

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ELIJAH WEST,

Defendant.

5:22-CR-50013-RAL

FINAL JURY INSTRUCTIONS

INSTRUCTION NO. 1

Members of the jury, the instructions I gave you at the beginning of the trial and during the trial remain in effect. I now give you some additional instructions. The instructions I am about to give you now are in writing and will be available to you in the jury room.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all are important.

All instructions, whenever given and whether in writing or not, must be followed.

INSTRUCTION NO. 2

It is your duty to find from the evidence what the facts are. You will then apply the law, as I give it to you, to those facts. You must follow my instructions on the law, even if you thought the law was different or should be different.

Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, unaffected by anything except the evidence, your common sense, and the law as I give it to you.

INSTRUCTION NO. 3

I have mentioned the word “evidence.” The “evidence” in this case consists of the testimony of witnesses, the documents and other things received as exhibits, and the facts that have been stipulated—that is, formally agreed to by the parties.

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 that I struck from the record, or told you to disregard, is not evidence and must not be considered.
4. Anything you saw or heard about this case outside the courtroom is not evidence.

When you were instructed that evidence was received for a limited purpose, you must follow that instruction.

INSTRUCTION NO. 4

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it.

In deciding what testimony of any witness to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe. You should judge the testimony of the defendant in the same manner as you judge the testimony of any other witness.

In deciding whether or not to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You need to consider therefore whether a contradiction is an innocent misrecollection or lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or only a small detail.

INSTRUCTION NO. 5

You have heard testimony from persons described as experts. A person who, by knowledge, skill, training, education, or experience, has become expert in some field may state his or her opinion on matters in that field and may also state the reasons for his or her 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' 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. 6

The second superseding indictment contains three counts of Murder in the First Degree, three counts of Discharge of a Firearm During a Crime of Violence, and one count of Prohibited Person in Possession of a Firearm. The defendant has pleaded not guilty to those charges.

The second superseding indictment is simply the document that formally charges the defendant with the crimes for which he is on trial. The second superseding indictment is not evidence of anything. At the beginning of the trial, I instructed you that you must presume the defendant to be innocent. Thus, the defendant began the trial with a clean slate, with no evidence against him. The presumption of innocence alone is sufficient to find the defendant not guilty. This presumption can be overcome only if the government proved during the trial, beyond a reasonable doubt, each element of the crimes charged.

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

There is no burden upon a defendant to prove that he is innocent. Instead, the burden of proof remains on the United States throughout the trial.

INSTRUCTION NO. 7

The crime of murder in the first degree, as charged in Count I of the second superseding indictment, has five elements, which are:

***One*, the defendant unlawfully killed Jamie Graham;**

***Two*, the defendant did so with malice aforethought as defined in Instruction No. 13;**

***Three*, the killing was premeditated as defined in Instruction No. 14;**

***Four*, that Elijah West is an Indian; and**

***Five*, the offense took place in Indian country.**

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

INSTRUCTION NO. 8

If you should unanimously find the defendant “Not Guilty” of the crime of murder in the first degree, as charged in Count I of the second superseding indictment, or if after all reasonable efforts, you are unable to reach a verdict as to Count I, then you should record that verdict on the verdict form and go on to consider whether the defendant is guilty of the lesser-included crime of murder in the second degree under this Instruction.

The crime of murder in the second degree, a lesser-included offense of the crime of murder in the first degree as charged in Count I of the second superseding indictment, has four essential elements, which are:

One, that the defendant, Elijah West, unlawfully killed Jamie Graham;

Two, the defendant did so with malice aforethought as defined in Instruction No. 13;

Three, that Elijah West is an Indian; and

Four, that the offense took place in Indian country.

If all of these elements have been proved beyond a reasonable doubt as to Elijah West, then you must find him guilty of the lesser-included offense; otherwise you must find him not guilty of this crime.

INSTRUCTION NO. 9

The crime of murder in the first degree, as charged in Count II of the second superseding indictment, has five elements, which are:

***One*, the defendant unlawfully killed Alma Garneaux;**

***Two*, the defendant did so with malice aforethought as defined in Instruction No. 13;**

***Three*, the killing was premeditated as defined in Instruction No. 14;**

***Four*, that Elijah West is an Indian; and**

***Five*, the offense took place in Indian country.**

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

INSTRUCTION NO. 10

If you should unanimously find the defendant “Not Guilty” of the crime of murder in the first degree, as charged in Count II of the second superseding indictment, or if after all reasonable efforts, you are unable to reach a verdict as to Count II, then you should record that verdict on the verdict form and go on to consider whether the defendant is guilty of the lesser-included crime of murder in the second degree under this Instruction.

The crime of murder in the second degree, a lesser-included offense of the crime of murder in the first degree as charged in Count II of the second superseding indictment, has four essential elements, which are:

One, that the defendant, Elijah West, unlawfully killed Alma Garneaux;

Two, the defendant did so with malice aforethought as defined in Instruction No. 13;

Three, that Elijah West is an Indian; and

Four, that the offense took place in Indian country.

If all of these elements have been proved beyond a reasonable doubt as to Elijah West, then you must find him guilty of the lesser-included offense; otherwise you must find him not guilty of this crime.

INSTRUCTION NO. 11

The crime of murder in the first degree, as charged in Count III of the second superseding indictment, has five elements, which are:

***One*, the defendant unlawfully killed Michael White Plume;**

***Two*, the defendant did so with malice aforethought as defined in Instruction No. 13;**

***Three*, the killing was premeditated as defined in Instruction No. 14;**

***Four*, that Elijah West is an Indian; and**

***Five*, the offense took place in Indian country.**

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

INSTRUCTION NO. 12

If you should unanimously find the defendant “Not Guilty” of the crime of murder in the first degree, as charged in Count III of the second superseding indictment, or if after all reasonable efforts, you are unable to reach a verdict as to Count III, then you should record that verdict on the verdict form and go on to consider whether the defendant is guilty of the lesser-included crime of murder in the second degree under this Instruction.

The crime of murder in the second degree, a lesser-included offense of the crime of murder in the first degree as charged in Count III of the second superseding indictment, has four essential elements, which are:

One, that the defendant, Elijah West, unlawfully killed Michael White Plume;

Two, the defendant did so with malice aforethought as defined in Instruction No. 13;

Three, that Elijah West is an Indian; and

Four, that the offense took place in Indian country.

If all of these elements have been proved beyond a reasonable doubt as to Elijah West, then you must find him guilty of the lesser-included offense; otherwise you must find him not guilty of this crime.

INSTRUCTION NO. 13

As used in these instructions, “malice aforethought” means an intent, at the time of a killing, willfully to take the life of a human being, or an intent willfully to act in callous and wanton disregard of the consequences to human life; but “malice aforethought” does not necessarily imply any ill will, spite or hatred towards the individual killed.

In determining whether the victim was unlawfully killed with malice aforethought, you should consider all the evidence concerning the facts and circumstances preceding, surrounding and following the killing which tend to shed light upon the question of intent.

INSTRUCTION NO. 14

A killing is premeditated when it is intentional and the result of planning or deliberation. The amount of time needed for premeditation of a killing depends on the person and the circumstances. It must be long enough for the defendant, after forming the intent to kill, to be fully conscious of his intent, and to have thought about the killing.

For there to be premeditation the defendant must think about the taking of a human life before acting. The amount of time required for premeditation cannot be arbitrarily fixed. The time required varies as the minds and temperaments of people differ and according to the surrounding circumstances in which they may be placed. Any interval of time between forming the intent to kill, and acting on that intent, which is long enough for the defendant to be fully conscious and mindful of what he intended and willfully set about to do, is sufficient to justify the finding of premeditation.

INSTRUCTION NO. 15

Counts I, II, and III of the second superseding indictment in this case allege that the defendant Elijah West is an Indian and that the crimes charged in Counts I, II, and III occurred in Indian country. The existence of those two factors is necessary in order for this Court to have jurisdiction over Counts I, II, and III as charged in the second superseding indictment and over any lesser included offenses to Counts I, II, and III.

Counsel for the United States, counsel for the defendant, and the defendant have agreed or stipulated that the defendant is an Indian and that the place where the crimes charged in Counts I, II, and III are claimed to have occurred is in Indian country.

The defendant has not, by entering this agreement or stipulation, admitted his guilt of the offenses charged, and you may not draw any inference of guilt from the stipulation. The only effect of this stipulation is to establish the facts that the defendant is an Indian and that the place where Counts I, II, and III are claimed to have occurred is in Indian country.

INSTRUCTION NO. 16

The crime of use of a firearm in furtherance of a crime of violence as charged in Count IV of the second superseding indictment, has two elements:

***One*, the defendant committed the crime of murder in the first degree as charged in Count I of the second superseding indictment or the lesser included offense of murder in the second degree; and**

***Two*, the defendant knowingly carried, brandished or discharged a firearm during and in relation to that crime.**

You must first consider the evidence pertaining to Count I of the second superseding indictment and determine whether the government has proved Count I or the lesser included offense beyond a reasonable doubt. If you reach a verdict of guilty on murder in the first degree as charged in Count I or the lesser included offense to Count I, only then may you consider this charge. If your verdict was not guilty on Count I and not guilty on the lesser included offense, you must return a verdict of not guilty on this charge.

If all of these elements have been proved beyond a reasonable doubt as to Elijah West, then you must find him guilty of the crime charged; otherwise you must find him not guilty of this crime. If you find the defendant guilty of this crime, then you must determine on the verdict form if he carried, brandished and/or discharged the firearm in committing the offense charged in Count I or the lesser included offense to Count I.

INSTRUCTION NO. 17

The crime of use of a firearm in furtherance of a crime of violence as charged in Count V of the second superseding indictment, has two elements:

***One*, the defendant committed the crime of murder in the first degree as charged in Count II of the second superseding indictment or the lesser included offense of murder in the second degree; and**

***Two*, the defendant knowingly carried, brandished or discharged a firearm during and in relation to that crime.**

You must first consider the evidence pertaining to Count II of the second superseding indictment and determine whether the government has proved Count II or the lesser included offense beyond a reasonable doubt. If you reach a verdict of guilty on murder in the first degree as charged in Count II or the lesser included offense to Count II, only then may you consider this charge. If your verdict was not guilty on Count II and not guilty on the lesser included offense, you must return a verdict of not guilty on this charge.

If all of these elements have been proved beyond a reasonable doubt as to Elijah West, then you must find him guilty of the crime charged; otherwise you must find him not guilty of this crime. If you find the defendant guilty of this crime, then you must determine on the verdict form if he carried, brandished and/or discharged the firearm in committing the offense charged in Count II or the lesser included offense to Count II.

INSTRUCTION NO. 18

The crime of use of a firearm in furtherance of a crime of violence as charged in Count VI of the second superseding indictment, has two elements:

***One*, the defendant committed the crime of murder in the first degree as charged in Count III of the second superseding indictment or the lesser included offense of murder in the second degree; and**

***Two*, the defendant knowingly carried, brandished or discharged a firearm during and in relation to that crime.**

You must first consider the evidence pertaining to Count III of the second superseding indictment and determine whether the government has proved Count III or the lesser included offense beyond a reasonable doubt. If you reach a verdict of guilty on murder in the first degree as charged in Count III or the lesser included offense to Count III, only then may you consider this charge. If your verdict was not guilty on Count III and not guilty on the lesser included offense, you must return a verdict of not guilty on this charge.

If all of these elements have been proved beyond a reasonable doubt as to Elijah West, then you must find him guilty of the crime charged; otherwise you must find him not guilty of this crime. If you find the defendant guilty of this crime, then you must determine on the verdict form if he carried, brandished and/or discharged the firearm in committing the offense charged in Count III or the lesser included offense to Count III.

INSTRUCTION NO. 19

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

You may find that a firearm was “carried” during the commission of the crime if you find that the defendant had a firearm on his person.

The term “brandish” means to display all or part of the firearm, or otherwise make the presence of the firearm known to another person.

For a firearm to be “discharged,” it must fire a projectile or bullet.

In determining whether a defendant carried, brandished or discharged a firearm, you may consider all of the factors received in evidence in the case including the nature of the underlying crime of violence alleged, the proximity of the defendant to the firearm in question, the usefulness of the firearm to the crime alleged, and the circumstances surrounding the presence of the firearm.

INSTRUCTION NO. 20

It is a crime for a felon to possess a firearm and ammunition, as charged in Count VII of the second superseding indictment. This crime has four elements:

***One*, the defendant had been convicted of a crime punishable by imprisonment for more than one year;**

***Two*, after that conviction, the defendant knowingly possessed a firearm and/or ammunition that is one or more of the following:**

- a. a Glock, model 27, .40 caliber, semi-automatic pistol, bearing serial number PRY791; and/or**
- b. Ammunition;**

***Three*, at the time the defendant knowingly possessed the firearm, he knew he had been convicted of a crime punishable by imprisonment for more than one year; and**

***Four*, the firearm and ammunition were transported across a state line at some time during or before defendant's possession of it.**

You are instructed that the United States and the defendant have agreed or stipulated that the defendant has been convicted of a crime punishable by imprisonment for more than one year under the laws of the United States, and you must consider the first element as proven.

You are instructed that the United States and the defendant have agreed or stipulated that the defendant knew on January 5, 2022, he had previously been convicted of a crime punishable by imprisonment for more than one year under the laws of the United States, and you must consider the third element as proven.

By entering into these stipulations, the defendant has not admitted his guilt on this offense and you may not draw an inference of guilt from the stipulation as the stipulation is not evidence on elements two or four.

The term "firearm" means any weapon (including a starter gun) which will or is designed to or may be readily converted to expel a projectile by the action of an explosive.

The term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

The phrase "interstate commerce" means commerce between any combination of states, territories, and possessions of the United States, including the District of Columbia. "Foreign commerce" 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 and transportation.

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

If you have found beyond a reasonable doubt that the firearm in question was manufactured in a state other than 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 it was transported across a state line.

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

INSTRUCTION NO. 21

The law recognizes several kinds of possession. A person may have actual possession or constructive possession. A person may have sole or joint possession.

A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it.

A person who, although not in actual possession, has both the power and the intention at a given time to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it.

If one person alone has actual or constructive possession of a thing, possession is sole. If two or more persons share actual or constructive possession of a thing, possession is joint.

Whenever the word “possession” has been used in these instructions it includes actual as well as constructive possession and also sole as well as joint possession.

INSTRUCTION NO. 22

You have heard evidence that the defendant was previously convicted of a crime because that fact is an element of the offense of felon in possession of a firearm, as charged in the indictment. This evidence, however, does not mean that the defendant committed the crimes charged here. You may not consider the defendant's prior conviction as evidence that he committed the charged offenses in this case.

INSTRUCTION NO. 23

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

INSTRUCTION NO. 24

A witness may be discredited or “impeached” by contradictory evidence, by a showing that he or she 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 which is inconsistent with the witness’s present testimony.

If you believe that any witness has been so impeached, then it is your exclusive decision to give the testimony of that witness such credibility or weight, if any, as you may think it deserves.

INSTRUCTION NO. 25

A reasonable doubt is a doubt based upon reason and common sense, and not doubt based on speculation. A reasonable doubt may arise from careful and impartial consideration of all the evidence, or from a lack of evidence. Proof beyond a reasonable doubt is proof of such a convincing character that a reasonable person, after careful consideration, would not hesitate to rely and act upon that proof in life's most important decisions. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. Proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NO. 26

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

INSTRUCTION NO. 27

There has been evidence that the defendant used a false name. If you find that the defendant knowingly used a name other than his own in order to conceal his identity and to avoid identification, you may, but are not required to, infer this shows consciousness of guilt on the part of the defendant. This evidence may be considered by you in light of all the other evidence in the case. You may consider whether this evidence shows a consciousness of guilt and determine the significance to be attached to any such conduct.

INSTRUCTION NO. 28

In conducting your deliberations and returning your verdict, there are certain rules you must follow. I shall list those rules for you now.

First, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

Second, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach agreement if you can do so without violence to individual judgment, because a verdict—whether guilty or not guilty—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 or bailiff, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Remember that you should not tell anyone—including me—how your votes stand numerically.

Fifth, during your deliberations, you must not communicate with or provide any information to anyone other than by note to me by any means about this case. You may not use any electronic device or media, such as a telephone, cell phone, smart phone, iPhone, Blackberry, or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, Snapchat, LinkedIn, Instagram, YouTube, My Space or X (formerly known as Twitter), to communicate to anyone information about this case or to conduct any research about this case until I accept your verdict.

Sixth, your verdict must be based solely on the evidence and on the law which I have given to you in my instructions. Nothing I have said or done is intended to suggest what your verdict should be—that is entirely for you to decide.

Finally, the verdict form is simply the written notice of the decision that you reach in this case. You will take this form to the jury room, and when each of you has agreed on the verdict, your foreperson will fill in the form, sign and date it, and advise the marshal or bailiff that you are ready to return to the courtroom.

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

<p>UNITED STATES OF AMERICA, Plaintiff, vs. ELIJAH WEST, Defendant.</p>	<p>3:22-CR-50013-RAL VERDICT FORM</p>
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We, the jury, duly empaneled and sworn to try the issues in this case, find as follows:

1. We find the defendant, Elijah West, _____ (fill in either “not guilty” or “guilty”) of Murder in the First Degree against Jamie Graham as charged in Count I of the second superseding indictment.

1.A. *(Complete if and only if you find the defendant “not guilty” of Murder in the First Degree as charged in Count I of the second superseding indictment or if you cannot reach a verdict on Murder in the First Degree after all reasonable efforts)*

We find the defendant, Elijah West, _____ (fill in either “not guilty” or “guilty”) of the lesser-included offense of Murder in the Second Degree.

2. We find the defendant, Elijah West, _____ (fill in either “not guilty” or “guilty”) of Murder in the First Degree against Alma Garneaux as charged in Count II of the second superseding indictment.

2.A. *(Complete if and only if you find the defendant “not guilty” of Murder in the First Degree as charged in Count II of the second superseding indictment or if you cannot reach a verdict on Murder in the First Degree after all reasonable efforts)*

We find the defendant, Elijah West, _____ (fill in either “not guilty” or “guilty”) of the lesser-included offense of Murder in the Second Degree.

3. We find the defendant, Elijah West, _____ (fill in either “not guilty” or “guilty”) of Murder in the First Degree against Michael White Plume as charged in Count III of the second superseding indictment.

3.A. *(Complete if and only if you find the defendant “not guilty” of Murder in the First Degree as charged in Count III of the second superseding indictment or if you cannot reach a verdict on Murder in the First Degree after all reasonable efforts)*

We find the defendant, Elijah West, _____ (fill in either “not guilty” or “guilty”) of the lesser-included offense of Murder in the Second Degree.

4. We find the defendant, Elijah West, _____ (fill in either “not guilty” or “guilty”) of Using a Firearm During and in Relation to a Crime of Violence as charged in Count IV of the second superseding indictment.

4.A. *(Complete if and only if you find the defendant “guilty” of Using a Firearm During and in Relation to a Crime of Violence as charged in Count IV of the second superseding indictment.)*

We find, beyond a reasonable doubt, that the defendant, Elijah West: (place an “X” or check mark in the space provided next to the word or words that you find apply, using the beyond a reasonable doubt standard)

_____ carried

_____ brandished

_____ discharged

a firearm in connection with commission of the crimes charged in Count I.

5. We find the defendant, Elijah West, _____ (fill in either “not guilty” or “guilty”) of Using a Firearm During and in Relation to a Crime of Violence as charged in Count V of the second superseding indictment.

5.A. *(Complete if and only if you find the defendant “guilty” of Using a Firearm During and in Relation to a Crime of Violence as charged in Count V of the second superseding indictment.)*

We find, beyond a reasonable doubt, that the defendant, Elijah West: (place an “X” or check mark in the space provided next to the word or words that you find apply, using the beyond a reasonable doubt standard)

_____ carried
_____ brandished
_____ discharged

a firearm in connection with commission of the crimes charged in Count II.

6. We find the defendant, Elijah West, _____ (fill in either “not guilty” or “guilty”) of Using a Firearm During and in Relation to a Crime of Violence as charged in Count VI of the second superseding indictment.

6.A. *(Complete if and only if you find the defendant “guilty” of Using a Firearm During and in Relation to a Crime of Violence as charged in Count VI of the second superseding indictment.)*

We find, beyond a reasonable doubt, that the defendant, Elijah West: (place an “X” or check mark in the space provided next to the word or words that you find apply, using the beyond a reasonable doubt standard)

_____ carried
_____ brandished
_____ discharged

a firearm in connection with commission of the crimes charged in Count III.

7. We find the defendant, Elijah West, _____ (fill in either “not guilty” or “guilty”) of Prohibited Person in Possession of a Firearm as charged in the second superseding indictment.

DATED this _____ day of September, 2023.

FOREPERSON