

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
CENTRAL DIVISION

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<p>UNITED STATES OF AMERICA,  Plaintiff,  vs.  JEREMY YOUNG,  Defendant.</p>	<p>3:23-CR-30041-RAL  FINAL JURY INSTRUCTIONS</p>
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INSTRUCTION NO. 1

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

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

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

INSTRUCTION NO. 2

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

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

### INSTRUCTION NO. 3

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

You may use reason and common sense to draw deductions or conclusions from facts which have been established by the evidence in the case.

Certain things are not evidence. I shall list those things again for you now:

1. Statements, arguments, questions, and comments by lawyers representing the parties in the case are not evidence.
2. Objections are not evidence. Lawyers have a right to object when they believe something is improper. You should not be influenced by the objection. If I sustained an objection to a question, you must ignore the question and must not try to guess what the answer might have been.
3. Testimony that I struck from the record, or told you to disregard, is not evidence and must not be considered.
4. Anything you saw or heard about this case outside the courtroom is not evidence.

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

Some of you may have heard the terms “direct evidence” and “circumstantial evidence.” You are instructed that 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.

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.

INSTRUCTION NO. 5

The Indictment in this case charges Jeremy Young with two separate and different crimes: (1) one count of Possession of an Unregistered Firearm; and (2) one count Possession of a Firearm by a Prohibited Person. The defendant has pleaded not guilty to both charges.

The Indictment is simply the document that formally charges the defendant with the crimes 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 United States proved during the trial, beyond a reasonable doubt, each element of a crimes charged.

Please remember that only the defendant, not anyone else, is on trial here, and that the defendant is on trial only for the crimes charged, not for anything else.

There is no burden upon the defendant to prove that he is innocent. Instead, the burden of proof remains on the United States throughout the trial. Accordingly, the fact that the defendant did not testify must not be considered by you in any way, or even discussed, in arriving at your verdict.

INSTRUCTION NO. 6

The crime of possession of an unregistered firearm, as charged in Count I of the Indictment, has five elements:

***One*, on or about May 4, 2022, in Todd County, in the District of South Dakota, the defendant knowingly possessed a U.S. Repeating Arms, Winchester shotgun, bearing serial number LX083986;**

***Two*, the shotgun had a barrel less than 18 inches in length, or the shotgun was modified to have an overall length of less than 26 inches;**

The term “short-barreled shotgun” means a shotgun having an overall length of less than twenty-six inches or a barrel length of less than eighteen inches.

***Three*, the defendant knew the shotgun had a barrel less than 18 inches in length, or the shotgun was modified to have an overall length of less than 26 inches;**

***Four*, the shotgun was capable of operating as designed or could readily be put into operating condition; and**

***Five*, the shotgun was not registered to the defendant in the National Firearms Registration and Transfer Record.**

If you find all five of these essential elements have been proved beyond a reasonable doubt as to the defendant, then you must find the defendant guilty of the offense of possession of an unregistered firearm, as charged in Count I of the Indictment. Otherwise, you must find the defendant not guilty of this crime under Count I.

INSTRUCTION NO. 7

The crime of Possession of a Firearm by a Prohibited Person, as charged in Count II of the Indictment, has four essential elements, which are:

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

***Two*, after that conviction, on or about May 4, 2022, the defendant knowingly possessed a firearm, that is, a U.S. Repeating Arms, Winchester shotgun, bearing serial number LX083986;**

The term “firearm” means any weapon (including a starter gun) which will or is designed to or may be readily converted to expel a projectile by the action of an explosive. A firearm does not include an antique firearm manufactured before 1898.

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

***Four*, the firearm was transported across a state line at some time during or before the defendant’s possession of it.**

If you have found beyond a reasonable doubt that the firearm in question was manufactured in a state other than South Dakota and that the defendant possessed the firearm in the State of South Dakota, then you may, but are not required to, find that it was transported across a state line.

If all of these elements have been proven beyond a reasonable doubt, then you must find the defendant guilty of Count II as alleged in the Indictment; otherwise, you then must find the defendant not guilty of this crime.



INSTRUCTION NO. 8

The United States, defense counsel, and the defendant have agreed or stipulated that the defendant knew that on or about May 4, 2022, he had previously been convicted of crimes punishable by imprisonment for more than one year under the laws of the United States. Therefore, you must consider as proven the first and third elements of the crime of possession of a firearm by a prohibited person.

By entering into this stipulation, the defendant has not admitted his guilt on this offense, and you may not draw any inference of guilt from the stipulation; the stipulation is not evidence of the second and fourth elements of the crime of possession of a firearm by a prohibited person.

INSTRUCTION NO. 9

You have heard evidence that the defendant was previously convicted of a crime punishable by imprisonment for more than one year because that fact is an element of the crime of possession of a firearm by a prohibited person, as charged in the Indictment. This evidence, however, does not mean that the defendant committed the crimes charged here. You may use the evidence of the prior convictions only on Count II to decide that the defendant had been convicted of a crime punishable by imprisonment for more than one year and that he knew he had been convicted of a crime punishable by imprisonment for more than one year.

## INSTRUCTION NO. 10

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

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

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

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

Mere presence on the scene or association with another person who possesses a firearm is not in itself sufficient to constitute possession of the firearm.

Ownership of the firearm can be a factor in determining possession, but a person may possess a firearm owned by another person.

INSTRUCTION NO. 11

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

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

If you have found, beyond a reasonable doubt, that the firearm in question was manufactured in a state other than South Dakota and that the defendant possessed the firearm in the State of South Dakota, then you may, but are not required to, find that it was transported across a state line.

INSTRUCTION NO. 12

The Indictment charges that the offense was committed “on or about” a certain date. The proof need not establish with certainty the exact date of the alleged offense. It is sufficient if the evidence in the case establishes beyond a reasonable doubt that the offense was committed on a date reasonably near the date alleged.

INSTRUCTION NO. 13

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.

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

INSTRUCTION NO. 14

You have heard testimony that Defendant Jeremy Young made a statement to law enforcement. It is for you to decide:

*First*, whether the defendant made the statement; and

*Second*, if so, how much weight you should give to it.

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

INSTRUCTION NO. 15

You have heard testimony from a person described as an expert. Persons who, by knowledge, skill, training, education, or experience, have 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. 16

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

INSTRUCTION NO. 17

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 United States 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 court security officer, 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, TikTok, X (formerly known as Twitter), or Truth Social, 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 court security officer that you are ready to return to the courtroom.

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

1. We find the defendant, Jeremy Young, \_\_\_\_\_ (fill in either “not guilty” or “guilty”) of possession of an unregistered firearm as charged in Count I of the Indictment.
2. We find the defendant, Jeremy Young, \_\_\_\_\_ (fill in either “not guilty” or “guilty”) of being a Prohibited Person in Possession of a Firearm as charged in Count II of the Indictment.

Dated \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Foreperson