

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PAIGE MATHISON,

Defendant.

No. CR 12-4083-MWB

**INSTRUCTIONS
TO THE JURY**

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VERDICT FORM

No. 1 — INTRODUCTION

Congratulations on your selection as a juror! These Instructions are to help you better understand the trial and your role in it.

In an Indictment, a Grand Jury has charged defendant Paige Mathison with four offenses that arise from her alleged participation in the robbery of a convenience store in Sioux City, Iowa, during which defendant Paige Mathison allegedly served as a lookout and getaway driver. An Indictment is simply an accusation—it is not evidence of anything. The defendant has pled not guilty to the crimes charged against her, and she is presumed absolutely not guilty of each offense charged, unless and until the prosecution proves her guilt on that offense beyond a reasonable doubt.

You must decide during your deliberations whether or not the prosecution has proved the defendant's guilt on each offense charged beyond a reasonable doubt. In making your decision, you are the sole judges of the facts. You must not decide this case based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your individual evaluation of that evidence, your reason and common sense, and these instructions. Do not take anything that I have said or done or that I may say or do as indicating what I think of the evidence or what I think your verdict should be.

Remember, only defendant Paige Mathison, and not anyone else, is on trial. Also, the defendant is on trial only for the offenses charged against her in the Indictment, and not for anything else.

You must return a unanimous verdict for or against the defendant on each charged offense.

Please remember that this case is important to the parties and to the fair administration of justice. Therefore, please be patient, consider all of the evidence, and do not be in a hurry to reach a verdict just to be finished with the case.

No. 2 — PRESUMPTION OF INNOCENCE AND BURDEN OF PROOF

The presumption of innocence means that the defendant is presumed to be absolutely not guilty.

- This presumption means that you must put aside all suspicion that might arise from the defendant's arrest, the charges, or the fact that she is here in court
- This presumption remains with the defendant throughout the trial
- This presumption is enough, alone, for you to find the defendant not guilty, unless the prosecution proves, beyond a reasonable doubt, all of the elements of a particular offense charged against her

The burden is always on the prosecution to prove guilt beyond a reasonable doubt.

- This burden never, ever shifts to the defendant to prove her innocence
- This burden means that the defendant does not have to call any witnesses, produce any evidence, cross-examine the prosecution's witnesses, or testify
- This burden means that, if the defendant does not testify, you must not consider that fact in any way, or even discuss it, in arriving at your verdict

- This burden means that you must find the defendant not guilty of a particular offense charged against her, unless the prosecution proves beyond a reasonable doubt that she has committed each and every element of that offense

No. 3 — REASONABLE DOUBT

A reasonable doubt is a doubt based upon reason and common sense.

- A reasonable doubt may arise from evidence produced by the prosecution or the defendant, keeping in mind that the defendant never, ever has the burden or duty to call any witnesses or to produce any evidence
- A reasonable doubt may arise from the prosecution's lack of evidence

The prosecution must prove the defendant's guilt beyond a reasonable doubt.

- Proof beyond a reasonable doubt requires careful and impartial consideration of all of the evidence in the case before making a decision
- Proof beyond a reasonable doubt is proof so convincing that you would be willing to rely and act on it in the most important of your own affairs

The prosecution's burden is heavy, but it does not require proof beyond all doubt.

No. 4 — OTHER IMPORTANT TERMS

Before I turn to specific instructions on the offenses charged in this case, I will explain some important terms.

Elements

Each offense charged consists of “elements,” which are the parts of the offense. The prosecution must prove beyond a reasonable doubt all of the elements of a particular offense for you to find the defendant guilty of that offense.

Timing

The Indictment alleges an approximate period of time or an approximate date for each charged offense. The prosecution does not have to prove that a particular offense occurred on an exact date, only that the offense occurred at a time that was reasonably within the time period or reasonably close to the date alleged for that offense in the Indictment.

Location

You must decide whether the defendant’s conduct occurred in the Northern District of Iowa. Sioux City and Woodbury County are in the Northern District of Iowa.

Possession

A person possessed something if both of the following are true:

- the person knew about it, and
- the person had
 - physical control over it, or
 - the power, or ability, and the intention to control it, or
 - control over a vehicle in which it was concealed

More than one person may have possessed something at the same time.

Verdict Form

A Verdict Form is attached to these Instructions.

- A Verdict Form is simply a written notice of your decision
- When you have reached a unanimous verdict, your foreperson will complete one copy of the Verdict Form by marking the appropriate blank or blanks for each question
- You will all sign that copy to indicate that you agree with the verdict and that it is unanimous
- Your foreperson will then bring the signed Verdict Form to the courtroom when it is time to announce your verdict

* * *

I will now give you the “elements” instructions on the charged offenses. The “elements” themselves are set out in **bold**.

**No. 5 — COUNT 1: CONSPIRACY TO COMMIT A
ROBBERY INTERFERING WITH COMMERCE**

Count 1 of the Indictment charges the defendant with “conspiracy to commit a robbery interfering with commerce.” The defendant denies that she committed this offense.

For you to find the defendant guilty of this offense, the prosecution must prove beyond a reasonable doubt *all* of the following elements against her:

***One*, at some time during the period of the conspiracy, that is, from a date unknown until about September 17, 2012, in the Northern District of Iowa, two or more persons reached an agreement or understanding to commit a robbery.**

A conspiracy is an agreement of two or more persons to commit one or more crimes. For this element to be proved,

- the defendant may have been, but did not have to be, one of the original conspirators
- the crime that the conspirators agreed to commit did not actually have to be committed
- the agreement did not have to be written or formal
- the agreement did not have to involve every detail of the conspiracy

Here, the conspirators allegedly agreed to commit “a robbery interfering with commerce.” To help you decide whether or not the conspirators agreed to commit that crime, you should consider the elements of “a

robbery interfering with commerce,” as set out in element *one* of Instruction No. 6.

Remember,

- the conspirators did not have to consider, know, or intend that the robbery would affect commerce, but an effect on commerce must have been the natural effect of the robbery that the conspirators agreed to commit
- the prosecution does not have to prove that the robbery actually occurred or that the defendant actually committed it for this element to be proved

If there was no agreement, there was no conspiracy.

Two, the defendant voluntarily and intentionally joined in the agreement or understanding.

If you find that there was an agreement, but you find that the defendant did not join in that agreement, then you cannot find her guilty of this “conspiracy” charge. The defendant must have joined in the agreement at any time during its existence. The defendant may have joined the agreement even if she agreed to play only a minor role in it.

The defendant did not have to do any of the following to join the agreement:

- join the agreement at the same time as all of the other conspirators

- know all of the details of the conspiracy, such as the names, identities, or locations of all of the other members, or
- conspire with every other member of the conspiracy

On the other hand, each of the following, alone, is not enough to show that a person joined the agreement:

- evidence that a person was merely present at the scene of an event
- evidence that a person merely acted in the same way as others
- evidence that a person merely associated with others
- evidence that a person was friends with or met socially with individuals involved in the conspiracy
- evidence that a person who had no knowledge of a conspiracy acted in a way that advanced an objective of the conspiracy
- evidence that a person merely knew of the existence of a conspiracy
- evidence that a person merely knew that an objective of the conspiracy was being considered or attempted, or
- evidence that a person merely approved of the objectives of the conspiracy

Rather, the prosecution must prove that the person had some degree of knowing involvement in the conspiracy.

***Three*, at the time that the defendant joined in the agreement or understanding, she knew the purpose of the agreement or understanding.**

Without knowledge of the purpose of the conspiracy, the defendant cannot be guilty of the “conspiracy” offense, even if her acts furthered the conspiracy. The prosecution does not have to prove that the defendant knew that what she did was unlawful.

***Four*, while the agreement or understanding was in effect, a person or persons who had joined in the agreement knowingly did one or more “overt acts” for the purpose of carrying out or carrying forward the agreement or understanding.**

An “overt act”

- is an act done in furtherance of the conspiracy, that is, an act that advances or helps the conspiracy forward
- does not have to be unlawful in and of itself
- may be perfectly innocent in and of itself
- may be committed by any co-conspirator

The defendant

- does not have to commit the “overt act”
- know about the “overt act,” or
- witness the “overt act”

The Indictment charges that the following “overt acts” were committed in furtherance of the conspiracy:

- Before, on, or about July 13, 2012, David Johnson, Christopher Bailey, Joshua Fields, and Paige Mathison acquired a firearm
- On or about July 13, 2012, David Johnson, Christopher Bailey, Joshua Fields, and Paige Mathison traveled—with the firearm—from a location within Sioux City, Iowa, to Sarg’s Mini Mart in Sioux City, Iowa
- On or about July 13, 2012, David Johnson, Christopher Bailey, and Joshua Fields entered, surveilled, and left Sarg’s Mini Mart in Sioux City, Iowa
- On or about July 13, 2012, David Johnson, Christopher Bailey, and Joshua Fields reentered Sarg’s Mini Mart in Sioux City, Iowa
- On or about July 13, 2012, David Johnson, Christopher Bailey, and Joshua Fields demanded money from an employee of Sarg’s Mini Mart in Sioux City, Iowa
- On or about July 13, 2012, David Johnson, Christopher Bailey, Joshua Fields, and Paige Mathison removed money from Sarg’s Mini Mart in Sioux City, Iowa
- On or about July 13, 2012, David Johnson, Christopher Bailey, Joshua Fields, and Paige Mathison, traveled to a location within Sioux City, Iowa, after the robbery of Sarg’s in Sioux City, Iowa
- On or about July 13, 2012, David Johnson, Christopher Bailey, Joshua Fields, and

Paige Mathison divided the stolen money in Sioux City, Iowa, after the robbery of Sarg's Mini Mart

The prosecution does not have to prove, beyond a reasonable doubt, that more than one "overt act" was done in furtherance of the conspiracy or that a particular "overt act" was committed by all of the persons alleged. It is enough if the prosecution proves beyond a reasonable doubt one such act by one or more of the persons alleged. However, you must unanimously agree on which one or more "overt acts" were committed in furtherance of the conspiracy.

If the prosecution *does not* prove all of these elements beyond a reasonable doubt as to defendant Mathison, then you must find her not guilty of the offense of "conspiracy to commit a robbery interfering with commerce," as charged in **Count 1** of the Indictment. On the other hand, if the prosecution *does* prove all of these elements beyond a reasonable doubt as to defendant Mathison, then you must consider whether or not she has proved her specific defense that she was coerced into participating in this offense, as explained in Instruction No. 9, before deciding your verdict on this offense.

In addition, *if* you find

- that the conspiracy existed, and
- that the defendant was part of the conspiracy

then you may consider acts knowingly done and statements knowingly made by the defendant's co-conspirators during the existence of the conspiracy and in furtherance of it as evidence pertaining to the defendant. This includes

- acts done and statements made in the absence of and without the knowledge of the defendant
- acts done and statements made before the defendant joined the conspiracy

On the other hand, acts done and statements made before the conspiracy began and after it ended are admissible only against the person who did them or made them.

**No. 6 — COUNT 2: AIDING AND ABETTING A
ROBBERY INTERFERING WITH COMMERCE**

Count 2 of the Indictment charges the defendant with “aiding and abetting a robbery interfering with commerce.” The defendant denies that she committed this offense.

The defendant may be found guilty of an offense, even if she did not personally do every act constituting the offense, if she aided and abetted the commission of the offense by another or others. For you to find the defendant guilty of the offense of “aiding and abetting a robbery interfering with commerce,” the prosecution must prove beyond a reasonable doubt *all* of the following elements against her:

***One*, on or about July 13, 2012, a person or persons committed the crime of “robbery interfering with commerce.”**

The prosecution must prove beyond a reasonable doubt that all of the elements of “robbery interfering with commerce” were committed by some person or persons. To prove that some person or persons committed this offense, the prosecution must prove the following four elements:

One, on or about July 13, 2012, a person or persons knowingly took or obtained, or attempted to take or obtain, money from an employee of Sarg’s Mini Mart in Sioux City, Iowa.

Two, the person or persons knowingly took or obtained, or attempted to take or obtain, the money against the employee’s will.

Three, the person or persons knowingly took or obtained, or attempted to take or obtain, the money by means of force, violence, or fear of injury.

- In this element,
 - “By means of force” includes by means of actual force or by means of threatened force
 - “By means of fear of injury” includes fear of injury, immediate or future, to the employee’s person or property, or to property in the employee’s custody as an employee of Sarg’s Mini Mart in Sioux City, Iowa

Four, the robbery interfered with commerce in some way or degree.

- “Commerce” means
 - all commerce between any point in one State and any point outside of that State; and
 - all commerce between points within the same State through any place outside of that State
- The defendant’s actions “interfered with commerce” if the defendant’s actions obstructed, delayed, or affected commerce in some way or degree.
 - “Obstructed, delayed, or affected commerce” means interfering with, changing, or altering the movement or transportation or flow of goods,

merchandise, money, or property in commerce

- The effect can be minimal
- Such effect can be proved by one or more of the following:
 - depletion of the assets of a business operating in commerce
 - the temporary closing of a business to recover from the robbery
 - robbery of a business covered by an out-of-state insurer
 - loss of sales of an out-of-state commercial product
 - slowdown of business as a result of the robbery
- The robbery of a local or “mom and pop” business can have the necessary minimal effect on commerce, as long as the business dealt in goods that moved through “commerce,” as defined above
- the person or persons committing the robbery did not have to consider, know, or intend that the robbery would affect commerce, but an effect on commerce must have been the natural effect of the robbery

***Two*, the defendant knew the robbery was being committed or going to be committed.**

The prosecution

- must prove that the defendant knew that the robbery was being committed or going to be committed
- does not have to prove that the defendant knew that the robbery would affect commerce, only that an effect on commerce was a natural effect of the robbery

***Three*, the defendant knowingly acted in some way for the purpose of causing, encouraging, or aiding the commission of the robbery.**

The following are *not* enough to prove that a person aided and abetted an offense:

- merely being present at the scene of an event
- merely acting in the same way as others
- merely associating with others
- merely knowing that the crime was being committed or going to be committed
- happening to act in a way that advances the crime without knowledge that a crime is being committed or going to be committed

The prosecution must prove that the defendant knew of the crime and knowingly acted to aid in its commission.

If the prosecution *does not* prove all of these elements beyond a reasonable doubt as to defendant Mathison, then you must find her not guilty of the offense

of “aiding and abetting a robbery interfering with commerce,” as charged in **Count 2** of the Indictment. On the other hand, if the prosecution *does* prove all of these elements beyond a reasonable doubt as to defendant Mathison, then you must consider whether or not she has proved her specific defense that she was coerced into participating in this offense, as explained in Instruction No. 9, before deciding your verdict on this offense.

**No. 7 — COUNT 3: POSSESSION OF A FIREARM
IN FURTHERANCE OF A ROBBERY**

Count 3 charges the defendant with “possession or aiding and abetting the possession of a firearm in furtherance of a robbery.” The defendant denies that she committed this offense.

If the elements are proved, a defendant may be found guilty of “personally committing” this offense, or “aiding and abetting” this offense, or both. I will now explain the elements of both the “personal commission” alternative and the “aiding and abetting” alternative.

“Personal Commission” Alternative

For you to find the defendant guilty of “personally committing” this offense, the prosecution must prove beyond a reasonable doubt *all* of the following elements against her:

One, on or about July 13, 2012, the defendant committed the “aiding and abetting a robbery” offense charged in Count 2 of the Indictment.

You cannot find the defendant guilty of this offense unless you also find her guilty of the “aiding and abetting a robbery” offense charged in **Count 2** of the Indictment.

Two, the defendant knowingly possessed a firearm in furtherance of the robbery of Sarg’s Mini Mart on July 13, 2012.

“In furtherance of”

- should be given its plain meaning, that is, the act of furthering, advancing, or helping forward
- requires that the defendant possessed the firearm with the intent that it advance, assist, or help commit the crime
- does not require that the firearm actually advanced, assisted, or helped commit the crime

Evidence that the defendant possessed the firearm with the intent to advance, assist, or help commit the crime may include the following:

- evidence that the defendant acquired the firearm for the robbery
- evidence that the firearm made it less likely that the victim would resist
- evidence that the defendant provided the firearm to another to commit the offense

Three, the firearm was a short-barreled shotgun.

The prosecution must prove that the firearm

- had an overall length of less than 26 inches, or
- had a barrel length less than 18 inches

The prosecution does not have to prove that the defendant knew that the firearm had these characteristics.

If the prosecution does not prove all of these elements beyond a reasonable doubt as to defendant Mathison, then you must find her not guilty of “personally

committing” the offense of “possession of a firearm in furtherance of a robbery” charged in **Count 3** of the Indictment.

“Aiding And Abetting” Alternative

The defendant may be found guilty of “possession of a firearm in furtherance of a robbery,” even if she did not personally do every act constituting that offense, if she “aided and abetted” the commission of that offense by another or others. For you to find the defendant guilty of “aiding and abetting” this offense, the prosecution must prove beyond a reasonable doubt *all* of the following elements against her:

One, on or about July 13, 2012, a person or persons committed the crime of “possession of a firearm in furtherance of a robbery.”

The prosecution must prove beyond a reasonable doubt that all of the elements of “personally committing” the crime of “possession of a firearm in furtherance of a robbery,” set forth, above, were committed by some person or persons.

Two, the defendant must have known that the offense of “possession of a firearm in furtherance of a robbery” was being committed or going to be committed.

The prosecution

- must prove that the defendant knew that the crime was being committed or going to be committed
- does not have to prove that the defendant knew that the firearm possessed in

furtherance of the crime had the characteristics of a short-barreled shotgun

***Three*, the defendant knowingly acted in some way for the purpose of causing, encouraging, or aiding the commission of the offense.**

The following are *not* enough to prove that a person aided and abetted an offense:

- merely being present at the scene of an event
- merely acting in the same way as others
- merely associating with others
- merely knowing that the crime was being committed or going to be committed
- happening to act in a way that advances the crime without knowledge that a crime is being committed or going to be committed

The prosecution must prove that the defendant knew of the crime and knowingly acted to aid in its commission.

***Four*, the defendant intended that the possession of the firearm would further the crime.**

The prosecution

- must prove that the defendant possessed the firearm with the intent that it further the crime, that is, advance, assist, or help commit the crime
- does not have to prove that the firearm actually advanced, assisted, or helped commit the crime

Evidence that the defendant intended that the firearm advance, assist, or help commit the crime may include the following:

- evidence that the defendant acquired the firearm for the robbery
- evidence that the firearm made it less likely that the victim would resist
- evidence that the defendant provided the firearm to another to commit the offense

If the prosecution does not prove all of these elements beyond a reasonable doubt as to defendant Mathison, then you must find her not guilty of “aiding and abetting” the offense of “possession of a firearm in furtherance of a robbery” charged in **Count 3** of the Indictment.

“Brandishing”

You must also decide whether the prosecution has proved beyond a reasonable doubt that the defendant “brandished” the firearm during the robbery.

The defendant “brandished” the firearm, if

- the defendant or another participant
 - displayed all or part of the firearm during the robbery, or
 - otherwise made the presence of the firearm known to another person, and
- the defendant or other participant did so in order to intimidate that other person, even

if the firearm was not directly visible to that other person

- the defendant knew that the robbery offense was being committed with the firearm, and
- the defendant intended that the firearm would be “brandished” in order to intimidate someone

You will indicate in the Verdict Form whether or not the firearm was “brandished.”

Verdict

If the prosecution *does not* prove beyond a reasonable doubt all of the elements of the “personal commission” alternative or the “aiding and abetting” alternative as to defendant Mathison, then you must find her not guilty of the offense of “possession of a firearm in furtherance of a robbery,” as charged in **Count 3** of the Indictment. On the other hand, if the prosecution *does* prove beyond a reasonable doubt all of the elements of the “personal commission” alternative, or the “aiding and abetting” alternative, or both, as to defendant Mathison, then you must consider whether or not she has proved her specific defense that she was coerced into participating in this offense, as explained in Instruction No. 9, before deciding your verdict on this offense.

**No. 8 — COUNT 4: RECEIVING OR POSSESSING
AN UNREGISTERED FIREARM**

Count 4 charges the defendant with “receiving or possessing an unregistered firearm” and “aiding and abetting” that offense. The defendant denies that she committed this offense.

If the elements are proved, a defendant may be found guilty of “personally committing” this offense, or “aiding and abetting” this offense, or both. I will now explain the elements of both the “personal commission” alternative and the “aiding and abetting” alternative.

“Personal Commission” Alternative

For you to find the defendant guilty of “personally committing” this offense, the prosecution must prove beyond a reasonable doubt *all* of the following elements against her:

One, on or about July 13, 2012, the defendant knowingly received or possessed a firearm.

The Indictment charges that the firearm was a short-barreled shotgun. “Possession” was defined for you in Instruction No. 4. “Receiving” or “receipt” of a firearm means being given a firearm. The prosecution only has to prove that the defendant received or possessed the firearm, not both.

Two, the defendant knew that the firearm was a short-barreled shotgun.

The prosecution must prove that the firearm

- had an overall length of less than 26 inches,
or
- had a barrel length less than 18 inches

The prosecution

- does not have to prove that the defendant knew that the firearm had these dimensions, but
- must prove that the defendant observed the firearm's characteristics, such as modifications to the barrel or stock or its unusually short length.

Three, the firearm was capable of operating as designed.

Four, the firearm was not registered to the defendant in the National Firearms Registration and Transfer Record.

If the prosecution does not prove all of these elements beyond a reasonable doubt as to defendant Mathison, then you must find her not guilty of “personally committing” the offense of “receiving or possessing an unregistered firearm” charged in **Count 4** of the Indictment.

“Aiding And Abetting” Alternative

The defendant may be found guilty of “receiving or possessing an unregistered firearm,” even if she did not personally do every act constituting that offense, if she “aided and abetted” the commission of that offense by another or others. For you to find the defendant guilty of “aiding and abetting” this offense, the prosecution must prove beyond a reasonable doubt *all* of the following elements against her:

***One*, on or about July 13, 2012, a person or persons committed the crime of “receiving or possessing an unregistered firearm.”**

The prosecution must prove beyond a reasonable doubt that all of the elements of “personally committing” the crime of “receiving or possessing an unregistered firearm,” set forth, above, were committed by some person or persons.

***Two*, the defendant must have known that the offense of “receiving or possessing an unregistered firearm” was being committed or going to be committed.**

The prosecution

- must prove that the defendant knew that the crime was being committed or going to be committed
- does not have to prove that the defendant knew that the firearm had the dimensions that made it a “short-barreled shotgun,” but
- must prove that the defendant observed the firearm’s characteristics, such as modifications to the barrel or stock or its unusually short length.

***Three*, the defendant knowingly acted in some way for the purpose of causing, encouraging, or aiding the commission of the offense.**

The following are *not* enough to prove that a person aided and abetted an offense:

- merely being present at the scene of an event
- merely acting in the same way as others

- merely associating with others
- merely knowing that the crime was being committed or going to be committed
- happening to act in a way that advances the crime without knowledge that a crime is being committed or going to be committed

The prosecution must prove that the defendant knew of the crime and knowingly acted to aid in its commission.

If the prosecution does not prove all of these elements beyond a reasonable doubt as to defendant Mathison, then you must find her not guilty of “aiding and abetting” the offense of “possession of an unregistered firearm” charged in **Count 4** of the Indictment.

Verdict

If the prosecution *does not* prove beyond a reasonable doubt all of the elements of the “personal commission” alternative or the “aiding and abetting” alternative as to defendant Mathison, then you must find her not guilty of the offense of “possession of an unregistered firearm,” as charged in **Count 4** of the Indictment. On the other hand, if the prosecution *does* prove beyond a reasonable doubt all of the elements of the “personal commission” alternative, or the “aiding and abetting” alternative, or both, as to defendant Mathison, then you must consider whether or not she has proved her specific defense that she was coerced into participating in this offense, as explained in Instruction No. 9, before deciding your verdict on this offense.

No. 9 — SPECIFIC DEFENSE: COERCION

The defendant contends that she was coerced into participating in the charged offenses. If you find that the defendant was coerced into participating in a charged offense, then you must find her not guilty of that offense.

Burden of Proof

The defendant has the burden of proving, by the greater weight of the evidence, that she was coerced at the time of the crime. The prosecution does not have to prove that the defendant was not coerced.

Proof “by the greater weight of the evidence” is a lesser burden of proof than proof “beyond a reasonable doubt.”

Proof “by the “greater weight of the evidence”

- is proof that a fact is more likely true than not true.
- does not depend on which side presented the greater number of witnesses or exhibits
- requires you to consider all of the evidence and decide which evidence is more convincing or believable
- For example, you may choose to believe the testimony of one witness, if you find that witness to be convincing, even if a number of other witnesses contradict that witness’s testimony

- You are free to disbelieve any testimony or other evidence that you do not find convincing or believable

If, on any issue pertaining to the “coercion” defense, you find that the evidence is equally balanced, then you cannot find that the issue has been proved.

Elements of the Defense

For you to find that the defendant was coerced into participating in a charged offense, the defendant must prove *both* of the following elements by the greater weight of the evidence:

One, the defendant committed or participated in a particular offense only because she was coerced.

The defendant was “coerced” if she reasonably feared that immediate death or serious bodily harm would be inflicted upon her or another person, if she did not participate in the offense in question.

Two, the defendant had no reasonable opportunity to avoid the coercion.

If the defendant had a full opportunity to avoid participating in the offense in question without danger of death or serious bodily harm being inflicted on her or another person, then she was not coerced.

If the defendant *does not* prove both of these elements by the greater weight of the evidence as to a particular offense, then you must find that she was not “coerced” into participating in that offense.

Verdicts

Your verdict on a particular offense charged in the Indictment must be

- “not guilty,” if the prosecution does not prove all of the elements of that offense, under any available alternative
- “not guilty,” if the defendant proves her “coercion” defense as to that offense
- “guilty,” if
 - the prosecution proves all of the elements of that offense, under at least one available alternative, *and*
 - the defendant fails to prove her “coercion” defense

No. 10 — DEFINITION OF EVIDENCE

Evidence is the following:

- testimony
- exhibits admitted into evidence, but exhibits are not necessarily more important than any other evidence, just because they are shown to you
- stipulations, which are agreements between the parties that certain facts are true; you must treat stipulated facts as having been proved

The following are not evidence:

- testimony that I tell you to disregard
- exhibits that are not admitted into evidence
- statements, arguments, questions, and comments by the lawyers
- objections and rulings on objections
- anything that you see or hear about this case outside the courtroom

You may have heard of “direct” or “circumstantial” evidence.

- “Direct” evidence is direct proof of a fact. An example is testimony by a witness about what that witness personally saw or heard or did.
- “Circumstantial” evidence is proof of one or more facts from which you could find another fact. An example is testimony that a witness

personally saw a broken window and a brick on the floor, from which you could find that the brick broke the window.

- You should consider both kinds of evidence, because the law makes no distinction between their weight. The weight to be given any evidence, whether it is “direct” or “circumstantial,” is for you to decide.

Some evidence may be admitted only for a limited purpose.

- I will tell you if that happens
- I will instruct you on the purposes for which the evidence can and cannot be used

No. 11 — TESTIMONY OF WITNESSES

You may believe all of what any witness says, only part of it, or none of it.

In evaluating a witness's testimony, consider the following:

- the witness's
 - intelligence
 - memory
 - opportunity to have seen and heard what happened
 - motives for testifying
 - interest in the outcome of the case
 - manner while testifying
 - drug or alcohol use or addiction, if any
- the reasonableness of the witness's testimony
- any differences between what the witness says now and said earlier
- any inconsistencies between the witness's testimony and any other evidence that you believe
- whether any inconsistencies are the result of seeing or hearing things differently, actually forgetting things, or innocent mistakes or are, instead, the result of lies or phony memory lapses, and
- any other factors that you find bear on believability or credibility

You should not give any more or less weight to a witness's testimony just because the witness is one of the following:

- a public official or law enforcement officer
- an expert

You may give any witness's opinion whatever weight you think it deserves, but you should consider the following:

- the reasons and perceptions on which the opinion is based
- any reason that the witness may be biased, and
- all of the other evidence in the case

If the defendant testifies, you should judge her testimony in the same way that you judge the testimony of any other witness.

You may hear evidence that a witness has been convicted of a crime. You may use that evidence only to help you decide whether or not to believe that witness and how much weight to give that witness's testimony.

You must consider the testimony of the following witnesses with greater caution and care:

- A witness testifying about participation in a charged crime
- A witness testifying pursuant to a plea agreement
 - Whether or not the witness's testimony has been influenced by the plea agreement is for you to decide

- The plea agreement may be a “cooperation” plea agreement that provides that the prosecution may recommend a less severe sentence if the prosecutor believes that the witness has provided “substantial assistance”
- The court cannot reduce a sentence for “substantial assistance” unless the prosecution asks the court to do so, but if the prosecution does ask, the court decides if and how much to reduce the witness’s sentence

You may give the testimony of such witnesses whatever weight you think it deserves. Whether or not such a witness’s testimony has been influenced by that witness’s desire to please the prosecutor or to strike a good bargain is for you to decide.

It is your exclusive right to give any witness’s testimony whatever weight you think it deserves.

No. 12 — 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
- Do not hold it against a lawyer or a party that a lawyer has made an objection, because lawyers have a duty to object to testimony or other evidence that they believe is not properly admissible

No. 13 — BENCH CONFERENCES

During the trial it may be necessary for me to talk with the lawyers out of your hearing.

- I may hold a bench conference while you are in the courtroom or call a recess
- These conferences are to decide how certain evidence is to be treated, to avoid confusion and error, and to save your valuable time, so please be patient
- We will do our best to keep such conferences short and infrequent

No. 14 — NOTE-TAKING

You are allowed to take notes during the trial if you want to.

- Be sure that your note-taking does not interfere with listening to and considering all the evidence
- Your notes are not necessarily more reliable than your memory or another juror's notes or memory
- Do not discuss your notes with anyone before you begin your deliberations
- Leave your notes on your chair during recesses and at the end of the day
- At the end of trial, you may take your notes with you or leave them to be destroyed
- No one else will ever be allowed to read your notes, unless you let them

If you choose not to take notes, remember that it is your own individual responsibility to listen carefully to the evidence.

An official court reporter is making a record of the trial, but her transcripts will not be available for your use during your deliberations.

No. 15 — CONDUCT OF JURORS DURING TRIAL

You must decide this case *solely* on the evidence and your own observations, experiences, reason, common sense, and the law in these Instructions. You must also keep to yourself any information that you learn in court until it is time to discuss this case with your fellow jurors during deliberations.

To ensure fairness, you must obey the following rules:

- Do not talk among yourselves about this case, or about anyone involved with it, until you go to the jury room to decide on your verdict.
- Do not talk with anyone else about this case, or about anyone involved with it, until the trial is over.
- When you are outside the courtroom, do not let anyone ask you about or tell you anything about this case, anyone involved with it, any news story, rumor, or gossip about it, until the trial is over. If someone should try to talk to you about this case during the trial, please report it to me.
- During the trial, you should not talk to any of the parties, lawyers, or witnesses—even to pass the time of day—so that there is no reason to be suspicious about your fairness. The lawyers, parties, and witnesses are not supposed to talk to you, either.

- You may need to tell your family, friends, teachers, co-workers, or employer about your participation in this trial, so that you can tell them when you must be in court and warn them not to ask you or talk to you about the case. However, do not provide any information to anyone by any means about this case until after I have accepted your verdict. That means do not talk face-to-face or use any electronic device or media, such as the telephone, a cell or smart phone, a Blackberry, a PDA, a computer, the Internet, any Internet service, any text or instant messaging service, any Internet chat room, any blog, or any website such as Facebook, MySpace, YouTube, or Twitter, to communicate to anyone any information about this case until I accept your verdict.
- Do not do any research—on the Internet, in libraries, in the newspapers, in dictionaries or other reference books, or in any other way—or make any investigation about this case, the law, or the people involved on your own.
- Do not visit or view any place discussed in this case and do not use Internet maps or Google Earth or any other program or device to search for or to view any place discussed in the testimony.
- Do not read any news stories or articles, in print, on the Internet, or in any “blog,” about this case, or about anyone involved with it, or listen to any radio or television reports about it or about anyone involved with it, or let anyone tell you anything about any such news reports. I assure you that when you have heard all the evidence, you

will know more about this case than anyone will learn through the news media—and it will be more accurate.

- Do not make up your mind during the trial about what the verdict should be. Keep an open mind until you have had a chance to discuss the evidence with other jurors during deliberations.
- Do not decide the case based on “implicit biases.” As we discussed during jury selection, everyone, including me, has feelings, assumptions, perceptions, fears, and stereotypes, that is, “implicit biases,” that we may not be aware of. These hidden thoughts can impact what we see and hear, how we remember what we see and hear, and how we make important decisions. Because you are making very important decisions in this case, I strongly encourage you to evaluate the evidence carefully and to resist jumping to conclusions based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your individual evaluation of that evidence, your reason and common sense, and these instructions. Our system of justice is counting on you to render a fair decision based on the evidence, not on biases.
- If, at any time during the trial, you have a problem that 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 (CSO),

who will give it to me. I want you to be comfortable, so please do not hesitate to tell us about any problem.

I will read the remaining two Instructions at the end of the evidence.

No. 16 — DUTY TO DELIBERATE

A verdict must represent the careful and impartial judgment of each of you. However, before you make that judgment, you must consult with one another and try to reach agreement, if you can do so consistent with your individual judgment.

- If you are convinced that the prosecution has not proved beyond a reasonable doubt that the defendant is guilty of a particular charge, say so
- If you are convinced that the prosecution has proved beyond a reasonable doubt that the defendant is guilty of a particular charge, say so
- Don't give up your honest beliefs just because others think differently or because you simply want to be finished with the case
- On the other hand, do not hesitate to re-examine your own views and to change your opinions, if you are convinced that they are wrong
- You can only reach a unanimous verdict if you discuss your views openly and frankly, with proper regard for the opinions of others, and with a willingness to re-examine your own views
- Remember that you are not advocates, but judges of the facts, so your sole interest is to seek the truth from the evidence
- The question is never who wins or loses the case, because society always wins, whatever your verdict, when you return a just verdict

based solely on the evidence, reason, your common sense, and these instructions

- You must consider all of the evidence bearing on each question before you
- Take all the time that you feel is necessary
- Remember that this case is important to the parties and to the fair administration of justice, so do not be in a hurry to reach a verdict just to be finished with the case

No. 17 — DUTY DURING DELIBERATIONS

You must follow certain rules while conducting your deliberations and returning your verdict:

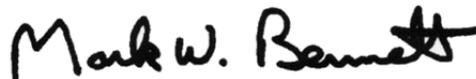
- Select a foreperson to preside over your discussions and to speak for you here in court.
- Do not consider punishment in any way in deciding whether the defendant is not guilty or guilty. If the defendant is guilty of one or more of the charges, I will decide what her sentence should be.
- Communicate with me by sending me a note through a Court Security Officer (CSO). The note must be signed by one or more of you. Remember that you should not tell anyone, including me, how your votes stand. I will respond as soon as possible, either in writing or orally in open court.
- Base your verdict solely on the evidence, reason, your common sense, and these instructions. Again, nothing I have said or done was intended to suggest what your verdict should be—that is entirely for you to decide.
- Reach your verdict without discrimination. In reaching your verdict, you must not consider the defendant's race, color, religious beliefs, national origin, or sex. You are not to return a verdict for or against the defendant unless you would return the same verdict without regard to his race, color, religious beliefs, national origin, or sex.

To emphasize the importance of this requirement, the verdict form contains a certification statement. Each of you should carefully read that statement, then sign your name in the appropriate place in the signature block, if the statement accurately reflects how you reached your verdict.

- Complete the Verdict Form. The foreperson must bring the signed Verdict Form to the courtroom when it is time to announce your verdict.
- When you have reached a verdict, the foreperson will advise the CSO that you are ready to return to the courtroom.

Good luck with your deliberations.

DATED this 17th day of June, 2013.



MARK W. BENNETT
U.S. DISTRICT COURT JUDGE
NORTHERN DISTRICT OF IOWA

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

PAIGE MATHISON,

Defendant.

No. CR 12-4083-MWB

VERDICT FORM

As to defendant Paige Mathison, we, the Jury, find as follows:

COUNT 1: CONSPIRACY TO COMMIT A ROBBERY INTERFERING WITH COMMERCE	
Step 1: Elements of the Offense	On the offense of “conspiracy to commit a robbery interfering with commerce,” as charged in Count 1 of the Indictment and explained in Instruction No. 5, has the prosecution proved all of the elements beyond a reasonable doubt? <i>(If you answer “yes,” go on to answer the remaining question in this part of the verdict form. If you answer “no,” do not answer the questions in Steps 2 and 3. Instead, enter a “not guilty” verdict in Step 4, then go on to consider your verdict on Count 2.)</i>
	<input type="checkbox"/> Yes <input type="checkbox"/> No
Step 2: “Overt Act(s)”	<i>If you answered “yes” in Step 1, please indicate which one or more “overt acts” you unanimously agree were committed by one or more co-conspirators. (When you have answered the questions in this step, please go on to consider your verdict on Count 2.)</i>
	<input type="checkbox"/> Before, on, or about July 13, 2012, David Johnson, Christopher Bailey, Joshua Fields, and Paige Mathison acquired a firearm
	<input type="checkbox"/> On or about July 13, 2012, David Johnson, Christopher Bailey, Joshua Fields, and Paige Mathison traveled—with the firearm—from a location within Sioux City, Iowa, to Sarg’s Mini Mart in Sioux City, Iowa
	<input type="checkbox"/> On or about July 13, 2012, David Johnson, Christopher Bailey, and Joshua Fields entered, surveilled, and left Sarg’s Mini Mart in Sioux City, Iowa
	<input type="checkbox"/> On or about July 13, 2012, David Johnson, Christopher Bailey, and Joshua Fields reentered Sarg’s Mini Mart in Sioux City, Iowa

	_____ On or about July 13, 2012, David Johnson, Christopher Bailey, and Joshua Fields demanded money from an employee of Sarg’s Mini Mart in Sioux City, Iowa	
	_____ On or about July 13, 2012, David Johnson, Christopher Bailey, Joshua Fields, and Paige Mathison removed money from Sarg’s Mini Mart in Sioux City, Iowa	
	_____ On or about July 13, 2012, David Johnson, Christopher Bailey, Joshua Fields, and Paige Mathison, traveled to a location within Sioux City, Iowa, after the robbery of Sarg’s in Sioux City, Iowa	
	_____ On or about July 23, 2012, David Johnson, Christopher Bailey, Joshua Fields, and Paige Mathison divided the stolen money in Sioux City, Iowa, after the robbery of Sarg’s Mini Mart	
Step 3: “Coercion” Defense	<i>If you answered “yes” in Step 1, please indicate whether or not the defendant has proved her “coercion” defense as to this offense, as the “coercion” defense is explained in Instruction No. 9.</i>	
	_____ Yes	_____ No
Step 4: Verdict	On the offense of “conspiracy to commit a robbery interfering with commerce,” as charged in Count 1 of the Indictment, please indicate your verdict. <i>(If you answered “no” in Step 1, or you answered “yes” in Step 3, then you must find the defendant “not guilty” of this offense. If you answered “yes” in Step 1 and you answered “no” in Step 3, then you must find the defendant “guilty” of this offense.)</i>	
	_____ Not Guilty	_____ Guilty
COUNT 2: AIDING AND ABETTING A ROBBERY INTERFERING WITH COMMERCE		
Step 1: Elements of the Offense	On the offense of “aiding and abetting a robbery interfering with commerce,” as charged in Count 2 of the Indictment and explained in Instruction No. 6, has the prosecution proved all of the elements beyond a reasonable doubt? <i>(If you answer “yes,” go on to answer the remaining questions in this part of the verdict form. If you answer “no,” do not answer the question in Step 2. Instead, enter a “not guilty” verdict in Step 3, then go on to consider your verdict on Count 3.)</i>	
	_____ Yes	_____ No
Step 2: “Coercion” Defense	<i>If you answered “yes” in Step 1, please indicate whether or not the defendant has proved her “coercion” defense as to this offense, as the “coercion” defense is explained in Instruction No. 9.</i>	
	_____ Yes	_____ No

Step 3: Verdict	On the offense of “aiding and abetting a robbery interfering with commerce,” as charged in Count 2 of the Indictment, please indicate your verdict. <i>(If you answered “no” in Step 1, or you answered “yes” in Step 2, then you must find the defendant “not guilty” of this offense. If you answered “yes” in Step 1 and you answered “no” in Step 2, then you must find the defendant “guilty” of this offense.)</i>	
	___ Not Guilty	___ Guilty
COUNT 3: POSSESSION OF A FIREARM IN FURTHERANCE OF A ROBBERY		
Step 1: Elements of the Offense	On the offense of “possession of a firearm in furtherance of a robbery,” as charged in Count 3 of the Indictment and explained in Instruction No. 7, has the prosecution proved beyond a reasonable doubt all of the elements of one or both alternatives? <i>(If you answer “yes,” go on to answer the remaining questions in this part of the verdict form. If you answer “no,” do not answer the questions in Steps 2, 3, or 4. Instead, enter a “not guilty” verdict in Step 5, then go on to consider your verdict on Count 4.)</i>	
	___ Yes	___ No
Step 2: “Alternatives”	<i>If you answered “yes” in Step 1, please indicate whether you unanimously find that the defendant “personally committed” the elements, “aided and abetted” the commission of the elements, or both. (When you have answered the question in this step, please go on to Step 3.)</i>	
	___ “Personally committing” the elements	
	___ “Aiding and abetting” the commission of the elements	
Step 3: “Brandishing”	<i>If you answered “yes” in Step 1, please indicate whether you unanimously find that the defendant “brandished” the firearm. (When you have answered the question in this step, please go on to Step 4.)</i>	
	___ Yes	___ No
Step 4: “Coercion” Defense	<i>If you answered “yes” in Step 1, please indicate whether or not the defendant has proved her “coercion” defense as to this offense, as the “coercion” defense is explained in Instruction No. 9.</i>	
	___ Yes	___ No

Step 5: Verdict	On the offense of “possession of a firearm in furtherance of a robbery,” as charged in Count 3 of the Indictment, please indicate your verdict. <i>(If you answered “no” in Step 1, or you answered “yes” in Step 4, then you must find the defendant “not guilty” of this offense. If you answered “yes” in Step 1 and you answered “no” in Step 4, then you must find the defendant “guilty” of this offense.)</i>	
	___ Not Guilty	___ Guilty
COUNT 4: POSSESSION OF AN UNREGISTERED FIREARM		
Step 1: Elements of the Offense	On the offense of “possession of an unregistered firearm,” as charged in Count 4 of the Indictment and explained in Instruction No. 8, has the prosecution proved beyond a reasonable doubt all of the elements of one or both alternatives? <i>(If you answer “yes,” go on to answer the remaining questions in this part of the verdict form. If you answer “no,” do not answer the questions in Steps 2 and 3. Instead, enter a “not guilty” verdict in Step 4, then notify the Court Security Officer (CSO) that you have reached a verdict.)</i>	
Step 2: “Alternatives”	<i>If you answered “yes” in Step 1, please indicate whether you unanimously find the defendant “personally committed” the elements, “aided and abetted” commission of the elements, or both. (When you have answered the question in this step, please go on to Step 3.)</i>	
	___ “Personally committing” the offense	
	___ “Aiding and abetting” the offense	
Step 3: “Coercion” Defense	<i>If you answered “yes” in Step 1, please indicate whether or not the defendant has proved her “coercion” defense as to this offense, as the “coercion” defense is explained in Instruction No. 9.</i>	
	___ Yes	___ No
Step 4: Verdict	On the offense of “possession of an unregistered firearm,” as charged in Count 4 of the Indictment, please indicate your verdict. <i>(If you answered “no” in Step 1, or you answered “yes” in Step 3, then you must find the defendant “not guilty” of this offense. If you answered “yes” in Step 1 and you answered “no” in Step 3, then you must find the defendant “guilty” of this offense.)</i>	
	___ Not Guilty	___ Guilty

CERTIFICATION

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant was not involved in reaching his or her individual decision, and that the individual juror would have returned the same verdict for or against the defendant on the charged offenses regardless of the race, color, religious beliefs, national origin, or sex of the defendant.

Date

_____ Foreperson	_____ Juror
_____ Juror	_____ Juror

