

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TREY MICHAEL BOYKIN,

Defendant.

No. 13-CR-4046-LRR

**FINAL JURY INSTRUCTIONS**

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Ladies and Gentlemen of the Jury:

The instructions I gave you at the beginning of the trial and during the trial remain in effect. I will now give you some additional instructions.

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. This is true even though some of those I gave you at the beginning of and during trial are not repeated here.

The instructions I am about to give you now are in writing and will be available to you in the jury room. I emphasize, however, that this does not mean they are more important than my earlier instructions. Again, all instructions, whenever given and whether in writing or not, must be followed.

## **INSTRUCTION NO. 1**

In considering these instructions, attach no importance or significance whatsoever to the order in which they are given.

## **INSTRUCTION NO. 2**

Neither in these instructions nor in any ruling, action or remark that I have made during this trial have I intended to give any opinion or suggestion as to what the facts are or what your verdicts should be.

### **INSTRUCTION NO. 3**

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 just verdicts, unaffected by anything except the evidence, your common sense and the law as I give it to you.

## INSTRUCTION NO. 4

I have mentioned the word “evidence.” The “evidence” in this case consists of the following: the testimony of the witnesses and 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 the lawyers are not evidence.
2. Anything that might have been said by jurors, the attorneys or the judge during the jury selection process is not evidence.
3. Objections are not evidence. The parties 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.
4. Testimony that I struck from the record, or told you to disregard, is not evidence and must not be considered.
5. Anything you saw or heard about this case outside the courtroom is not evidence.

During the trial, documents were referred to but they were not admitted into evidence and, therefore, they will not be available to you in the jury room during deliberations.

Finally, if you were instructed that some evidence was received for a limited purpose only, you must follow that instruction.

## **INSTRUCTION NO. 5**

There are two types of evidence from which a jury may properly find the truth as to the facts of a case: direct evidence and circumstantial evidence. Direct evidence is the evidence of the witnesses to a fact or facts of which they have knowledge by means of their senses. The other is circumstantial evidence—the proof of a chain of circumstances pointing to the existence or nonexistence of certain facts. 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. 6**

The government and the defendant have stipulated—that is, they have agreed—that certain facts are as counsel have stated. You must therefore treat those facts as having been proved.

## **INSTRUCTION NO. 7**

The jurors are the sole judges of the weight and credibility of the testimony and the value to be given to the testimony of each witness who has testified in this case. 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 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 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. 8**

You have heard evidence that a witness hopes to receive a reduced sentence on criminal charges pending against him in return for his cooperation with the government in this case. The witness entered into an agreement with the government which provides that, in return for his assistance, the government may recommend a less severe sentence which could be less than the mandatory minimum sentence for the crimes with which he is charged. The witness is subject to a mandatory minimum sentence, that is, a sentence that the law provides must be of a certain minimum length. If the prosecutor handling this witness's case believes he provided substantial assistance, that prosecutor can file a motion in the court in which the charges are pending against this witness to reduce his sentence below the statutory minimum. The judge has no power to reduce a sentence for substantial assistance unless the government, acting through the United States Attorney, files such a motion. If such a motion for reduction of sentence for substantial assistance is filed by the government, then it is up to the judge to decide whether to reduce the sentence at all, and if so, how much to reduce it.

You may give the testimony of this witness such weight as you think it deserves. Whether or not testimony of a witness may have been influenced by his hope of receiving a reduced sentence is for you to decide.

## **INSTRUCTION NO. 9**

You have heard that a witness pled guilty to crimes which arose out of the same events for which the defendant is on trial here. You must not consider that guilty plea as any evidence of this defendant's guilt. You may consider that witness's guilty plea only for the purpose of determining how much, if at all, to rely upon his testimony.

## **INSTRUCTION NO. 10**

In a previous instruction, I instructed you generally on the credibility of witnesses. I now give you this further instruction on how the credibility of a witness can be “impeached” and how you are to consider the testimony of certain witnesses.

A witness may be discredited or impeached by contradictory evidence; by showing that the witness testified falsely concerning a material matter; by showing the witness has a motive to be untruthful; or by evidence that at some other time the witness has said or done something, or has failed to say or do something, that is inconsistent with the witness’s present testimony.

## **INSTRUCTION NO. 11**

You have heard that a witness was once convicted of crimes. You may use that evidence only to help you decide whether to believe the witness and how much weight to give his testimony.

## **INSTRUCTION NO. 12**

Exhibits have been admitted into evidence and are to be considered along with all of the other evidence to assist you in reaching your verdicts. You are not to tamper with the exhibits or their contents, and you should leave the exhibits in the jury room in the same condition as they were received by you.

### **INSTRUCTION NO. 13**

A reasonable doubt is a 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. 14**

The Indictment in this case charges the defendant with four different crimes.

Under Count 1, the Indictment charges that, from about June 1, 2012 through February 25, 2013, in the Northern District of Iowa and elsewhere, the defendant knowingly conspired to distribute marijuana.

Under Count 2, the Indictment charges that, on or about February 25, 2013, in the Northern District of Iowa, the defendant willfully kidnapped Robert Wilson or aided and abetted the kidnapping of Robert Wilson, and used a means, facility, and instrumentality of interstate commerce in furtherance of the commission of the offense.

Under Count 3, the Indictment charges that the defendant possessed and aided and abetted the possession of a firearm—a High Standard, Model Double Nine, .22 caliber revolver bearing serial number 2020245—in furtherance of the kidnapping charge alleged under Count 2. Count 3 also charges that the defendant brandished and aided and abetted the brandishing of such firearm.

Under Count 6, the Indictment charges that the defendant knowingly possessed a firearm—a High Standard, Model Double Nine, .22 caliber revolver bearing serial number 2020245—while being an unlawful user of marijuana.

The defendant has pleaded not guilty to each of these charges.

As I told you at the beginning of the trial, an indictment is simply an accusation. It is not evidence of anything. To the contrary, the defendant is presumed to be innocent. Thus the defendant, even though charged, begins the trial with no evidence against him. The presumption of innocence alone is sufficient to find the defendant not guilty and can be overcome only if the government proves, beyond a reasonable doubt, each element of the crime charged.

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**INSTRUCTION NO. 14 (Cont'd)**

Keep in mind that each count charges a separate crime. You must consider each count separately, and return a separate verdict for each count.

There is no burden upon the defendant to prove that he is innocent. 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 verdicts.

## INSTRUCTION NO. 15

The crime of conspiracy to distribute marijuana, as charged in Count 1 of the Indictment, has three elements, which are:

*One*, between about June 1, 2012 through about February 25, 2013, in the Northern District of Iowa and elsewhere, two or more persons reached an agreement or came to an understanding to distribute marijuana;

*Two*, the defendant voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect; and

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

If the government proves all of these elements beyond a reasonable doubt, then you must find the defendant guilty of the crime of conspiracy to distribute marijuana as charged under Count 1. Otherwise, you must find the defendant not guilty of the crime of conspiracy to distribute marijuana as charged under Count 1.

## INSTRUCTION NO. 16

If your verdict under Count 1 is not guilty of the crime of conspiracy to distribute marijuana, or if, after all reasonable efforts, you are unable to reach a verdict, you must go on to consider whether the defendant is guilty of the crime of conspiracy to possess marijuana, a lesser included offense of the crime charged under Count 1. The crime of conspiracy to possess marijuana has three elements, which are:

*One*, between about June 1, 2012 through about February 25, 2013, in the Northern District of Iowa and elsewhere, two or more persons reached an agreement or came to an understanding to possess marijuana;

*Two*, the defendant voluntarily and intentionally joined in the agreement or understanding, either at the time it was first reached or at some later time while it was still in effect; and

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

If the government proves all of these elements beyond a reasonable doubt, then you must find the defendant guilty of the crime of conspiracy to possess marijuana under Count 1. Otherwise, you must find the defendant not guilty of the crime of conspiracy to possess marijuana under Count 1.

## **INSTRUCTION NO. 17**

In considering whether the government has met its burden of proving a conspiracy, you are further instructed as follows:

The government must prove, beyond a reasonable doubt, that the defendant reached an agreement or understanding with at least one other person. It makes no difference whether that person is a defendant or named in the Indictment as long as you find beyond a reasonable doubt that there was at least one other co-conspirator.

The “agreement or understanding” need not be an express or formal agreement or be in writing or cover all the details of how it is to be carried out. Nor is it necessary that the members have directly stated between themselves the details or purpose of the scheme.

You should understand that merely being present at the scene of an event, or merely acting in the same way as others or merely associating with others, does not prove that a person has joined in an agreement or understanding. A person who has no knowledge of a conspiracy but who happens to act in a way which advances some purpose of one does not thereby become a member.

But a person may join in an agreement or understanding, as required by this element, without knowing all the details of the agreement or understanding, and without knowing who all the other members are. Further, it is not necessary that a person agree to play any particular part in carrying out the agreement or understanding. A person may become a member of a conspiracy even if that person agrees to play only a minor part in the conspiracy, as long as that person has an understanding of the unlawful nature of the plan and voluntarily and intentionally joins in it.

**(CONTINUED)**

## **INSTRUCTION NO. 17 (Cont'd)**

You must decide, after considering all of the evidence, whether the conspiracy alleged in Count 1 of the Indictment existed. If you find that the alleged conspiracy did exist, you must also decide whether the defendant voluntarily and intentionally joined the conspiracy, either at the time it was first formed or at some later time while it was still in effect. In making that decision, you must consider only evidence of the defendant's own actions and statements. You may not consider actions and pretrial statements of others, except to the extent that pretrial statements of others describe something that had been said or done by the defendant.

It is not necessary for the government to prove that the conspirators actually succeeded in accomplishing their unlawful plan.

## INSTRUCTION NO. 18

To assist you in determining whether there was an agreement or understanding to distribute marijuana, you are instructed that the crime of distributing marijuana has two elements, which are:

*One*, a person intentionally transferred marijuana to another individual; and

*Two*, at the time of the transfer, the person knew that it was marijuana.

Keep in mind that Count 1 of the Indictment charges a conspiracy to distribute marijuana and does not require the government to prove that the crime of distributing marijuana was actually committed.

## **INSTRUCTION NO. 19**

The term “distribute” means to deliver a controlled substance to the possession of another person. The term “deliver” means the actual or attempted transfer of a controlled substance to the possession of another person. No consideration for the delivery need exist, and it is not necessary that money or anything of value changed hands. The law is directed at the act of “distribution” of a controlled substance and does not concern itself with any need for a “sale” to occur.

## INSTRUCTION NO. 20

To assist you in determining whether there was an agreement or understanding to possess marijuana, you are instructed that the crime of possessing marijuana has two elements, which are:

*One*, a person was in possession of marijuana; and

*Two*, the person knew that he or she was, or intended to be, in possession of marijuana.

Keep in mind that a conspiracy to possess marijuana does not require the government to prove that the crime of possessing marijuana was actually committed.

## **INSTRUCTION NO. 21**

If you have found beyond a reasonable doubt that the conspiracy charged in Count 1 of the Indictment existed and that the defendant was a member, 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 even though they were done or made in the absence of and without the knowledge of the defendant. This includes acts done or statements made before the defendant had joined the conspiracy, for a person who knowingly, voluntarily and intentionally joins an existing conspiracy is responsible for all of the conduct of the co-conspirators from the beginning of the conspiracy.

## INSTRUCTION NO. 22

The defendant may be found guilty of the offense charged in Count 2 of the Indictment under one of the following two alternatives: (1) the defendant kidnapped Robert Wilson; or (2) the defendant aided and abetted the kidnapping of Robert Wilson.

### *First Alternative:*

#### *Kidnapping*

The crime of kidnapping, as charged in Count 2 of the Indictment, has three elements, which are:

*One*, the defendant unlawfully seized, confined, inveigled, decoyed, kidnapped, abducted or carried away Robert Wilson without his consent;

*Two*, the defendant held Robert Wilson for ransom or reward or otherwise (*i.e.*, to threaten him, assault him, rob him and/or conceal the threat, assault and robbery); and

*Three*, the defendant used any means, facility or instrumentality of interstate or foreign commerce (*i.e.*, telephones, cellular phones, multimedia messaging service (MMS), short message service (SMS), iMessage and/or an automobile) in committing or in furtherance of the kidnapping.

If the government proves all of these elements beyond a reasonable doubt, then you must find the defendant guilty of personally committing the crime charged under Count 2. Otherwise, you must find the defendant not guilty of personally committing the crime charged under Count 2.

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**INSTRUCTION NO. 22 (Cont'd)**

***Second Alternative:***

***Aiding and Abetting Kidnapping***

The defendant may also be found guilty of kidnapping even if he personally did not do every act constituting the offense charged, if he aided and abetted the commission of kidnapping.

To have aided and abetted the commission of kidnapping the defendant must:

- (1) have known that kidnapping was being committed or going to be committed; and
- (2) have knowingly acted in some way for the purpose of causing, encouraging or aiding the commission of kidnapping.

For you to find the defendant guilty of kidnapping by reason of aiding and abetting as charged under Count 2 of the Indictment, the government must prove beyond a reasonable doubt that all of the elements of kidnapping were committed by some person or persons and that the defendant aided and abetted the commission of that crime. Otherwise, you must find the defendant not guilty of kidnapping by reason of aiding and abetting as charged under Count 2 of the Indictment.

### **INSTRUCTION NO. 23**

The term “inveigles” means to lure or entice or lead the person astray by false representations or promises or other deceitful means.

The term “decoy” means enticement or luring by means of some fraud, trick or temptation.

## INSTRUCTION NO. 24

The defendant may be found guilty of the offense charged in Count 3 of the Indictment under one of the following two alternatives: (1) the defendant possessed a firearm in furtherance of a crime of violence; or (2) the defendant aided and abetted the possession of a firearm in furtherance of a crime of violence.

### *First Alternative:*

#### *Possession of a Firearm in Furtherance of a Crime of Violence*

The crime of possessing a firearm in furtherance of a crime of violence as charged in Count 3 of the Indictment has two elements, which are:

*One*, the defendant personally committed the kidnapping offense or aided and abetted the kidnapping offense charged in Count 2 of the Indictment; and

*Two*, the defendant knowingly possessed a firearm in furtherance of the kidnapping.

If the government proves all of these elements beyond a reasonable doubt, then you must find the defendant guilty of personally committing the crime charged under Count 3. Otherwise, you must find the defendant not guilty of personally committing the crime charged under Count 3.

### *Second Alternative:*

#### *Aiding and Abetting the Possession of a Firearm in Furtherance of a Crime of Violence*

This defendant may also be found guilty of possessing a firearm in furtherance of a crime of violence even if he personally did not do every act constituting the offense charged, if he aided and abetted the commission of the offense.

(CONTINUED)

## INSTRUCTION NO. 24 (Cont'd)

To have aided and abetted the commission of possession of a firearm in furtherance of a crime of violence, the defendant must:

- (1) have known that a person possessed a firearm in furtherance of the kidnapping offense charged in Count 2;
- (2) have knowingly acted in some way for the purpose of causing, encouraging or aiding the commission of possessing a firearm in furtherance of the kidnapping; and
- (3) have known that the possession of the firearm would further the crime of kidnapping.

For you to find the defendant guilty of possession of a firearm in furtherance of a crime of violence by reason of aiding and abetting as charged under Count 3 of the Indictment, the government must prove beyond a reasonable doubt that all of the elements of possession of a firearm in furtherance of a crime of violence were committed by some person or persons and that the defendant aided and abetted the commission of that crime. Otherwise you must find the defendant not guilty of possession of a firearm in furtherance of a crime of violence by reason of aiding and abetting as charged under Count 3 of the Indictment.

The phrase “possessed in furtherance of” means the firearm must have some purpose or effect with respect to a kidnapping; its presence or involvement cannot be the result of accident or coincidence. The firearm must facilitate or have the potential to facilitate the kidnapping.

## INSTRUCTION NO. 25

If your verdict under Count 3 is guilty, you must go on to consider whether the government has proved beyond a reasonable doubt that the defendant brandished a firearm during the kidnapping. The defendant may be found to have brandished a firearm during the kidnapping under one of the following two alternatives: (1) the defendant brandished the firearm during the kidnapping; or (2) the defendant aided and abetted the brandishing of a firearm during the kidnapping.

### *First Alternative:*

#### *Brandishing*

The defendant brandished a firearm if he displayed all or part of the firearm, or otherwise made the presence of the firearm known to another person to intimidate that person, regardless of whether the firearm was directly visible to that person.

If the government proves these elements beyond a reasonable doubt, then you must find that the defendant personally brandished a firearm. Otherwise, you must find that the defendant did not personally brandish the firearm.

### *Second Alternative:*

#### *Aiding and Abetting Brandishing*

This defendant may be found to have brandished a firearm even if he personally did not do every act constituting brandishing, if he aided and abetted the brandishing of a firearm.

To have aided and abetted the brandishing of a firearm, the defendant must:

- (1) have known that someone was brandishing a firearm; and
- (2) have knowingly acted in some way for the purpose of causing, encouraging or aiding the commission of brandishing a firearm.

(CONTINUED)

**INSTRUCTION NO. 25 (Cont'd)**

For you to find that the defendant brandished a firearm by reason of aiding and abetting, the government must prove beyond a reasonable doubt that all of the elements of brandishing a firearm were committed by some person or persons and that the defendant aided and abetted such brandishing. Otherwise you must find that the defendant did not aid and abet the brandishing of a firearm.

## INSTRUCTION NO. 26

The crime of being a drug user in possession of a firearm, as charged in Count 6 of the Indictment, has three elements, which are:

*One*, the defendant was an unlawful user of a controlled substance, that is, marijuana;

*Two*, the defendant knowingly possessed a firearm, that is, a High Standard, Model Double Nine, .22 caliber revolver bearing serial number 2020245, while he was an unlawful user of a controlled substance; and

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

If the government proves all of these elements beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 6. Otherwise, you must find the defendant not guilty of the crime charged under Count 6.

## **INSTRUCTION NO. 27**

The phrase “unlawful user of a controlled substance” means a person who uses a controlled substance in a manner other than as prescribed by a licensed physician. The defendant must have been actively engaged in use of a controlled substance during the time he possessed the firearm, but the law does not require that he used the controlled substance at the precise time he possessed the firearm. Such use is not limited to the use of drugs on a particular day, or within a matter of days or weeks before, but rather that the unlawful use has occurred recently enough to indicate that the individual is actively engaged in such conduct. An inference that a person was a user of a controlled substance may be drawn from evidence of a pattern of use or possession of a controlled substance that reasonably covers the time the firearm was possessed.

## **INSTRUCTION NO. 28**

You should understand that merely being present at the scene of an event, or merely acting in the same way as others or merely associating with others, does not prove that a person has become an aider and abettor. A person who has no knowledge that a crime is being committed or about to be committed, but who happens to act in a way which advances some offense, does not thereby become an aider and abettor.

## **INSTRUCTION NO. 29**

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 knowingly 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.

### **INSTRUCTION NO. 30**

It is not necessary for the government to prove that the defendant knew that the firearm charged in the Indictment had traveled in interstate commerce, that he personally transported the firearm in interstate commerce or that he intended to violate a particular statute. Likewise, it is not necessary for the government to prove that the defendant knew that it was illegal to have the firearm in his possession within the meaning of the law. Nor is it necessary for the government to prove who owned the firearm at any time. The statutes speak in terms of possession, not ownership.

### **INSTRUCTION NO. 31**

The government is not required to prove that the defendant knew that his acts or omissions were unlawful. An act is done “knowingly” if a defendant is aware of the act and did not act through ignorance, mistake or accident. You may consider the evidence of the defendant’s acts and words, along with other evidence, in deciding whether the defendant acted knowingly.

## **INSTRUCTION NO. 32**

You will note that the Indictment charges that the offenses were committed “on or about” a certain date. The government need not prove with certainty the exact date or the exact time period of the offenses charged. It is sufficient if the evidence establishes that the offenses occurred within a reasonable time of the date or period of time alleged in the Indictment.

### **INSTRUCTION NO. 33**

You must make your decision based on what you recall of the evidence. You will not have a written transcript to consult, and the court reporter cannot read back lengthy testimony.

Throughout the trial, you have been permitted to take notes. Your notes should be used only as memory aids, and you should not give your notes precedence over your independent recollection of the evidence.

In any conflict between your notes, a fellow juror's notes and your memory, your memory must prevail. Remember that notes sometimes contain the mental impressions of the note taker and can be used only to help you recollect what the testimony was. At the conclusion of your deliberations, your notes should be left in the jury room for destruction.

## INSTRUCTION NO. 34

In conducting your deliberations and returning your verdicts, 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 an agreement if you can do so without violence to individual judgment, because each of your verdicts—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 your verdicts.

*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 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.

(CONTINUED)

**INSTRUCTION NO. 34 (Cont'd)**

*Fifth*, your verdicts must be based solely on the evidence and on the law which I have given to you in my instructions. Each verdict, whether guilty or not guilty, must be unanimous. Nothing I have said or done is intended to suggest what your verdicts should be—that is entirely for you to decide.

**INSTRUCTION NO. 35**

Attached to these instructions you will find the Verdict Forms and Interrogatory Form. These are simply the written notices of the decisions that you reach in this case. The answers to the Verdict Forms and Interrogatory Form must be the unanimous decisions of the Jury.

You will take the Verdict Forms and Interrogatory Form to the jury room, and when you have completed your deliberations and each of you has agreed to the answers to the Verdict Forms and Interrogatory Form, your foreperson will fill out the Verdict Forms and Interrogatory Form, sign and date them and advise the Court Security Officer that you are ready to return to the courtroom. Your foreperson should place the signed Verdict Forms and Interrogatory Form in the blue folder, which the court will provide you, and then your foreperson should bring the blue folder when returning to the courtroom.

Finally, members of the Jury, take this case and give it your most careful consideration, and then without fear or favor, prejudice or bias of any kind, return the Verdict Forms and Interrogatory Form in accord with the evidence and these instructions.

January 22, 2014  
Date

  
\_\_\_\_\_  
**Linda R. Reade, Chief Judge**  
**United States District Court**  
**Northern District of Iowa**