

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

UNITED STATES OF AMERICA,  Plaintiff,  vs.  LOREN GOODLOW,  Defendants.	5:23-CR-50068-KES  <b>FINAL INSTRUCTIONS TO THE JURY</b>
---	--

**TABLE OF CONTENTS**

FINAL INSTRUCTION NO. 1 – INTRODUCTION .....	1
FINAL INSTRUCTION NO. 2 – SEXUAL ABUSE OF A MINOR .....	2
FINAL INSTRUCTION NO. 3 – ABUSIVE SEXUAL CONTACT .....	5
FINAL INSTRUCTION NO. 4 –ATTEMPTED SEXUAL EXPLOITATION OF A MINOR.....	7
FINAL INSTRUCTION NO. 5 – ATTEMPTED RECEIPT OF CHILD PORNOGRAPHY .....	10
FINAL INSTRUCTION NO. 6 – TAMPERING WITH A WITNESS .....	12
FINAL INSTRUCTION NO. 7 – IMPEACHMENT .....	13
FINAL INSTRUCTION NO. 8 – PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF .....	14
FINAL INSTRUCTION NO. 9 – REASONABLE DOUBT .....	15
FINAL INSTRUCTION NO. 10 – DUTY TO DELIBERATE .....	16
FINAL INSTRUCTION NO. 11 – DUTY DURING DELIBERATIONS.....	17

VERDICT FORM

FINAL INSTRUCTION NO. 1 – INTRODUCTION

Members of the jury, the written instructions I gave you at the beginning of the trial and the oral instructions I gave you during 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 OF A MINOR

For you to find Loren Goodlow guilty of the offense of Sexual Abuse of a Minor, as charged in Counts 1, 2, 3, 4, 5, 6, 8, and 9, of the Indictment, the prosecution must prove the following six essential elements beyond a reasonable doubt:

**One, that on or about the date identified in the chart below, the defendant, Loren Goodlow, did engage or attempt to engage in a sexual act with the alleged victim, identified in the chart below;**

The term “sexual act” is defined as

- A) Contact between the penis and the vulva or the penis and the anus, and contact involving the penis occurs upon penetration, however slight;
- B) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
- C) The penetration, however slight, of the anal or genital opening of another by a hand or finger or any other object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
- D) 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.

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 crime. 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 violate the statute.

**Two, that Goodlow did such acts knowingly;**

An act is done “knowingly” if the defendant is aware of the act and does not act, or fail to 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 and acts done by the defendant—except whether or not he testified in court—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.

**Three, that at the time of the offense the alleged victim, identified in the chart below, had attained the age of twelve years but had not attained the age of sixteen years;**

**Four, that at the time of the offense the alleged victim, identified in the chart below, was at least four years younger than Goodlow;**

**Five, that Goodlow is an Indian; and**

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.

**Six, that the offense took place in Indian Country in the District of South Dakota.**

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

Each count of sexual abuse of a minor constitutes a separate offense. The actions charged are set forth as follows:

<b>Count</b>	<b>Approximate Dates</b>	<b>Alleged Victim</b>	<b>Sexual act charged in the Indictment</b>
1	On or about March 18, 2023	A.S.	Contact between the penis and the mouth
2	On or about March 18, 2023	A.S.	Contact between the penis and the vulva
3	On or about March 18, 2023	A.S.	Contact between the penis and the mouth
4	On or about March 18, 2023	A.S.	Contact between the penis and the vulva
5	On or about March 18, 2023	A.S.	Contact between the penis and the vulva
6	On or about March 18, 2023	N.S.	Contact between the penis and the mouth
8	On or about March 18, 2023	N.S.	Contact between the penis and the mouth
9	On or about January 16, 2023	A.S.	Contact between the penis and the vulva

For you to find Loren Goodlow guilty of the offense charged in Counts 1, 2, 3, 4, 5, 6, 8, or 9, of the Indictment, the prosecution must prove all six of the essential elements beyond a reasonable doubt as to each count. If you find that the prosecution has not proved each of the elements, then you must find Loren Goodlow not guilty of Counts 1, 2, 3, 4, 5, 6, 8, or 9 charged in the Indictment.

FINAL INSTRUCTION NO. 3 – ABUSIVE SEXUAL CONTACT

For you to find Loren Goodlow guilty of the offense of Abusive Sexual Contact, as charged in Counts 7 and 10 of the Indictment, the prosecution must prove the following six essential elements beyond a reasonable doubt:

**One, that on or about the date identified in the chart below, the defendant, Loren Goodlow, did engage or attempt to cause sexual contact with the alleged victim, identified in the chart below;**

The term “sexual contact” means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.

A person may be found guilty of an attempt if he intended to engage in sexual contact and voluntarily and intentionally carried out some act which was a substantial step toward engaging in sexual contact.

The term “substantial step” was defined for you in Final Jury Instruction No. 2.

**Two, that Goodlow did such acts knowingly;**

A description of what it means to act with intent or knowledge is included in Final Instruction No. 2.

**Three, that at the time of the offense the alleged victim, identified in the chart below, had attained the age of twelve years but had not attained the age of sixteen years;**

**Four, that at the time of the offense the alleged victim, identified in the chart below, was at least four years younger than Goodlow;**

**Five, that Goodlow is an Indian; and**

The term “Indian” was defined for you in Final Jury Instruction No. 2.

**Six, that the offense took place in Indian Country in the District of South Dakota.**

The term “Indian Country” was defined for you in Final Jury Instruction No. 2.

Each count of abusive sexual contact constitutes a separate offense. The actions charged are set forth as follows:

<b>Count</b>	<b>Approximate Dates</b>	<b>Alleged Victim</b>
7	On or about March 18, 2023	N.S.
10	On or about January 12, 2023	A.S.

For you to find Loren Goodlow guilty of the offense charged in Counts 7 or 10 of the Indictment, the prosecution must prove all six of the essential elements beyond a reasonable doubt as to each count. If you find that the prosecution has not proved each of the elements, then you must find Loren Goodlow not guilty of Counts 7 or 10 charged in the Indictment.

FINAL INSTRUCTION NO. 4 –ATTEMPTED SEXUAL EXPLOITATION OF A  
MINOR

For you to find Loren Goodlow guilty of the offense of Attempted Sexual Exploitation of a Minor, as charged in Counts 11 and 12 of the Indictment, the prosecution must prove the following four essential elements beyond a reasonable doubt:

**One, that on or about the date identified in the chart below, the alleged victim, identified in the chart below, was under the age of eighteen years;**

The government is not required to prove that the defendant knew that the minor was under the age of eighteen.

**Two, the defendant, Loren Goodlow, attempted to knowingly employ, use, persuade, induce, entice, or coerce the alleged victim, identified in the chart below, to engage in sexually explicit conduct;**

A person may be found guilty of an attempt if he intended to employ, use, persuade, induce, entice, or coerce a person under the age of eighteen years to engage in sexually explicit conduct and voluntarily and intentionally carried out some act which was a substantial step toward that employment, use, persuasion, inducement, enticement, or coercion.

The term “substantial step” was defined for you in Final Jury Instruction No. 2.

A description of what it means to act with intent or knowledge is included in Final Instruction No. 2.

A person is “used” if they are photographed or videotaped.

“Sexually explicit conduct” means actual or simulated sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, masturbation, or lascivious exhibition of the genitals or pubic area of any person.

Whether a visual depiction of the genitals or pubic area constitutes a “lascivious exhibition” requires a consideration of the overall content of the material. You may consider such factors as:



- (1) whether the focal point of the picture is on the minor's genitals or pubic area;
- (2) whether the setting of the picture is sexually suggestive, that is, in a place or pose generally associated with sexual activity;
- (3) whether the minor is depicted in an unnatural pose or in inappropriate attire, considering the age of the minor;
- (4) whether the minor is fully or partially clothed, or nude;
- (5) whether the picture suggests sexual coyness or a willingness to engage in sexual activity;
- (6) whether the picture is intended or designed to elicit a sexual response in the viewer;
- (7) whether the picture portrays the minor as a sexual object; and
- (8) the caption(s) on the pictures.

It is for you to decide the weight or lack of weight to be given to any of these factors. A picture need not involve all of these factors to constitute a lascivious exhibition of the genitals or pubic area.

***Three, that Goodlow acted with the purpose of producing a visual depiction of such conduct;***

An item is "produced" if it is produced, directed, manufactured, issued, published, advertised, created, made, or is any other way brought into being by the involvement of an individual participating in the recording of child pornography.

The term "visual depiction" includes any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means. It includes undeveloped film and videotape, and data stored on computer disk by electronic means which is capable of conversion into a visual image.

***And four, that Goodlow knew or had reason to know that such visual depiction would be transported or transmitted using any means or facility of interstate commerce in or affecting interstate commerce.***

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

The phrase "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, transportation and communication.

Images transmitted or received over the Internet have moved in interstate or foreign commerce. It is for you to determine, however, if the material containing the visual depiction had been transmitted or received over the Internet.

You have heard evidence of more than one visual depiction involved in the offense. You must agree unanimously as to which visual depiction or depictions the defendant attempted to receive. You are instructed that the government is only required to prove that Goodlow attempted to receive a single image.

Each count of attempted sexual exploitation of a minor constitutes a separate offense. The actions charged are set forth as follows:

<b>Count</b>	<b>Approximate Dates</b>	<b>Alleged Victim</b>	<b>Means of transmission in interstate commerce alleged in indictment</b>
11	On or about December 26, 2022	A.S.	Snapchat
12	On or about December 8, 2021	C.J.E.	Snapchat

For you to find Loren Goodlow guilty of the offenses charged in Counts 11 or 12 of the Indictment, the prosecution must prove all four of the essential elements beyond a reasonable doubt as to each count. If you find that the prosecution has not proved each of the elements, then you must find Loren Goodlow not guilty of Counts 11 or 12 charged in the Indictment.

FINAL INSTRUCTION NO. 5 – ATTEMPTED RECEIPT OF CHILD  
PORNOGRAPHY

For you to find Loren Goodlow guilty of the offense of attempted receipt of child pornography as charged in Count 13 of the Indictment, the prosecution must prove the following three essential elements beyond a reasonable doubt:

**One, that on or about December 8, 2021, the defendant, Loren Goodlow, knowingly attempted to receive materials that contained visual depictions of child pornography;**

A description of what it means to act with intent or knowledge is included in Final Instruction No. 2.

The crime charged in Count 13 of the Indictment is an attempt to receive child pornography. A person may be found guilty of an attempt if he intended to receive child pornography and voluntarily and intentionally carried out some act which was a substantial step toward that receipt.

The term “substantial step” is described for you in Final Jury Instruction No. 2.

The phrase “child pornography” means any visual depiction of a minor engaging in sexually explicit conduct, where the minor was engaged in the sexually explicit conduct during production of the depiction.

The term “visual depiction” is described for you in Final Instruction No. 4.

The term “sexually explicit conduct” is described for you in Final Instruction No. 5.

**Two, that Goodlow knew the visual depictions were of a minor engaging in sexually explicit conduct;**

The term “minor” means any person under the age of eighteen years.

The term “sexually explicit conduct” is described for you in Final Instruction No. 4.

A description of some factors you may consider in evaluating whether conduct is a "lascivious exhibition" is included under Final Instruction No. 4.

***And three, that the materials containing the visual depictions had been mailed, shipped, or transported in or affecting interstate or foreign commerce.***

The terms "commerce," "interstate commerce," and "foreign commerce" are described for you in Final Instruction No. 4.

For you to find Loren Goodlow guilty of the offense charged in Count 13 of the Indictment, the prosecution must prove all three of the essential elements beyond a reasonable doubt. If you find that the prosecution has not proved each of the elements, then you must find Loren Goodlow not guilty of Count 13 charged in the Indictment.

FINAL INSTRUCTION NO. 6 – TAMPERING WITH A WITNESS

For you to find Loren Goodlow guilty of the offense of tampering with a witness as charged in Count 14 of the Indictment, the prosecution must prove the following two essential elements beyond a reasonable doubt:

**One, the defendant, Loren Goodlow, knowingly used intimidation, threats, or corrupt persuasion against N.S.; and**

A description of what it means to act with intent or knowledge is included in Final Jury Instruction No. 2.

To “intimidate” someone means intentionally to say or do something that would cause a person of ordinary sensibilities to be fearful of harm to himself or another. It is not necessary for the government to prove that N.S. was actually frightened.

To corruptly persuade someone means to persuade with consciousness of wrongdoing.

**Two, Goodlow did so with the intent to influence N.S. to persuade A.S. to lie in connection with a trial of a criminal case against Goodlow.**

To act with “intent to influence” the testimony of a person means to act for the purpose of getting the person to change or color or shade his or her testimony in some way. It is not necessary for the government to prove the person’s testimony was, in fact, changed in any way.

A defendant need not know the “trial of a criminal case” was a federal proceeding or that a criminal trial actually was pending or about to be instituted. A defendant need only contemplate that a criminal trial proceeding may occur in the future in which N.S.’s or A.S.’s testimony may be material.

For you to find Loren Goodlow guilty of the offense charged in Count 14 of the Indictment, the prosecution must prove both of the essential elements beyond a reasonable doubt. If you find that the prosecution has not proved each of the elements, then you must find Loren Goodlow not guilty of Count 14 charged in the Indictment.

FINAL INSTRUCTION NO. 7 – IMPEACHMENT

In Preliminary Instruction No. 6, 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, they were not admitted to prove that the contents of those statements were 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.

You have heard evidence that one or more witnesses has been 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 the witness’s testimony.

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. 8 – PRESUMPTION OF INNOCENCE AND BURDEN  
OF PROOF

The presumption of innocence means that a defendant is presumed to be absolutely not guilty.

- This presumption means that you must put aside all suspicion that might arise from a defendant's arrest, the charges, or the fact that he is here in court.
- This presumption remains with a defendant throughout the trial.
- This presumption is enough, alone, for you to find a defendant not guilty, unless the prosecution proves, beyond a reasonable doubt, all of the elements of an offense charged against him.

The burden is always on the prosecution to prove guilt beyond a reasonable doubt.

- This burden never, ever shifts to a defendant to prove his innocence.
- This burden means that a defendant does not have to call any witnesses, produce any evidence, cross-examine the prosecution's witnesses, or testify.

This burden means that you must find Loren Goodlow not guilty of an offense charged against him, unless the prosecution proves beyond a reasonable doubt that he has committed each and every element of that offense.

FINAL INSTRUCTION NO. 9 – REASONABLE DOUBT

A reasonable doubt is a doubt based upon reason and common sense.

- A reasonable doubt may arise from evidence produced by the prosecution or a defendant, keeping in mind that a defendant never, ever has the burden or duty to call any witnesses or to produce any evidence.
- A reasonable doubt may arise from the prosecution's lack of evidence.

The prosecution must prove a 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 prosecution's burden is heavy, but it does not require proof beyond all possible doubt.



## FINAL INSTRUCTION NO. 10 – 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 prosecution has not proved beyond a reasonable doubt that a defendant is guilty, say so.
- If you are convinced that the prosecution has proved beyond a reasonable doubt that a 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 of 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.

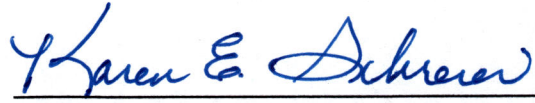
## FINAL INSTRUCTION NO. 11 – DUTY DURING DELIBERATIONS

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 a defendant is guilty or not guilty. If a 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 these Instructions. 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 a defendant's race, color, religious beliefs, national origin, or sex. You are not to return a verdict for or against a 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 December 7, 2023.

BY THE COURT:

A handwritten signature in blue ink, reading "Karen E. Schreier", is written over a horizontal line.

KAREN E. SCHREIER  
UNITED STATES DISTRICT JUDGE