person making them and should not be considered by you against any other defendant.

INSTRUCTION NO. 31

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 must, therefore, be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in life's most important decisions. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

Eighth Circuit Manual of Model Jury Instructions Criminal, § 3.11 (2021) (modified); O'Malley, Grenig and Lee, *Federal Jury Practice and Instructions*, § 12.10 (6th ed. 2008) (modified).

INSTRUCTION NO. 32

The Superseding Indictment charges that the offenses alleged were committed on approximate dates. Although it is necessary for the government to prove beyond a reasonable doubt that the offenses were committed on a date reasonably near the dates alleged in the Superseding Indictment, it is not necessary for the government to prove that the offenses were committed precisely on the dates charged.

INSTRUCTION NO. 33

In conducting your deliberations and returning your verdict, there are certain rules you must follow. I will 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 government 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, 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 vote stands numerically.

Fifth, your verdicts must be based solely on the evidence and on the law which I have given to you in my instructions. The verdicts, whether guilty or not guilty, must be unanimous. Nothing I have said or done is intended to suggest what your verdicts should be—that is entirely for you to decide.

Finally, the verdict form is simply the written notice of the decisions that you reach in this case. You will take this form to the jury room, and when each of you has agreed upon the verdicts, your foreperson will fill in the form, sign and date it, and advise the marshal 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.

RAY NOEL CAMACHO, SR. a/k/a "Pato,"

Defendant.

CR 21-40042

VERDICT FORM

Please return your verdicts by placing an "X" or "✓" in the spaces provided.

VERDICT ONE

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 500 grams or more of a mixture or substance containing methamphetamine, as charged in Count 1 of the Superseding Indictment, find the Defendant, Ray Noel Camacho, Sr. a/k/a "Pato":

_____ NOT GUILTY

_____ GUILTY

If you unanimously find Defendant, Ray Noel Camacho, Sr. a/k/a "Pato" guilty of the above crime, do not consider Verdicts Two and Three and go on to Verdict Four. If you unanimously find Defendant, Ray Noel Camacho, Sr. a/k/a "Pato" not guilty of the above crime, you must then consider in Verdict Two whether Ray Noel Camacho, Sr. a/k/a "Pato" is guilty of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine. If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide under Verdict Two whether Defendant Ray Noel Camacho, Sr. a/k/a "Pato" is guilty of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine.

VERDICT TWO

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute 50 grams or more of a mixture or substance containing methamphetamine, a lesser

included offense of the crime charged in Count 1 of the Superseding Indictment, find the Defendant, Ray Noel Camacho, Sr. a/k/a “Pato”:

_____ NOT GUILTY

_____ GUILTY

If you unanimously find Ray Noel Camacho, Sr. a/k/a “Pato” guilty of the above crime, do not consider Verdict Three and go on to Verdict Four. If you unanimously find Ray Noel Camacho, Sr. a/k/a “Pato” not guilty of the above crime, you must then consider in Verdict Three whether Ray Noel Camacho, Sr. a/k/a “Pato” is guilty of conspiracy to distribute some amount of a mixture or substance containing methamphetamine. If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide under Verdict Three whether Ray Noel Camacho, Sr. a/k/a “Pato” is guilty of conspiracy to distribute some amount of a mixture or substance containing methamphetamine.

VERDICT THREE

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to distribute some amount of a mixture or substance containing methamphetamine, a lesser included offense of the crime charged in Count 1 of the Superseding Indictment, find the Ray Noel Camacho, Sr. a/k/a “Pato”:

_____ NOT GUILTY

_____ GUILTY

Go on to consider Verdict Four.

VERDICT FOUR

We, the jury in the above entitled and numbered case, as to the crime of conspiracy to commit money laundering as charged in Count 2 of the Superseding Indictment, find the Ray Noel Camacho, Sr. a/k/a “Pato”:

_____ NOT GUILTY

_____ GUILTY

Dated this _____ day of November, 2022.

FOREPERSON