

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

VALERIE KUPKA and STUART  
RADCLIFF SELK,

Defendants.

No. CR 04-0065 LRR

**SUPPLEMENTAL  
JURY INSTRUCTIONS**

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Ladies and Gentlemen of the Jury:

The instructions I gave you at the beginning of the trial, during the trial, and at the close of the evidence remain in effect. I will now give you some additional instructions to assist you in answering the attached Interrogatories relating to Valerie Kupka and Stuart Radcliff Selk. The answers to the Interrogatories will be used by me in deciding what sentence to impose.

You must, of course, continue to follow the instructions I gave you earlier, as well as these Supplemental Jury Instructions I give you now.

**INSTRUCTION NUMBER \_\_\_\_\_**

You are asked to answer several Interrogatories based on the evidence received.  
Your answers to the Interrogatories must be unanimous.

You must consider each Interrogatory as to each defendant separately.

**INSTRUCTION NUMBER \_\_\_\_\_**

With regard to Valerie Kupka, you must indicate in response to the appropriate Interrogatory whether you find, beyond a reasonable doubt, that Valerie Kupka possessed a stolen firearm in connection with the offense charged in Count 3, that is, being an unlawful user of controlled substances in possession of a firearm.

You may answer the appropriate Interrogatory in the affirmative if the evidence proves beyond a reasonable doubt the following elements as to the defendant under consideration by you:

*One*, the firearm was stolen; and

*Two*, the defendant under consideration by you was in actual or constructive possession of the firearm.

It does not matter if the defendant under consideration by you knew or had reason to believe that the firearm was stolen. A defendant's knowledge regarding whether or not the firearm was a stolen firearm is irrelevant.

**INSTRUCTION NUMBER \_\_\_\_\_**

With regard to Counts 3 and 4, you must indicate in response to the appropriate Interrogatory whether you find, beyond a reasonable doubt, that the defendant under consideration by you possessed one or more firearms that were used in connection with another felony offense, that is, in connection with distributing methamphetamine.

The conduct of the use or possession of a firearm in connection with another felony offense has two essential elements, which are:

*One*, the defendant under consideration by you was in possession of the firearm, either actual or constructive, or use of the firearm for some purpose; and

*Two*, the firearm was connected in some way to another felony offense.

The phrase “in connection with” means the firearm must have some purpose or effect with respect to the other felony offense, and must facilitate, or have the potential of facilitating the offense. To be “in connection with,” the presence or involvement of the firearm cannot be the result of accident or coincidence.

The term “another felony offense” means any state, federal, or local offense, which is punishable by more than one year imprisonment, whether or not a criminal charge was brought, or conviction obtained, and is not a firearms offense. You are advised that the following are felony offenses: (1) distributing methamphetamine; (2) attempting to distribute methamphetamine; and (3) aiding and abetting the distribution of methamphetamine.

**(CONTINUED)**

**INSTRUCTION NUMBER \_\_\_\_\_ (Cont'd)**

In order to find the defendant under consideration by you possessed a firearm in connection with another felony offense, you need not find that the defendant under consideration by you possessed the firearm in connection with all of the listed offenses. However you must unanimously agree on which one or more of the felony offenses was connected to the firearm.

**INSTRUCTION NUMBER \_\_\_\_\_**

With regard to Count 3, you must indicate in response to the appropriate Interrogatory whether you find, beyond a reasonable doubt, that the defendant, Valerie Kupka, possessed at least three firearms in connection with the offense.

A “firearm” includes any weapon (including a starter gun) which will, or is designed to, or may readily be converted to, expel a projectile by the action of an explosive.

**INSTRUCTION NUMBER \_\_\_\_\_**

In order to find that Valerie Kupka's offense involved at least three firearms, you must find that the evidence proves beyond a reasonable doubt that she was in possession, actual or constructive, of three different firearms, but you need not find that she was in possession of three or more firearms for every offense or any one single offense. The three firearms need not be possessed at the same time.

**INSTRUCTION NUMBER \_\_\_\_\_**

You are advised that in answering the Interrogatories, the defendant under consideration by you is individually responsible for all acts and omissions committed, aided, abetted, counseled, commanded, induced, procured, or willfully caused by the defendant under consideration by you.

In order for the government to prove the additional facts described in the Interrogatories, it must prove the existence of the fact beyond a reasonable doubt as to the defendant under consideration by you. If the government proves the existence of the fact in any Interrogatory beyond a reasonable doubt, then you must answer the Interrogatory in the affirmative. If the government fails to prove the existence of the fact in the Interrogatory beyond a reasonable doubt, then you must answer the Interrogatory in the negative.

Your answers to the Interrogatories must be the unanimous decision of the jury.

**INSTRUCTION NUMBER \_\_\_\_\_**

Attached to these instructions you will find Interrogatories. The Interrogatories are simply the written notice of the decisions that you reach as to the additional questions asked. The answers to the Interrogatories must be the unanimous decision of the jury and must have been proved to you beyond a reasonable doubt.

You will take the Interrogatories to the jury room, and when you have completed your deliberations and each of you has agreed on an answer to each question, your foreperson will fill out the form, sign 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 these Interrogatories and give them your most careful consideration, and then without fear or favor, prejudice or bias of any kind, return such answers as accord with the evidence and these instructions.

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**DATE**

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**LINDA R. READE  
JUDGE, U. S. DISTRICT COURT**

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

VALERIE KUPKA,

Defendant.

No. CR 04-0065 LRR

**SUPPLEMENTAL INTERROGATORY  
- COUNT 3  
VALERIE KUPKA**

Valerie Kupka pled guilty to the offense of being an unlawful user of a controlled substance in possession of a firearm, as charged in Count 3. Please answer the following questions by placing a checkmark (✓) next to yes or no after each of the following three questions:

- (1) Do you find beyond a reasonable doubt that Valerie Kupka's offense involved a stolen firearm?

\_\_\_\_\_  
Yes

\_\_\_\_\_  
No

\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
DATE

**(CONTINUED)**

(2) Do you find beyond a reasonable doubt that the firearms in Valerie Kupka's possession were used in connection with another felony offense?

\_\_\_\_\_  
Yes

\_\_\_\_\_  
No

\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
DATE

(3) Do you find beyond a reasonable doubt that Valerie Kupka's offense involved at least three firearms?

\_\_\_\_\_  
Yes

\_\_\_\_\_  
No

\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
DATE

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

STUART RADCLIFF SELK,

Defendant.

No. CR 04-0065 LRR

**SUPPLEMENTAL INTERROGATORY  
- COUNT 4  
STUART RADCLIFF SELK**

You found the defendant, Stuart Radcliff Selk, guilty of being an unlawful user of a controlled substance in possession of a firearm as charged in Count 4. Please answer the following question by placing a checkmark (✓) next to yes or no:

- (1) Do you find beyond a reasonable doubt that the firearms in Stuart Radcliff Selk's possession were used in connection with another felony offense?

\_\_\_\_\_  
Yes

\_\_\_\_\_  
No

\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
DATE