

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

OLUWASEYI ADEMOLA SADIPE,

Defendant.

No. CR 14-3065-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 Oluwaseyi Ademola Sadipe with several offenses arising from his alleged illegal use of a social security number that was not his and false claims of United States citizenship. An Indictment is simply an accusation—it is not evidence of anything. The defendant has pled not guilty to the crimes charged against him, and he is presumed absolutely not guilty of each offense charged, unless and until the prosecution proves his 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 against him 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 Oluwaseyi Ademola Sadipe, and not anyone else, is on trial. Also, the defendant is on trial *only* for the offenses charged against him in the Indictment, and not for anything else.

Remember that each count charges a separate crime. *You must consider each charge separately and return a separate, unanimous verdict on each charge.*

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 he 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 of each offense charged against him, unless the prosecution proves, beyond a reasonable doubt, all of the elements of that offense

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

- This burden never, ever shifts to the defendant to prove his 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 him, unless the prosecution proves

beyond a reasonable doubt that he 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 against the defendant for you to find him guilty of that offense.

Timing

The Indictment alleges an approximate date or an approximate time period 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 close to the date or reasonably within the time period alleged for that offense in the Indictment.

Location

You must decide whether the defendant’s conduct occurred in the Northern District of Iowa. Britt, Clear Lake, Waterloo, and Mason City are all in the Northern District of Iowa.

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: MISUSE OF A SOCIAL
SECURITY NUMBER**

Count 1 charges the defendant with “misuse of a social security number.” The defendant denies that that he committed this offense.

For you to find the defendant guilty of “misuse of a social security number,” the prosecution must prove beyond a reasonable doubt *all* of the following elements against him:

One, on or about December 17, 2013, in the Northern District of Iowa, the defendant represented that a social security number with the last four digits “6770” was assigned to him by the Commissioner of Social Security.

Two, that representation was false.

Three, the defendant made the representation with intent to deceive.

To act with “intent to deceive” means to act with intent

- to mislead a person, or
- to cause a person to believe something that is false

Four, the defendant used the social security number for the purpose of obtaining a checking account.

If the prosecution *does not* prove all of these elements beyond a reasonable doubt as to the “misuse of a social security number,” then you must find the defendant not guilty of that offense.

No. 6 — COUNT 2: IDENTITY THEFT

Count 2 of the Indictment charges the defendant with “identity theft.” The defendant denies that that he committed this offense.

For you to find the defendant guilty of “identity theft,” the prosecution must prove beyond a reasonable doubt *all* of the following elements against him:

***One*, on or about December 17, 2013, the defendant knowingly used a social security number with the last four digits “6770.”**

***Two*, the defendant knew that the social security number belonged to another actual person.**

***Three*, the defendant used or possessed the means of identification without lawful authority.**

“Without lawful authority” means that the defendant used the social security number

- without the knowledge or consent of the person to whom the social security number belonged, or
- with the knowledge or consent of the person to whom the social security number belonged, but in order to commit a crime

***Four*, the defendant used the social security number during and in relation to the “misuse of a social security number” offense charge in Count 1.**

“During and in relation to” means that the defendant’s use of the social security number

- was in furtherance of the “misuse of a social security number” offense charge in Count 1,

- was to some purpose or effect in committing that crime, and
- was not the result of accident or coincidence

The means of identification must have facilitated or must have had the potential to facilitate the “misuse of a social security number” offense charge in Count 1.

If the prosecution *does not* prove all of these elements beyond a reasonable doubt as to the “identity theft” offense, then you must find the defendant not guilty of that offense.

**No. 7 — COUNTS 3, 4, AND 5: MAKING A FALSE
CLAIM OF UNITED STATES CITIZENSHIP**

Counts 3, 4, and 5 charge the defendant with separate offenses of “making a false claim of United States citizenship.” These offenses are the following:

Count	Date	Manner	To Whom Made
3	December 3, 2013	Immigration Form I-9	Michael’s Foods, Inc., Britt, IA
4	March 20, 2014	Immigration Form I-9	Universal Protection Service, Waterloo, IA
5	June 9, 2014	Immigration Form I-9	O’Reilly Auto Parts, Mason City, IA

The defendant denies that that he committed these offenses.

For you to find the defendant guilty of a charged offense of “making a false claim of United States citizenship,” the prosecution must prove beyond a reasonable doubt *all* of the following elements against him as to that offense:

***One*, on or about the date alleged in the count in question, the defendant claimed to be a citizen of the United States.**

***Two*, at the time that he made the claim, he was not a citizen of the United States.**

***Three*, the defendant made the false claim knowingly, voluntarily, and intentionally.**

***Four*, the defendant made the false claim to someone with good reason to inquire about the defendant’s citizenship.**

If the prosecution *does not* prove all of these elements beyond a reasonable doubt as to a particular offense of “making a false claim of United States citizenship,” then you must find the defendant not guilty of that offense.

No. 8 — 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. 9 — 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:
 - Opportunity to have seen and heard what happened
 - Memory. Scientific research has established that human memory is not at all like video recordings that a witness can simply replay to remember precisely what happened. Memory is not an exact recording of past events and witnesses may misremember events and conversations. Scientific research has also established that when a witness has been exposed to statements, conversations, questions, writings, documents, photographs, media reports, and opinions of others, the accuracy of their memory may be affected and distorted. Scientific research has also established that a witness's memory, even if testified to in good faith, and with a high degree of confidence in their testimony, may be inaccurate, unreliable, and falsely remembered. Thus, human memory can be distorted, contaminated, changed, and events and conversations even falsely imagined. Scientific research has further established that distortion, contamination, and falsely imagined memories may happen at each of the three stages of memory: acquisition (perception of event); storage (period of time

between acquisition and retrieval); and retrieval (recalling stored information).

- Demeanor. Scientific research has established there is not necessarily a relationship between how confident witnesses are about their testimony and the accuracy of the testimony. Thus, less confident witnesses may be more accurate than confident witnesses. Scientific research has also established that common cultural cues like shifty eyes, shifty body language, the failure to look one in the eye, grimaces, stammering speech, and other mannerisms are not necessarily correlated to witness deception or false or inaccurate testimony.
- Motives for testifying
- Interest in the outcome of the case
- 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

If the defendant testifies,

- you should judge his 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 may hear testimony that the defendant made statements to law enforcement officers. It is for you to decide

- whether the defendant made the statements, and
- if so, how much weight you should give them.

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

Remember, it is your exclusive right to give any witness's testimony whatever weight you think it deserves.

No. 10 — 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. 11 — 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. 12 — 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. 13 — 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. 14 — 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. 15 — DUTY DURING DELIBERATIONS

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

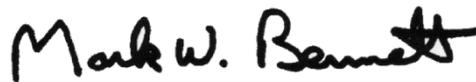
- Select a foreperson to preside over your discussions and to speak for you here in court.
- Do not consider punishment in any way in deciding whether the defendant is not guilty or guilty. If the defendant is guilty of one or more of the charges, I will decide what his sentence should be.
- Communicate 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, 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, 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 9th day of February, 2015.



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

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

OLUWASEYI ADEMOLA SADIPE,

Defendant.

No. CR 14-3065-MWB

VERDICT FORM

As to defendant Oluwaseyi Ademola Sadipe, we, the Jury, find as follows:

COUNT 1: "MISUSE OF A SOCIAL SECURITY NUMBER"	
On the offense of "misusing a social security number" on or about December 17, 2013, as charged in Count 1 of the Indictment, and explained in Instruction No. 5, please indicate your verdict.	
___ Not Guilty	___ Guilty
COUNT 2: "IDENTITY THEFT"	
On the offense of "identity theft" on or about December 17, 2013, as charged in Count 2 of the Indictment, and explained in Instruction No. 6, please indicate your verdict.	
___ Not Guilty	___ Guilty
COUNT 3: "MAKING A FALSE CLAIM OF UNITED STATES CITIZENSHIP"	
On the offense of "making a false claim of United States citizenship" on or about December 3, 2013, as charged in Count 3 of the Indictment, and explained in Instruction No. 7, please indicate your verdict.	
___ Not Guilty	___ Guilty

COUNT 4: "MAKING A FALSE CLAIM OF UNITED STATES CITIZENSHIP"

On the offense of "making a false claim of United States citizenship" on or about March 20, 2014, as charged in **Count 4** of the Indictment, and explained in Instruction No. 7, please indicate your verdict.

___ Not Guilty

___ Guilty

COUNT 5: "MAKING A FALSE CLAIM OF UNITED STATES CITIZENSHIP"

On the offense of "making a false claim of United States citizenship" on or about June 9, 2014, as charged in **Count 5** of the Indictment, and explained in Instruction No. 7, please indicate your verdict.

___ Not Guilty

___ Guilty

CERTIFICATION

By signing below, each juror certifies that consideration of the race, color, religious beliefs, 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, or sex of the defendant.

Date

Foreperson

Juror

Juror