UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. DANIEL YORK, Defendant.	3:15-CR-30068-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 and the documents and other things received as exhibits.

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:

l. 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.

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.

You should judge the testimony of the defendant in the same manner as you judge the testimony of any other witness.

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 indictment in this case charges the defendant with the crime of Involuntary Manslaughter. The defendant has pleaded not guilty to this charge.

The indictment is simply the document that formally charges the defendant with the crime for which he is on trial. The 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 crime charged.

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

INSTRUCTION NO. 7

The crime of Involuntary Manslaughter, as charged in the indictment, has five elements, which are:

***One*, that the defendant, Daniel York, caused the death of Quentin Bear Heels, as charged, and Quentin Bear Heels is in fact dead;**

***Two*, that the death of Quentin Bear Heels occurred as a result of an act done by the defendant during the commission of a lawful act done either in an unlawful manner or with wanton or reckless disregard for human life, which might produce death, that is driving a motor vehicle while under the influence of alcohol;**

***Three*, the defendant acted in a grossly negligent manner; and the defendant knew that his conduct was a threat to the lives of others or it was reasonably foreseeable that the defendant's conduct might be a threat to the lives of others;**

***Four*, that Quentin Bear Heels is an Indian; and**

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

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

INSTRUCTION NO. 8

To constitute the crime of Involuntary Manslaughter, the act done by the defendant to cause the death must amount to gross negligence, and gross negligence must be proved beyond a reasonable doubt. A person acts in a grossly negligent manner when that person acts with a wanton or reckless disregard for human life. If the death in this case was due to ordinary negligence, the existence of gross negligence should not be found. Ordinary negligence is defined as doing some act which a reasonably prudent person would not do or the failure to do something which a reasonably prudent person would do under the circumstances.

The Government must also prove beyond a reasonable doubt that the defendant had actual knowledge that his conduct was a threat to the lives of others, or had actual knowledge of such circumstances as could reasonably have enabled him to foresee the peril to which his act might subject others.

In determining whether or not the defendant is guilty of Involuntary Manslaughter, you must measure his conduct against all of the circumstances existing at the place and time alleged in the indictment, and determine from these whether what the defendant did was grossly negligent.

INSTRUCTION NO. 9

Under the law, no person shall drive or be in actual physical control of any motor vehicle if there is an amount equal to or above .08 percent by weight of alcohol in that person's blood, as measured by a blood test, urine test, or other reliable scientific test, or if that person is under the influence of an alcoholic beverage to such a degree that he is incapable of safe driving.

INSTRUCTION NO. 10

Intent or knowledge may be proved like anything else. You may consider any statements made and acts done by the defendant, and all the facts and circumstances in evidence which may aid in the determination of the defendant's 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. 11

You have heard testimony that the defendant made statements to law enforcement officers. It is for you to decide:

First, whether the defendant made any of the statements; and

Second, if so, how much weight you should give to any of the statements.

In making these decisions, you should consider all of the evidence, including the circumstances under which the statements may have been made.

INSTRUCTION NO. 12

You have heard evidence that the defendant was previously arrested for driving under the influence of alcohol. You may consider this evidence only if you find it is more likely true than not true. You decide that by considering all of the evidence and deciding what evidence is more believable. This is a lower standard than proof beyond a reasonable doubt.

If you find this evidence has been proved, then you may consider it to help you decide whether the defendant knew, or could reasonably foresee, that his conduct might be a threat to the lives of others. You should give this evidence the weight and value you believe it is entitled to receive. If you find that this evidence has not been proved, you must disregard it.

Remember, even if you find that the defendant may have committed a similar act in the past, this is not evidence that he committed such an act in this case. You may not convict a person simply because you believe he may have committed similar acts in the past. The defendant is on trial only for the crime charged, and you may consider the evidence of prior acts only on the issue stated above.

INSTRUCTION NO. 13

You have heard that the witness Christine Bear Heels was once convicted of a crime. You cannot use her past conviction as evidence on whether she acted in a similar manner on July 12, 2015. You may use that evidence only for two reasons: 1) to help you decide whether to believe the witness and how much weight to give her testimony; and 2) to help you evaluate whether to believe the defense theory that defendant took the blame initially for her driving.

INSTRUCTION NO. 14

It is the defendant's assertion that he was not the driver of the vehicle that was involved in the accident. If you find that there is a reasonable doubt about whether he was the driver, under the facts of this case you must find the defendant not guilty of the crime charged.

INSTRUCTION NO. 15

A reasonable doubt is a doubt based upon reason and common sense, and not the mere possibility of innocence. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NO. 16

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 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

CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. DANIEL YORK, Defendant.	3:15-CR-30068-RAL VERDICT FORM

We, the jury, duly empaneled and sworn to try the issues in this case, find as follows:

1. We find the defendant, Daniel York, _____ (fill in either "not guilty" or "guilty") of Involuntary Manslaughter as charged in the indictment.

DATED this ____ day of September, 2016.

_____
FOREPERSON