

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

STEVEN DOUGLAS RISSE,

Defendant.

Case No. CR07-0003-JSS

**SUPPLEMENTAL JURY
INSTRUCTIONS**

INSTRUCTION NUMBER 1

Members of the Jury:

You have found Defendant Steven Douglas Risse guilty of using an aircraft to harass animals as alleged in Count 2 of the Information. Under federal law, any person convicted of such an offense is required to forfeit any property used to commit the offense.

The Government alleges that a blue, High Flyer powered parachute bearing serial number 005922, was used to commit the offense I have mentioned. Your task is to determine, whether the Government has established, by a preponderance of the evidence, that the property was used to commit the offense.

INSTRUCTION NUMBER 2

Now I must define some terms for you. Property "used to commit" an offense is sometimes called the "instrumentality" of the crime. It is any property or interest in property that the defendant used to carry out the crime. Just as a carpenter uses a hammer to build a house or a murderer uses a gun to commit a murder, a person may use a boat to commit a smuggling offense, or may use a vehicle to transport drugs. If you find by a preponderance of the evidence that the defendant used one of the parachute planes to commit the crime for which he has been convicted, you should answer "yes" on the special verdict form next to the box for that item.

INSTRUCTION NUMBER 3

Property is subject to forfeiture if the government proves, by a preponderance of the evidence, that the property was used to commit the offense of which the defendant has been found guilty.

My previous instructions on the government's burden of proof regarding your verdict on the guilt of the defendant do not apply to your deliberations and verdict regarding forfeiture. In deliberating and deciding your verdicts regarding forfeiture, the government need only prove the forfeiture by a preponderance of the evidence, not beyond a reasonable doubt. To prove something by the preponderance of the evidence is to prove that it is more likely true than not true. Preponderance of the evidence is a lesser standard than proof beyond a reasonable doubt.

Your answers to the Special Verdict Form is to be made by considering all the evidence on the subject and deciding which evidence you believe. While deliberating, you may consider any evidence, including testimony, offered by the parties at any time during this trial. Each party is entitled to the benefit of all evidence received, regardless of who offered the evidence.

INSTRUCTION NUMBER 4

Your previous finding that the defendant is guilty of the offense with which the defendant was charged in the Information is final, conclusive and binding. Because you are bound by your previous finding that the defendant is guilty, I direct you not to discuss in your forfeiture deliberations whether the defendant is guilty or not guilty of the violation of which you have already found the defendant guilty.

Other than the standard of proof, which I just discussed with you, all of my previous instructions apply to your deliberations with respect to the Special Verdict. You need not concern yourself with the interest that other persons, if any, may have in the property. Such interests, if any, will be taken into account by me at a later time. Similarly, any claim that the forfeiture of property would constitute excessive punishment is not for you to consider but will be taken into account by me at a later time.

Your only concern is to determine whether the property was used to commit the offense which you have previously found the defendant committed.

INSTRUCTION NUMBER 5

Attached to these instructions you will find a Special Verdict Form. The Special Verdict Form is simply the written notice of the decision that you reach as to the additional question asked. The answer to the question on the Special Verdict Form must be the unanimous decision of the jury and must have been proved to you by a preponderance of the evidence.

You will take the Special Verdict Form to the jury room, and when you have completed your deliberations and each of you has agreed on answer to the question, your foreperson will fill out the form, signed and date it, and advise the marshal or court security officer that you are ready to return to the courtroom.

Finally, members of the jury, take the Special Verdict Form and give it your most careful consideration, and then without fear or favor, prejudice or bias of any kind, return such verdict as accords with the evidence and these instructions.

May 31, 2007
DATE



JON STUART COLES
UNITED STATES MAGISTRATE JUDGE
NORTHERN DISTRICT OF IOWA

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SPECIAL VERDICT FORM

We, the jury, unanimously find by a preponderance of the evidence that the blue, High Flyer powered parachute bearing serial number 005922, was Used to
used/not used
commit the violation charged in Count 2, and that such property is subject to forfeiture.

[Signature]
FOREPERSON

5-31-07
DATE