

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

WESTERN DIVISION

<p>UNITED STATES OF AMERICA,</p> <p>Plaintiff,</p> <p>vs.</p> <p>FRANCISCO VILLANUEVA and ADAN JAMES CORONA,</p> <p>Defendants.</p>	<p>CR. 17-50049-02 & 03-JLV</p> <p>PRIMARY JURY INSTRUCTIONS</p>
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INSTRUCTION NO. 1 - ROLE OF INSTRUCTIONS

Members of the jury, I will take a few minutes to give you the instructions about this case and about your duties as jurors. At the end of the trial, I will give you further instructions. I may also give you instructions during the trial. These instructions explain the law that applies to this case. Unless I specifically tell you otherwise, all instructions, both those I give you now and those I will give you later, are equally binding on you and must be followed. Consider these instructions with all written and oral instructions given to you during and at the end of the trial and apply them to the facts of the case. You must consider my instructions as a whole and not single out some instructions and ignore others.

INSTRUCTION NO. 2 - DUTY OF JURORS

This is a criminal case brought by the United States government against the defendants Francisco Villanueva and Adan James Corona. Both defendants are charged with one count of first degree premeditated murder, one count of first degree felony murder, one count of conspiracy to commit assault, and one count of use of a firearm during a crime of violence. Mr. Villanueva and Mr. Corona are each separately charged with one count of possession of ammunition by a prohibited person. Your duty is to decide from the evidence whether Mr. Villanueva and Mr. Corona are not guilty or guilty of the offenses charged against them. Keep in mind you must give separate consideration to the evidence about each individual defendant.

You will find the facts from the evidence presented in court. "Evidence" is defined in Instruction No. 18. You are entitled to consider that evidence in light of your own observations and experiences. You may use reason and common sense to draw conclusions from facts established by the evidence. You are the sole judges of the facts, but you must follow the law as stated in my instructions, whether you agree with the law or not. You will then apply the law to the facts to reach your verdict.

It is vital to the administration of justice that each of you faithfully perform your duties as jurors. Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict based solely on the evidence, your common sense and the law as I give it to you. Do not take anything I may say

or do during the trial as an indication of what I think about the evidence or what I think your verdict should be. Do not conclude from any ruling or comment I may make that I have any opinion on how you should decide the case.

Please remember only Mr. Villanueva and Mr. Corona, not anyone else, are on trial here. Also, remember Mr. Villanueva and Mr. Corona are on trial only for the offenses charged against them, not for anything else.

INSTRUCTION NO. 3 - DESCRIPTION OF THE OFFENSES

An offense consists of “elements” which the government must prove beyond a reasonable doubt in order to convict a defendant of that offense. To help you follow the evidence, I will give you the elements of the offenses charged in the indictment. However, I must first explain some preliminary matters.

The charges against Francisco Villanueva and Adan James Corona are set out in an indictment. An indictment is simply an accusation. It is not evidence of anything. Mr. Villanueva and Mr. Corona pled not guilty to the charges brought against them. Mr. Villanueva and Mr. Corona are presumed to be innocent unless and until the government proves, beyond a reasonable doubt, each element of the offenses charged against them.

The indictment charges the offenses were committed “on or about” a certain date. The government does not have to prove with certainty the exact date of the charged offenses. It is sufficient if the evidence establishes that an offense occurred within a reasonable time of the date alleged in the indictment. I will now give you the elements for the offenses charged in the indictment.

Keep in mind that each count charges a separate offense. You must consider each count separately and return a separate verdict for each count. Also, keep in mind you must give separate consideration to the evidence regarding each individual defendant.

INSTRUCTION NO. 4 -

COUNT I: FIRST DEGREE PREMEDITATED MURDER

Elements

Keep in mind you must give separate consideration to the evidence regarding each individual defendant.

For you to find Mr. Villanueva, Mr. Corona or both guilty of the offense of first degree premeditated murder as charged in Count I of the indictment, the government must prove the following essential elements beyond a reasonable doubt:

One, on or about October 16, 2016, Mr. Villanueva and/or Mr. Corona unlawfully killed or aided and abetted the killing of Mr. Brewer;

Mr. Villanueva and/or Mr. Corona may be found guilty of first degree premeditated murder by aiding and abetting even if he personally did not do every act constituting the offense of first degree murder. In order to have aided and abetted the offense of first degree premeditated murder, Mr. Villanueva and/or Mr. Corona before or at the time the offense was committed, must have:

1. Known that the killing of another individual was being committed or going to be committed;
2. Had enough advance notice of the extent and character of the killing that he was able to walk away from the killing before all the elements of first degree murder were complete;
3. Knowingly acted in some way for the purpose of causing, encouraging or

aiding the commission of the killing;
and

4. Acted with malice aforethought and premeditation as those terms are referenced in elements two and three.

Merely being present at the scene of an event or merely associating with others does not prove that a person has become an aider and abettor. A person who has no knowledge that a crime is being committed or is about to be committed, but who happens to act in a way which advances the offense does not thereby become an aider and abettor.

For you to find Mr. Villanueva and/or Mr. Corona guilty of first degree premeditated murder by reason of aiding and abetting, the government must prove beyond a reasonable doubt that all of the essential elements of first degree premeditated murder were committed by another person and that the respective defendant aided and abetted the commission of the offense. If the government fails to prove any essential element beyond a reasonable doubt, you must find Mr. Villanueva and/or Mr. Corona not guilty of first degree premeditated murder by aiding and abetting.

Two, in killing or aiding and abetting in the killing, Mr. Villanueva and/or Mr. Corona acted with malice aforethought;

Malice aforethought means an intent, at the time of a killing, to willfully take the life of a human being, or an intent to willfully act in callous and wanton disregard of the consequences to human life. Malice aforethought does not necessarily imply any ill will, spite or hatred towards the individual killed.

In determining whether Mr. Brewer 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.

Three, the killing was premeditated;

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 a person, after forming the intent to kill, to be fully conscious of his intent and to have thought about the killing. Any interval of time between forming the intent to kill and acting on that intent which is long enough for the person to be fully conscious and mindful of what he intended and willfully set out to do it is sufficient to justify a finding of premeditation.

Four, the killing occurred in Indian country at Pine Ridge, South Dakota; and

Five, Mr. Brewer was an Indian person.

To find a defendant guilty of the offense of first degree premeditated murder as charged in Count I of the indictment, the government must prove all the essential elements beyond a reasonable doubt as to that defendant. If the government proves all the essential elements beyond a reasonable doubt as to a defendant, you must find that defendant guilty. If the government fails to prove any essential element beyond a reasonable doubt as to a defendant, you must find that defendant not guilty.

INSTRUCTION NO. 5 -

COUNT II: FIRST DEGREE FELONY MURDER

Elements

Keep in mind you must give separate consideration to the evidence regarding each individual defendant.

For you to find Mr. Villanueva, Mr. Corona or both guilty of the offense of first degree felony murder as charged in Count II of the indictment, the government must prove the following essential elements beyond a reasonable doubt:

One, on or about October 16, 2016, Mr. Villanueva and/or Mr. Corona unlawfully killed or aided and abetted the killing of Mr. Brewer;

Mr. Villanueva and/or Mr. Corona may be found guilty of first degree felony murder by aiding and abetting even if he personally did not do every act constituting the offense of first degree felony murder. In order to have aided and abetted the offense of first degree felony murder, Mr. Villanueva and/or Mr. Corona must have aided and abetted in a kidnapping or attempted kidnapping, as that offense is defined under element two, and, before or at the time the offense was committed, must have:

1. Known that the kidnapping of another individual was being committed or going to be committed;
2. Had enough advance notice of the extent and character of the kidnapping that he was able to walk away from the kidnapping before all the elements of kidnapping were complete; and

3. Knowingly acted in some way for the purpose of causing, encouraging or aiding the commission of the kidnapping.

Merely being present at the scene of an event or merely associating with others does not prove that a person has become an aider and abettor. A person who has no knowledge that a crime is being committed or is about to be committed, but who happens to act in a way which advances the offense does not thereby become an aider and abettor.

For you to find Mr. Villanueva and/or Mr. Corona guilty of first degree felony murder by reason of aiding and abetting, the government must prove beyond a reasonable doubt that all of the essential elements of first degree felony murder were committed by another person and that the respective defendant aided and abetted the commission of the offense. If the government fails to prove any essential element beyond a reasonable doubt, you must find Mr. Villanueva and/or Mr. Corona not guilty of first degree felony murder by aiding and abetting.

Two, the killing was committed during the perpetration of a kidnapping or attempted kidnapping;

The elements of kidnapping are: (1) Mr. Villanueva and/or Mr. Corona knowingly seized, confined, abducted or carried away, or aided and abetted the seizure, confinement, abduction or carrying away of Mr. Brewer without his consent; (2) Mr. Villanueva and/or Mr. Corona held or aided and abetted in holding Mr. Brewer; and (3) the act occurred in Indian country at Pine Ridge, South Dakota.

“Attempt” is defined in Instruction No. 13.

Three, the killing occurred in Indian country at Pine Ridge, South Dakota; and

Four, Mr. Brewer was an Indian person.

To find a defendant guilty of the offense of first degree felony murder as charged in Count II of the indictment, the government must prove all the essential elements beyond a reasonable doubt as to that defendant. If the government proves all the essential elements beyond a reasonable doubt as to a defendant, you must find that defendant guilty. If the government fails to prove any essential element beyond a reasonable doubt as to a defendant, you must find that defendant not guilty.

INSTRUCTION NO. 6 -

COUNT III: CONSPIRACY TO COMMIT ASSAULT

Elements

Keep in mind you must give separate consideration to the evidence regarding each individual defendant.

For you to find Mr. Villanueva, Mr. Corona or both guilty of the offense of conspiracy to commit assault as charged in Count III of the indictment, the government must prove the following essential elements beyond a reasonable doubt:

One, on or about October 16, 2016, at Pine Ridge, in Indian country, in the District of South Dakota, two or more persons reached an agreement or came to an understanding to commit the offense of assault with a dangerous weapon using multiple firearms, with the intent to do bodily harm to Mr. Brewer;

The government alleges that on or about October 16, 2016, Mr. Villanueva and/or Mr. Corona, and others traveled from Colorado to South Dakota to collect an alleged drug debt from Mr. Brewer. On the morning the group traveled to Rapid City, South Dakota, they met with Myles Tuttle. The group then drove two cars to Pine Ridge, South Dakota, in Indian country, with a plan to assault and kidnap Mr. Brewer in order to collect the alleged drug debt.

Two, Mr. Villanueva and/or Mr. Corona 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 Mr. Villanueva and/or Mr. Corona joined the agreement or understanding, he knew the purpose of the agreement or understanding;

Four, while the agreement or understanding was in effect a person who had joined in the agreement or understanding knowingly did an act for the purpose of carrying out the agreement or understanding;

The government alleges that, in furtherance of the conspiracy and to effect its objects, Mr. Villanueva and/or Mr. Corona and others committed the following overt acts, among others, in the District of South Dakota:

1. All but Mr. Tuttle drove from Colorado to South Dakota in possession of multiple firearms with the intent to collect an alleged drug debt from Mr. Brewer. Mr. Tuttle joined the group in Rapid City, South Dakota.
2. All of the persons drove around Pine Ridge on October 16, 2016, looking for Mr. Brewer, and spoke to and picked up people to assist them in locating him.
3. Upon locating Mr. Brewer in front of the Sioux Ann Big Crow Center, some members of the group physically assaulted Mr. Brewer and attempted to kidnap him by shoving him into the backseat of one of their two vehicles.
4. When Mr. Brewer escaped the vehicle he was immediately shot several times by multiple shooters, including Mr. Villanueva and/or Mr. Corona.

Five, the offense took place in Indian country at Pine Ridge, South Dakota; and

Six, Mr. Brewer was an Indian person.

To find a defendant guilty of the offense of conspiracy to commit assault as charged in Count III of the indictment, the government must prove all the essential elements beyond a reasonable doubt as to that defendant. If the government proves all the essential elements beyond a reasonable doubt as to a defendant, you must find that defendant guilty. If the government fails to prove any essential element beyond a reasonable doubt as to a defendant, you must find that defendant not guilty.

INSTRUCTION NO. 7 - CONSPIRACY CONSIDERATIONS

To find the existence of a “conspiracy,” the government must prove two or more persons reached an agreement or understanding to commit an assault. To assist you in determining whether there was an agreement or understanding to commit an assault, you should consider the elements of the offense of assault with a dangerous weapon.

The elements of assault with a dangerous weapon are: (1) a person unlawfully assaulted another; (2) the assault involved the use of a dangerous weapon; and (3) the person committing the assault intended to inflict bodily harm on the individual being assaulted. For purposes of assault with a dangerous weapon, the following definitions apply:

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

A “dangerous weapon” is an object used in a manner likely to endanger life or inflict serious bodily harm.

“Intent to inflict bodily harm” means knowingly and intentionally doing an act for the purpose of causing another person to suffer bodily injury.

To find Mr. Villanueva and/or Mr. Corona guilty of the “conspiracy” charged in Count III of the indictment, you do not have to find the offense of assault was actually committed by Mr. Villanueva, Mr. Corona or anyone else. It is the agreement to assault another individual which is illegal. The agreement is the conduct which must be proven beyond a reasonable doubt to

establish Mr. Villanueva's and/or Mr. Corona's guilt on the "conspiracy" offense charged in Count III of the indictment.

The agreement or understanding need not be an express or formal agreement, or be in writing, or cover all the details of how the conspiracy was to be carried out. It is not necessary that the members have directly stated between themselves the details or purpose of the conspiracy.

Merely being present at the scene of an event or merely associating with others does not prove a defendant has joined in an agreement or understanding. A person who has no knowledge of a conspiracy but who happens to act in a way which advances some purpose of a conspiracy does not thereby become a member of that conspiracy. Similarly, the mere knowledge of an illegal act or association by Mr. Villanueva and/or Mr. Corona with an individual engaged in the illegal conduct of a conspiracy is not enough to prove Mr. Villanueva and/or Mr. Corona joined the conspiracy. Mr. Villanueva and/or Mr. Corona must know of the existence and purpose of the conspiracy. Without such knowledge, Mr. Villanueva and/or Mr. Corona cannot be guilty of conspiracy, even if their acts furthered the conspiracy.

On the other hand, a person may join in an agreement or understanding without knowing all the details of the agreement or understanding, and without knowing all the other members of the conspiracy. Further, it is not necessary that a person agree to play any particular role in carrying out the agreement or understanding. A person may become a member of a conspiracy even if that

person agrees to play only a minor role in the conspiracy, as long as that person has an understanding of the unlawful nature of the plan and voluntarily and intentionally joins in it.

In deciding whether Mr. Villanueva and/or Mr. Corona voluntarily and intentionally joined in the agreement, you must consider only evidence of each defendant's own actions and statements.

INSTRUCTION NO. 8 - CO-CONSPIRATOR ACTS AND STATEMENTS

If you determine that an agreement existed and Mr. Villanueva and/or Mr. Corona joined the agreement, then you may consider acts and statements knowingly done or made by a member of the agreement during the existence of the agreement and in furtherance of it, even if the acts and statements were done or made in the absence of and without the knowledge of Mr. Villanueva and/or Mr. Corona. This includes acts done or statements made during the existence of the agreement and in furtherance of it, even if they occurred before a defendant joined the agreement.

However, you may only consider acts which are done and statements which are made before the conspiracy began or after it ended as to the person who does the act or makes the statement.

INSTRUCTION NO. 9 -

COUNT IV: USE OF A FIREARM DURING A CRIME OF VIOLENCE

Elements

Keep in mind you must give separate consideration to the evidence regarding each individual defendant.

For you to find Mr. Villanueva, Mr. Corona or both guilty of the offense of use of a firearm during a crime of violence as charged in Count IV of the indictment, the government must prove the following essential elements beyond a reasonable doubt:

One, Mr. Villanueva and/or Mr. Corona committed the offense of first degree premeditated murder as charged in Count I, first degree felony murder as charged in Count II or conspiracy to commit assault as charged in Count III; and

Two, on or about October 16, 2016, in Indian country at Pine Ridge, South Dakota, Mr. Villanueva and/or Mr. Corona knowingly discharged a firearm during and in relation to first degree premeditated murder as charged in Count I, first degree felony murder as charged in Count II or conspiracy to commit assault as charged in Count III.

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

To find a defendant guilty of the offense of use of a firearm during a crime of violence as charged in Count IV of the indictment, the government

must prove all the essential elements beyond a reasonable doubt as to that defendant. If the government proves all the essential elements beyond a reasonable doubt as to a defendant, you must find that defendant guilty. If the government fails to prove any essential element beyond a reasonable doubt as to a defendant, you must find that defendant not guilty.

INSTRUCTION NO. 10 -

COUNT V: POSSESSION OF AMMUNITION BY A PROHIBITED PERSON

Elements

For you to find Mr. Villanueva guilty of the offense of possession of ammunition by a prohibited person as charged in Count V of the indictment, the government must prove the following essential elements beyond a reasonable doubt:

One, prior to October 16, 2016, Mr. Villanueva had been convicted of a crime punishable by imprisonment for a term exceeding one year;

Counsel for the government, counsel for Mr. Villanueva and Mr. Villanueva have agreed or stipulated that Mr. Villanueva has a previous conviction for a crime punishable by imprisonment for a term exceeding one year.

By entering into this agreement or stipulation, Mr. Villanueva has not admitted his guilt of the offense charged, and you may not draw any inference of guilt from the stipulation. The only effect of this stipulation is to establish the fact that Mr. Villanueva has a previous conviction for a crime punishable by imprisonment for a term exceeding on year.

Two, on or about October 16, 2016, Mr. Villanueva knew he had been convicted of a crime punishable by imprisonment for a term exceeding one year;

Counsel for the government, counsel for Mr. Villanueva and Mr. Villanueva have agreed or stipulated that Mr. Villanueva knew he had been convicted of a crime punishable by imprisonment for a term exceeding one year.

By entering into this agreement or stipulation, Mr. Villanueva has not admitted his guilt of the offense charged, and you may not draw any inference of guilt from the stipulation. The only effect of this stipulation is to establish the fact that Mr. Villanueva knew he had been convicted of a crime punishable by imprisonment for a term exceeding one year.

Three, on or about October 16, 2019, at Pine Ridge, in the District of South Dakota, Mr. Villanueva knowingly possessed ammunition;

“Ammunition” means cartridge or ammunition cases, primers, bullets, or propellant powder designed for use in any firearm.

and

Four, prior to October 16, 2016, the ammunition had been shipped or transported in interstate or foreign commerce.

“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. “Commerce” includes, among other things, travel, trade, transportation and communication.

To find Mr. Villanueva guilty of the offense of possession of ammunition by a prohibited person as charged in Count V of the indictment, the government must prove all the essential elements beyond a reasonable doubt. If the government proves all the essential elements beyond a reasonable doubt, you must find Mr. Villanueva guilty of the offense. If the government fails to prove any essential element beyond a reasonable doubt, you must find Mr. Villanueva not guilty of the offense.

Mr. Corona is not charged in Count V.

INSTRUCTION NO. 11 -

COUNT VI: POSSESSION OF AMMUNITION BY A PROHIBITED PERSON

Elements

For you to find Mr. Corona guilty of the offense of possession of ammunition by a prohibited person as charged in Count VI of the indictment, the government must prove the following essential elements beyond a reasonable doubt:

One, prior to October 16, 2016, Mr. Corona had been convicted of a crime punishable by imprisonment for a term exceeding one year;

Counsel for the government, counsel for Mr. Corona and Mr. Corona have agreed or stipulated that Mr. Corona has a previous conviction for a crime punishable by imprisonment for a term exceeding one year.

By entering into this agreement or stipulation, Mr. Corona has not admitted his guilt of the offense charged, and you may not draw any inference of guilt from the stipulation. The only effect of this stipulation is to establish the fact that Mr. Corona has a previous conviction for a crime punishable by imprisonment for a term exceeding one year.

Two, on or about October 16, 2016, Mr. Corona knew he had been convicted of a crime punishable by imprisonment for a term exceeding one year;

Counsel for the government, counsel for Mr. Corona and Mr. Corona have agreed or stipulated that Mr. Corona knew he had been convicted of a crime punishable by imprisonment for a term exceeding one year.

By entering into this agreement or stipulation, Mr. Corona has not admitted his guilt of the offense

charged, and you may not draw any inference of guilt from the stipulation. The only effect of this stipulation is to establish the fact that Mr. Corona knew he had been convicted of a crime punishable by imprisonment for a term exceeding one year.

Three, on or about October 16, 2019, at Pine Ridge, in the District of South Dakota, Mr. Corona knowingly possessed ammunition;

“Ammunition” means cartridge or ammunition cases, primers, bullets, or propellant powder designed for use in any firearm.

and

Four, prior to October 16, 2016, the ammunition had been shipped or transported in interstate or foreign commerce.

“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. “Commerce” includes, among other things, travel, trade, transportation and communication.

To find Mr. Corona guilty of the offense of possession of ammunition by a prohibited person as charged in Count VI of the indictment, the government must prove all the essential elements beyond a reasonable doubt. If the government proves all the essential elements beyond a reasonable doubt, you must find Mr. Corona guilty of the offense. If the government fails to prove any essential element beyond a reasonable doubt, you must find Mr. Corona not guilty of the offense.

Mr. Villanueva is not charged in Count VI.

INSTRUCTION NO. 12 - POSSESSION

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 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” is used in these instructions it includes actual as well as constructive possession and sole as well as joint possession.

This instruction applies to Counts V and VI in these instructions.

INSTRUCTION NO. 13 - ATTEMPT

A person may be found to have attempted to commit an offense if he intended to engage in an offense and voluntarily and intentionally carried out some act which was a substantial step towards engaging in the offense.

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

This instruction applies to Count II in these instructions.

INSTRUCTION NO. 14 - INDIAN PERSON

The government must prove beyond a reasonable doubt that Vincent Brewer, III, (“Mr. Brewer”) was an Indian person for Mr. Villanueva and/or Mr. Corona to be proven guilty of the offenses charged in Count I, Count II and Count III. The government must prove:

One, Mr. Brewer had some degree of Indian blood; and

Two, Mr. Brewer was recognized as an Indian person by a tribe or the federal government or both.

In determining whether Mr. Brewer was recognized as an Indian person by a tribe or the federal government, you may consider the following factors among others. No one factor is dispositive.

1. Whether Mr. Brewer was an enrolled member of a tribe or band.
2. Whether the federal government or a tribe recognized Mr. Brewer was an Indian person by providing assistance reserved only to Indians.
3. Whether Mr. Brewer enjoyed benefits of tribal affiliation.
4. Whether Mr. Brewer lived on a reservation or participated in Indian social life.

It is not necessary that all of these factors be present. Rather, the jury is to consider all of the evidence in determining whether the government proved beyond a reasonable doubt that Mr. Brewer was an Indian person.

INSTRUCTION NO. 15 - PROOF OF INTENT AND KNOWLEDGE

“Intent” and “knowledge” are elements of the offenses charged in this case and must be proven beyond a reasonable doubt. The government is not required to prove a defendant knew that his acts or omissions were unlawful. An act is done “knowingly” if a person realizes what he is doing and does not act through ignorance, mistake or accident. You may consider the evidence of a defendant’s words, acts or omissions, along with all other evidence, in deciding whether he acted knowingly.

Intent may be proven like anything else. You may consider any statements made or acts done by a defendant and all the facts and circumstances in evidence which may aid in determining his intent. You may, but are not required to, infer that a person intends the natural and probable consequences of acts knowingly done or knowingly omitted.

INSTRUCTION NO. 16 -

PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF

Mr. Villanueva and Mr. Corona are presumed innocent and, therefore, not guilty. This presumption of innocence requires you to put aside all suspicion that might arise from the arrests or charges of Mr. Villanueva or Mr. Corona or the fact they are here in court. The presumption of innocence remains with Mr. Villanueva and Mr. Corona throughout the trial. This presumption alone is sufficient to find Mr. Villanueva and Mr. Corona not guilty. The presumption of innocence may be overcome only if the government proves, beyond a reasonable doubt, each essential element of the offenses charged. The burden is always on the government to prove guilt beyond a reasonable doubt. This burden never shifts to Mr. Villanueva or Mr. Corona to prove his innocence, for the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. Mr. Villanueva and Mr. Corona are not even obligated to cross examine the witnesses called to testify by the government.

If Mr. Villanueva or Mr. Corona does not testify, this fact must not be considered by you in any way or even discussed in arriving at your verdict. If Mr. Villanueva or Mr. Corona testifies, you should judge his testimony in the same manner you judge the testimony of any other witness.

If the government proves beyond a reasonable doubt all the essential elements of the offense charged as to a defendant, you must find that

defendant guilty. If the government fails to prove beyond a reasonable doubt any essential element of the offense charged as to a defendant, you must find that defendant not guilty.

INSTRUCTION NO. 17 - REASONABLE DOUBT

A reasonable doubt may arise from the evidence or lack of evidence produced during trial. A reasonable doubt is a doubt based upon reason and common sense, and not doubt based on speculation. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the more serious and important affairs of life. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of a defendant's guilt. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NO. 18 - DEFINITION OF EVIDENCE

I mentioned the word “evidence.” “Evidence” includes the testimony of witnesses, documents and other things received as exhibits and stipulated facts. Stipulated facts are facts formally agreed to by the parties. Certain things are not evidence. I shall list those things for you now:

- Statements, arguments, questions and comments by lawyers representing the parties in the case are not evidence. Opening statements and closing arguments by lawyers are not evidence.
- Objections and rulings on 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 sustain an objection to a question, you must ignore the question and must not try to guess what the answer might have been.
- Testimony I strike from the record or tell you to disregard is not evidence and must not be considered.
- Anything you see or hear about this case outside the courtroom is not evidence.

The fact an exhibit may be shown to you does not mean you must rely on it more than you rely on other evidence.

Furthermore, a particular piece of evidence is sometimes received for a limited purpose only. That is, you may use it only for one particular purpose and not for any other purpose. I will tell you when that occurs and instruct you on the purposes for which the piece of evidence can and cannot be used.

Some of you may have heard the terms “direct evidence” and “circumstantial evidence.” You should not be concerned with those terms. The

law makes no distinction between direct and circumstantial evidence. You should give all evidence the weight and value you believe it is entitled to receive.

The weight of the evidence is not determined by the number of witnesses testifying as to the existence or nonexistence of any fact. Also, the weight of the evidence should not be determined merely by the number or volume of documents or exhibits. The weight of evidence depends on its quality, not quantity. The quality and weight of the evidence are for you to decide.

INSTRUCTION NO. 19 - CREDIBILITY OF WITNESSES

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 says, only part of it, or none of it. In deciding what testimony to believe, consider:

- The witness' intelligence;
- The opportunity the witness had to see or hear the things testified about;
- The witness' memory;
- Any motives the witness may have for testifying a certain way;
- The behavior of the witness while testifying;
- Whether the witness said something different at an earlier time;
- The witness' drug or alcohol use or addiction, if any;
- 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 people sometimes see or hear things differently and sometimes forget things. You need to consider whether a contradiction results from an innocent misrecollection or sincere lapse of memory or instead from an intentional falsehood or pretended lapse of memory.

INSTRUCTION NO. 20 - IMPEACHMENT

In Instruction No. 19, I instructed you generally on the credibility of witnesses. I now instruct you further on how the credibility of a witness may be "impeached" and how you may treat certain evidence. A witness may be discredited or impeached by:

- Contradictory evidence;
- A showing that the witness testified falsely concerning a material matter; or
- Evidence that at some other time the witness said or did something or failed to say or do something, that is inconsistent with the witness' trial testimony.

You may consider a witness discredited or impeached for other reasons as well. If you believe a witness has been discredited or impeached, it is your exclusive right to give that witness' testimony whatever weight you think it deserves.

If earlier statements of a witness are admitted into evidence, they are not admitted to prove that the contents of those statements are true. Instead, you may consider those earlier statements only to determine whether you think they are consistent or inconsistent with the trial testimony of the witness and therefore, whether they affect the credibility of that witness.

INSTRUCTION NO. 21 - OTHER CONSIDERATIONS

In weighing the evidence, you may also consider the following:

1. You may hear testimony from a witness who was convicted of a crime.

You may use this evidence only to help you decide whether to believe the witness and how much weight to give that testimony, if any.

2. You may hear testimony from a witness who made a plea agreement with the government, received a promise they will not be prosecuted further, and received a promise their testimony will not be used against them.

The fact a witness pled guilty cannot be considered by you as evidence of guilt of Mr. Villanueva or Mr. Corona in this trial. Whether this testimony may have been influenced by a plea agreement or by the government's promises is for you to decide. A guilty plea made by a witness can be considered by you only for the purpose of determining how much, if at all, to rely upon this testimony. You may give this testimony whatever weight you think it deserves.

3. You may hear testimony from a witness who received a reduced sentence in return for their cooperation with the government in this case. The court had no power to reduce a sentence for substantial assistance unless the government, acting through the United States Attorney, made a motion. It was up to the court to decide whether to reduce their sentence at all and, if so, how much to reduce the sentence. Whether the testimony may have been influenced by a hope of receiving a more

lenient sentence is for you to decide. You may give this testimony whatever weight you think it deserves.

4. You may hear testimony from a witness that they participated in an offense charged against Mr. Villanueva and Mr. Corona. Whether the witness' testimony may have been influenced by a desire to please the government or to strike a good bargain about their own situation is for you to decide. You may give this testimony whatever weight you think it deserves.
5. You may hear testimony from a witness who had an arrangement with the government under which they received money or were not prosecuted for a crime in exchange for providing information. A witness may testify they believed they were under a grant of immunity and may be testifying in the hope the government will not file charges against them. Whether this testimony was influenced by these benefits is for you to determine. You may give this testimony whatever weight you think it deserves.

INSTRUCTION NO. 22 - EYEWITNESS TESTIMONY

The value of identification testimony depends on the opportunity the witness had to observe an individual at the time of the offense and to make a reliable identification later. Eyewitness identification must be evaluated with particular care.

In evaluating eyewitness testimony, you should consider:

- Whether the witness knew or observed the individual at an earlier time;
- Whether the witness had an adequate opportunity to observe the individual at the time in question;
- The witness' eyesight and ability to observe the individual;
- Whether the witness was under stress when encountering the individual;
- Whether the individual carried a weapon when observed by the witness;
- The circumstances under which the identification was made and the length of time that elapsed between the observation and the next opportunity the witness had to observe the individual;
- The prevailing conditions when the witness observed the individual, such as visibility, distance and similar factors;
- Whether the witness' identification was the product of their own recollection;
- Any description provided by the witness after the observation and before identifying the individual; and
- Any occasions during which the witness failed to identify the individual or made an identification inconsistent with an identification at trial.

In evaluating this testimony, you should consider all of the factors mentioned in Instructions No. 19 through No. 21 concerning your assessment of the credibility of any witness.

The government has the burden of proving identity beyond a reasonable doubt. It is not essential that the witness be free from doubt as to the correctness of the identification. However, you must be satisfied beyond a reasonable doubt of the accuracy of the identification of Mr. Villanueva or Mr. Corona before you may find them guilty. If you are not convinced beyond a reasonable doubt that Mr. Villanueva or Mr. Corona committed an offense, you must find that defendant not guilty of that offense.

INSTRUCTION NO. 23 - INFLUENCING WITNESSES

You may consider, in light of all the other evidence in the case, attempts by a defendant to influence witnesses in connection with the offenses charged in this case. You may consider whether this evidence shows a consciousness of guilt and determine the significance, if any, to be attached to any conduct.

However, such evidence does not relate to the other defendant in any way, and therefore it must not be used against him for any purpose.

INSTRUCTION NO. 24 - STATEMENT BY A DEFENDANT

You may hear testimony Mr. Villanueva or Mr. Corona made a statement to others. It is for you to decide:

First, whether the statement was made; and

Second, if so, how much weight you should give the statement. In making these two decisions, you should consider all of the evidence including the circumstances under which the statement may have been made.

If you find a defendant made a statement to others, you may only consider that statement, if at all, as to that defendant, unless the statement was made during the course of a conspiracy. Statements made during the course of a conspiracy must be considered under Instruction No. 8.

INSTRUCTION NO. 25 - BENCH CONFERENCES AND RECESSES

During the trial it may be necessary for me to talk with the lawyers out of the hearing of the jury, either by having a bench conference while the jury is present in the courtroom or by calling a recess. The purpose of these conferences is to decide how certain evidence is to be treated under the rules of evidence, to avoid confusion and error, and to save your valuable time. We will do what we can to keep the number and length of these conferences to a minimum.

Please be patient because while you are waiting, we are working.

INSTRUCTION NO. 26 - OBJECTIONS

The lawyers may make objections and motions during the trial that I must rule upon. If I sustain an objection to a question before it is answered, do not draw any inferences or conclusions from the question itself. The lawyers have a duty to object to testimony or other evidence they believe is not properly admissible. Do not hold it against a lawyer or the party the lawyer represents because the lawyer has made an objection.

INSTRUCTION NO. 27 - EXPERT WITNESSES

You may hear testimony from individuals described as experts. An individual who, by knowledge, skill, training, education or experience, has become an 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' 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. 28 - NOTE TAKING

At the end of the trial, you must make your decision based on the evidence. We have an official court reporter making a record of the trial. However, you will not have a typewritten transcript of the trial testimony of any witness for your use in reaching a verdict. You must pay close attention to the evidence as it is presented.

If you want to take notes during the trial, you may, but be sure your note taking does not interfere with listening to and considering all the evidence. If you choose not to take notes, remember it is your responsibility to listen carefully to the evidence.

Notes you take during the trial are not necessarily more reliable than your memory or another juror's memory. Therefore, you should not be overly influenced by the notes.

If you take notes, do not discuss them with anyone before you begin your deliberations. At the end of each day, please leave your notes in the jury room. At the end of the trial, you may take your notes out of the notebook and keep them or leave them, and we will destroy them. No one will read the notes, either during or after the trial.

INSTRUCTION NO. 29 - MEDIA AND TECHNOLOGY

You are required to decide this case based solely on the evidence and exhibits that you see and hear in the courtroom. If one or more of you were to get additional information from an outside source, that information might be inaccurate or incomplete or for some other reason not applicable to this case, and the parties would not have a chance to explain or contradict that information because they would not know about it. This is why it is so important that you base your verdict only on information you receive in this courtroom.

In order for your verdict to be fair, you must not be exposed to any other information about the case, the law or any of the issues involved in this trial during the course of your jury duty. This is very important, so I am taking the time to give you a detailed explanation about what you should do and not do during your time as jurors.

First, you must not try to get information from any source other than what you see and hear in this courtroom. That means you may not speak to anyone, including your family and friends about this case. You may not use any printed or electronic sources to get information about this case or the issues involved. This includes the internet, reference books or dictionaries, newspapers, magazines, television, radio, computers, smartphones, or any other electronic device. You may not do any personal investigating, such as visiting any of the places involved in this case, using internet maps or Google

Earth or any other such technology, talking to any possible witnesses, or creating your own demonstrations or reenactments of the events which are the subject of this case.

Second, you must not communicate with anyone about this case or your jury service, and you must not allow anyone to communicate with you. In particular, you may not communicate about the case through emails, text messages, tweets, blogs, comments or other postings on social networking sites, including but not limited to Facebook, Instagram, Twitter or any other website or application. This applies to communicating with your fellow jurors, your family members, your employer and the people involved in the trial, although you may notify your family and employer that you have been seated as a juror in the case. If you are asked or approached in any way about your jury service or anything about this case, you must respond that you have been ordered not to discuss the matter and immediately report the contact to the court.

I recognize these rules and restrictions may affect activities you may consider to be normal and harmless. I assure you that I am very much aware I am asking you to refrain from activities which may be very common and very important in your daily lives. However, the law requires these restrictions to ensure the parties have a fair trial based on the evidence each party has an opportunity to address.

Any juror who violates the restrictions I have explained to you jeopardizes the fairness of these proceedings, and a mistrial could result which would require the entire trial process to start over. As you can imagine, a mistrial is a tremendous expense and inconvenience to the parties, the court and the taxpayers. If any juror is exposed to any outside information or has any difficulty whatsoever in following these instructions, please notify the court immediately. If any juror becomes aware that one of your fellow jurors has done something that violates these instructions, you are obligated to report that violation to the court as well.

These restrictions remain in effect throughout this trial. Once the trial is over, you may resume your normal activities. At that point, you will be free to read or research anything you wish. You will be able to speak—or choose not to speak—about the trial to anyone you wish. You may write, post or tweet about the case if you choose to do so. The only limitation is that you must wait until after the verdict, when you have been discharged from your jury service.

INSTRUCTION NO. 30 - CONDUCT OF THE JURY DURING TRIAL

To ensure fairness, you as jurors must obey the following rules:

First, do not talk among yourselves about this case, or about anyone involved with it, until the end of the case when you go to the jury room to decide your verdict.

Second, do not talk with anyone else about this case, or about anyone involved with it, until the trial has ended, and I discharge you as jurors. This means you must not talk to your spouse, other family members or friends about this case until I discharge you as jurors.

Third, when you are outside the courtroom, do not let anyone tell you anything about the case or about anyone involved with it, until the trial has ended, and I accept your verdict. If someone should try to talk to you about the case, please report it to me.

Fourth, during the trial, you should not talk with or speak to any of the parties, lawyers or witnesses involved in this case—you should not even pass the time of day with any of them. It is important you not only do justice in this case, but that you also give the appearance of doing justice. If a person from one side of the case sees you talking to a person from the other side, even if it is simply to pass the time of day, an unwarranted and unnecessary suspicion about your fairness might be created. If any lawyer, party or witness does not speak to you when you pass in the hall, ride the elevator or the like, it is because they are not supposed to talk or visit with you.

Fifth, during the trial, do not make up your mind about what the verdict should be. Keep an open mind until you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence.

Sixth, if at any time during the trial you have a problem you would like to bring to my attention or if you feel ill or need to go to the restroom, please send a note to the court security officer, who will deliver it to me. Or just raise your hand and get my attention. I want you to be comfortable, so please do not hesitate to inform me of any problem.

INSTRUCTION NO. 31 - OUTLINE OF THE TRIAL

The trial will proceed as follows:

After these instructions, a lawyer for the government may make an opening statement. Next, the lawyers for Mr. Villanueva and Mr. Corona may, but do not have to, make opening statements. An opening statement is not evidence. It is simply a summary of what the lawyer expects the evidence to be.

The government will then present its evidence and call witnesses. The lawyers for Mr. Villanueva and Mr. Corona may, but have no obligation to, cross examine them. Following the government's case, Mr. Villanueva and Mr. Corona may, but do not have to, present evidence or call witnesses. If Mr. Villanueva or Mr. Corona call witnesses, the government may cross examine them.

After presentation of the evidence is complete, the lawyers will make their closing arguments to summarize and interpret the evidence for you. As with opening statements, closing arguments are not evidence. I will then give you additional instructions, and you will retire to deliberate on your verdict.

Dated September 16th, 2021.

BY THE COURT:



JEFFREY L. VIKEN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

WESTERN DIVISION

<p>UNITED STATES OF AMERICA, Plaintiff, vs. FRANCISCO VILLANUEVA and ADAN JAMES CORONA, Defendants.</p>	<p>CR. 17-50049-02 & 03-JLV SUPPLEMENTAL JURY INSTRUCTIONS</p>
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VERDICTS

INSTRUCTION NO. 31 - EQUALLY IMPORTANT INSTRUCTIONS

Members of the jury, I will now take a few minutes to give you additional instructions explaining the law which applies to this case. All instructions, both those I gave you earlier and these instructions, are equally binding on you and must be followed. You must consider my instructions as a whole and not single out some instructions and ignore others.

INSTRUCTION NO. 32 -

STIPULATION REGARDING JURISDICTION

Counsel for the United States government, counsel for Mr. Villanueva, Mr. Villanueva, counsel for Mr. Corona and Mr. Corona have agreed or stipulated that Mr. Brewer was an Indian person and that the place where the alleged incident occurred is in Indian country.

By entering into this agreement or stipulation, Mr. Villanueva and Mr. Corona have not admitted their guilt of the offenses charged and you may not draw any inference of guilt from the stipulations. The only effect of these stipulations is to establish the facts that Mr. Brewer is an Indian person and that if the alleged incident occurred, it occurred in Indian country.

This stipulation applies to counts I, II and III as set out in the court's primary jury instructions 4, 5 and 6.

INSTRUCTION NO. 33 - DUTY TO DELIBERATE

A verdict must represent the considered judgment of each juror. Your verdict must be unanimous. It is your duty to consult with one another and to deliberate with a view of reaching agreement if you can do so without violence to your individual judgment. Of course, you must not surrender your honest convictions as to the weight or effect of the evidence solely because of the opinions of other jurors or for the mere purpose of returning a verdict. Each of you must decide the case for yourself, but you should do so only after consideration of the evidence with your fellow jurors.

In the course of your deliberations, you should not hesitate to re-examine your own views and change your opinion if you become convinced it is wrong. To bring the jury to a unanimous result, you must examine the questions submitted to you openly and frankly with proper regard for the opinions of others and with a willingness to re-examine your own views.

Remember that if, in your individual judgment, the evidence fails to establish Mr. Villanueva's guilt or Mr. Corona's guilt beyond a reasonable doubt on an offense charged against him, then your vote should be for a not guilty verdict on that offense. If all of you reach the same conclusion, the verdict of the jury must be not guilty on that offense. Of course, the opposite also applies. If, in your individual judgment, the evidence establishes Mr. Villanueva's guilt or Mr. Corona's guilt beyond a reasonable doubt, then your vote should be for a guilty verdict on that offense. If all of you reach that conclusion, the verdict of the jury must be guilty on that offense.

The question before you can never be whether the government wins or loses the case. The government, as well as society, always wins when justice is done, regardless of whether your verdict is not guilty or guilty.

Finally, remember that you are not partisans. You are judges of the facts. Your sole interest is to seek the truth from the evidence. You are the judges of the credibility of the witnesses and the weight of the evidence.

You may conduct your deliberations as you choose. You may take all the time you feel is necessary.

There is no reason to think that another trial would be tried in a better way or that a more conscientious, impartial or competent jury would be selected to hear it. Any future jury must be selected in the same manner and from the same source as you. If you should fail to agree on a verdict, then this case is left open and must be resolved at some later time.

INSTRUCTION NO. 34 - DUTY DURING DELIBERATIONS

There are certain rules you must follow while conducting your deliberations and returning your verdict:

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

Second, if Mr. Villanueva or Mr. Corona is found guilty, the sentences to be imposed are my responsibility. You may not consider punishment in any way in deciding whether the government proved its case beyond a reasonable doubt as to the offenses charged in the indictment.

Third, if you need to communicate with me during your deliberations, you may send a note to me through the court security officer, signed by one or more jurors. After conferring with the lawyers, I will respond as soon as possible, either in writing or orally in open court. Remember you should not tell anyone—including me—how your vote stands numerically.

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

Fifth, the verdict forms are simply the written notice of the decision you reach in this case. You will take these forms to the jury room. When you have unanimously agreed on the verdict, the foreperson will fill in the forms, date and sign them and advise the court security officer you have reached a verdict.

You will then return to the courtroom where your verdict will be received and announced.

Dated September 28, 2021.

BY THE COURT:



JEFFREY L. VIKEN
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

<p>UNITED STATES OF AMERICA, Plaintiff, vs. FRANCISCO VILLANUEVA, Defendant.</p>	<p>CR. 17-50049-02-JLV VERDICT AS TO FRANCISCO VILLANUEVA</p>
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We, the jury duly empaneled and sworn to try the issues in the case, unanimously find as follows:

1. We unanimously find the defendant FRANCISCO VILLANUEVA (fill in either “not guilty” or “guilty”) _____ of First Degree Premeditated Murder as charged in Count I of the indictment.
2. We unanimously find the defendant FRANCISCO VILLANUEVA (fill in either “not guilty” or “guilty”) _____ of First Degree Felony Murder as charged in Count II of the indictment.
3. We unanimously find the defendant FRANCISCO VILLANUEVA (fill in either “not guilty” or “guilty”) _____ of Conspiracy to Commit Assault as charged in Count III of the indictment.

4. We unanimously find the defendant FRANCISCO VILLANUEVA (fill in either “not guilty” or “guilty”) _____ of Use of a Firearm During a Crime of Violence as charged in Count IV of the indictment.

5. We unanimously find the defendant FRANCISCO VILLANUEVA (fill in either “not guilty” or “guilty”) _____ of Possession of Ammunition by a Prohibited Person as charged in Count V of the indictment.

Date

Foreperson

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

<p>UNITED STATES OF AMERICA, Plaintiff, vs. ADAN JAMES CORONA, Defendant.</p>	<p>CR. 17-50049-03-JLV VERDICT AS TO ADAN JAMES CORONA</p>
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We, the jury duly empaneled and sworn to try the issues in the case, unanimously find as follows:

1. We unanimously find the defendant ADAN JAMES CORONA (fill in either “not guilty” or “guilty”) _____ of First Degree Premeditated Murder as charged in Count I of the indictment.
2. We unanimously find the defendant ADAN JAMES CORONA (fill in either “not guilty” or “guilty”) _____ of First Degree Felony Murder as charged in Count II of the indictment.
3. We unanimously find the defendant ADAN JAMES CORONA (fill in either “not guilty” or “guilty”) _____ of Conspiracy to Commit Assault as charged in Count III of the indictment.

4. We unanimously find the defendant ADAN JAMES CORONA (fill in either “not guilty” or “guilty”) _____ of Use of a Firearm During a Crime of Violence as charged in Count IV of the indictment.

5. We unanimously find the defendant ADAN JAMES CORONA (fill in either “not guilty” or “guilty”) _____ of Possession of Ammunition by a Prohibited Person as charged in Count VI of the indictment.

Date

Foreperson