

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CAREY BLANCHARD,

Defendant.

No. CR 04-0078 LRR

FINAL JURY INSTRUCTIONS

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 NUMBER _____

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

INSTRUCTION NUMBER _____

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 verdict should be.

INSTRUCTION NUMBER _____

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

INSTRUCTION NUMBER _____

I have mentioned the word “evidence.” The “evidence” in this case consists of the following: the testimony of the witnesses, the documents and other things received as exhibits, and stipulations, that is, agreements between the parties that certain facts are as they have stated.

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. 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.

3. Testimony that I struck from the record, or told you to disregard, is not evidence and must not be considered.

4. Anything you saw or heard about this case outside the courtroom is not evidence.

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

INSTRUCTION NUMBER _____

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 witness 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 NUMBER _____

The jurors are the sole judges of the weight and credibility of the testimony and the value to be given to each witness, including defendant, 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' intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness' memory, the witness' use of controlled substances during the events testified to, 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 or not 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 NUMBER _____

In the 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 a 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’ present testimony.

If earlier statements of a witness were admitted into evidence, they were not admitted to prove that the contents of those statements were true. Instead, you may consider those earlier statements only to determine whether you think they are consistent or inconsistent with the trial testimony of the witness, and therefore whether they affect the credibility of that witness.

INSTRUCTION NUMBER _____

You have heard testimony from persons described as experts. Persons who, by knowledge, skill, training, education or experience, have become expert in some field may state their opinions on matters in that field and may also state the reasons for their opinion.

Expert testimony should be considered just like any other testimony. You may accept or reject it, and give it as much weight as you think it deserves, considering the witness's education and experience, the soundness of the reasons given for the opinion, the acceptability of the methods used, and all the other evidence in the case.

INSTRUCTION NUMBER _____

You have heard testimony that the defendant made statements to various people prior to trial. It is for you to decide:

First, whether she made the statements, and

Second, if so, how much weight you should give to them.

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

INSTRUCTION NUMBER _____

You have heard audio recordings of conversations. These conversations were legally recorded, and you may consider the recordings just like any other evidence.

The recordings were accompanied by typed transcripts. The transcripts also undertook to identify the speakers engaged in the conversation. You were permitted to view the transcripts for the limited purpose of helping you follow the conversations as you listened to the audio recordings, and also to help you keep track of the speakers. The transcripts, however, are not evidence. An audio recording itself is the primary evidence of its own contents.

You are specifically instructed that whether a transcript correctly or incorrectly reflects the conversation is entirely for you to decide based upon what you have heard here about the preparation of the transcript and upon your own examination of the transcript in relation to what you heard on the recordings. If you decide that a transcript is in any respect incorrect or unreliable, you should disregard it to that extent.

Differences in meaning between what you heard in the recordings and read in the transcripts may be caused by such things as the inflection of the speaker's voice. You should, therefore, rely on what you heard rather than what you read when there is a difference.

INSTRUCTION NUMBER _____

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 NUMBER _____

Exhibits have been admitted into evidence and are to be considered along with all the other evidence to assist you in reaching a verdict. You are not to tamper with the exhibits or their contents, and each exhibit should be returned into open court, along with your verdict, in the same condition as it was received by you.

INSTRUCTION NUMBER _____

A reasonable doubt is a doubt based upon reason and common sense, and not the mere possibility of innocence. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NUMBER _____

The Indictment in this case consists of three charged offenses.

Under Count 1, the Indictment charges that on or about February 10, 2004, the defendant knowingly and intentionally manufactured, attempted to manufacture and aided and abetted the attempted manufacture of a mixture or substance containing 50 grams or more of actual (pure) methamphetamine, a Schedule II controlled substance.

Under Count 3, the Indictment charges that on or about February 10, 2004, the defendant created a substantial risk of harm to human life while knowingly and intentionally manufacturing, attempting to manufacture and aiding and abetting the attempted manufacture of a mixture or substance containing methamphetamine, a schedule II controlled substance.

Under Count 4, the Indictment charges that on or about March 24, 2003, the defendant knowingly received and possessed and aided and abetted the receipt and possession of a sawed-off shotgun, that is, a weapon made from 22/20 gauge over/under, Model 24 S-E Savage shotgun, with no serial number, which had a barrel length of less than 18 inches and an overall length of less than 26 inches, and which was not registered to the defendant or Shannon Lochner in the National Firearms Registration and Transfer Record.

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

(CONTINUED)

INSTRUCTION NUMBER _____ (Cont'd.)

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 her. 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 essential element of the crimes charged.

You must consider, separately, each crime charged against the defendant, and must return a separate verdict for each of those crimes charged.

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

INSTRUCTION NUMBER _____

Count 1 of the Indictment charges that on or about February 10, 2004, the defendant knowingly and intentionally manufactured, attempted to manufacture and aided and abetted the attempted manufacture of a mixture or substance containing 50 grams or more of actual (pure) methamphetamine, a Schedule II controlled substance. The defendant may be found guilty of this “manufacturing” offense under one or more of the following three alternatives: (1) personally committing the offense as to 50 grams or more of actual (pure) methamphetamine; (2) personally attempting to commit the offense as to 50 grams or more of actual (pure) methamphetamine; or (3) aiding and abetting the attempted offense as to 50 grams or more of actual (pure) methamphetamine.

First Alternative:

Personally Manufacturing 50 Grams or More of Actual (Pure) Methamphetamine

The crime of manufacturing methamphetamine, as charged in Count 1 of the Indictment, has three essential elements, which are:

One, on or about February 10, 2004, the defendant manufactured actual (pure) methamphetamine;

Two, the defendant knew that she was, or intended to be, manufacturing a controlled substance; and

Three, the amount involved in the offense was a mixture or substance containing 50 grams or more of actual (pure) methamphetamine.

If all of the essential elements have been proved beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 1 under this “personal commission” alternative; otherwise you must find the defendant not guilty of personally manufacturing methamphetamine.

(CONTINUED)

INSTRUCTION NUMBER ____ (Cont'd.)

*Second Alternative:
Personally Attempting to Manufacture 50 Grams or More of Actual (Pure)
Methamphetamine*

The defendant may be found guilty of manufacturing methamphetamine, even if she attempts, but does not succeed, in manufacturing methamphetamine. For you to find the defendant guilty of manufacturing methamphetamine under this “attempt” alternative, the government must prove each of the following essential elements beyond a reasonable doubt:

- One,* on or about February 10, 2004, the defendant intended to manufacture a controlled substance;
- Two,* the defendant knew that the material she intended to manufacture was a controlled substance, i.e., methamphetamine;
- Three,* the defendant voluntarily and intentionally carried out some act that was a substantial step toward manufacturing methamphetamine; and
- Four,* the amount involved in the offense was a mixture or substance containing 50 grams or more of actual (pure) methamphetamine.

If all of these essential elements have been proved beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 1 under this “attempt” alternative; otherwise you must find the defendant not guilty of attempting to manufacture methamphetamine.

(CONTINUED)

INSTRUCTION NUMBER ____ (Cont'd.)

*Third Alternative:
Aiding and Abetting the Attempted Manufacture of 50 Grams or More of Actual
(Pure) Methamphetamine*

A person may be found guilty of manufacturing methamphetamine even if she personally did not do every act constituting the offense charged, if she aided and abetted the attempted manufacture of methamphetamine.

In order to have aided and abetted the attempted manufacture of methamphetamine a person must:

- (1) have known the attempted manufacture of methamphetamine was being committed or going to be committed;
- (2) have knowingly acted in some way for the purpose of causing, encouraging or aiding the commission of the attempted manufacture of methamphetamine;
- (3) have intended for the attempted manufacture of methamphetamine to occur; and
- (4) the amount involved in the offense was a mixture or substance containing 50 grams or more of actual (pure) methamphetamine.

For you to find the defendant guilty of attempting to manufacture methamphetamine by reason of aiding and abetting, the Government must prove beyond a reasonable doubt that all of the essential elements of attempting to manufacture methamphetamine were committed by some person or persons and that the defendant aided and abetted the commission of that crime.

(CONTINUED)

INSTRUCTION NUMBER ____ (Cont'd.)

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.

If all of these essential elements have been proved beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 1 under this “aiding and abetting” alternative; otherwise you must find the defendant not guilty of aiding and abetting the attempted manufacture of methamphetamine.

INSTRUCTION NUMBER ____

If your verdict under Instruction No. ____ as to the defendant is not guilty, or if, after all reasonable efforts, you are unable to reach a verdict as to the defendant on Instruction No. ____, follow the directions on the verdict form and go on to consider whether that defendant is guilty of the crime of manufacturing, attempting to manufacture, or aiding and abetting the attempted manufacture of some amount of actual (pure) methamphetamine.

The defendant may be found guilty of this lesser included offense under one or more of the following six alternatives: (1) personally committing the offense as to at least 5 grams but less than 50 grams of actual (pure) methamphetamine; (2) personally attempting to commit the offense as to at least 5 grams but less than 50 grams of actual (pure) methamphetamine; (3) aiding and abetting the attempted offense as to at least 5 grams but less than 50 grams of actual (pure) methamphetamine; (4) personally committing the offense as to less than 5 grams of actual (pure) methamphetamine; (5) personally attempting to commit the offense as to less than 5 grams of actual (pure) methamphetamine; (6) aiding and abetting the attempted offense as to less than 5 grams of actual (pure) methamphetamine.

First Alternative:

***Personally Manufacturing At Least 5 Grams But Less than 50 Grams of Actual
(Pure) Methamphetamine***

The crime of manufacturing methamphetamine, as charged in this lesser included offense of Count 1 of the Indictment, has three essential elements, which are:

(CONTINUED)

INSTRUCTION NUMBER ____ (Cont'd.)

One, on or about February 10, 2004, the defendant manufactured actual (pure) methamphetamine;

Two, the defendant knew that she was, or intended to be, manufacturing a controlled substance; and

Three, the amount involved in the offense was a mixture or substance containing at least 5 grams but less than 50 grams of actual (pure) methamphetamine.

If all of the essential elements of this lesser included offense have been proved beyond a reasonable doubt, then you must find the defendant guilty of the lesser included offense charged under Count 1 under this “personal commission” alternative; otherwise you must find the defendant not guilty of personally manufacturing methamphetamine.

Second Alternative:

Personally Attempting to Manufacture At Least 5 Grams but Less than 50 Grams of Actual (Pure) Methamphetamine

The defendant may be found guilty of manufacturing methamphetamine, even if she attempts, but does not succeed, in manufacturing methamphetamine. For you to find the defendant guilty of manufacturing methamphetamine under this “attempt” alternative, the government must prove each of the following essential elements beyond a reasonable doubt:

One, on or about February 10, 2004, the defendant intended to manufacture a controlled substance;

Two, the defendant knew that the material she intended to manufacture was a controlled substance, i.e., methamphetamine;

(CONTINUED)

INSTRUCTION NUMBER ____ (Cont'd.)

Three, the defendant voluntarily and intentionally carried out some act that was a substantial step toward manufacturing methamphetamine; and

Four, the amount involved in the offense was a mixture or substance containing at least 5 grams but less than 50 grams of actual (pure) methamphetamine.

If all of these essential elements of this lesser included offense have been proved beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 1 under this “attempt” alternative; otherwise you must find the defendant not guilty of attempting to manufacture methamphetamine.

Third Alternative:

Aiding and Abetting the Attempted Manufacture of At Least 5 Grams but Less than 50 Grams of Actual (Pure) Methamphetamine

A person may be found guilty of manufacturing methamphetamine even if she personally did not do every act constituting the offense charged, if she aided and abetted the attempted manufacture of methamphetamine.

In order to have aided and abetted the attempted manufacture of methamphetamine a person must:

- (1) have known the attempted manufacture of methamphetamine was being committed or going to be committed;
- (2) have knowingly acted in some way for the purpose of causing, encouraging or aiding the commission of the attempted manufacture of methamphetamine;
- (3) have intended for the attempted manufacture of methamphetamine to occur; and
- (4) the amount involved in the offense was a mixture or substance containing at least 5 grams but less than 50 grams of actual (pure) methamphetamine.

(CONTINUED)

INSTRUCTION NUMBER ____ (Cont'd.)

For you to find the defendant guilty of attempting to manufacture methamphetamine by reason of aiding and abetting, the Government must prove beyond a reasonable doubt that all of the essential elements of attempting to manufacture methamphetamine were committed by some person or persons and that the defendant aided and abetted the commission of that crime.

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.

If all of these essential elements of this lesser included offense have been proved beyond a reasonable doubt, then you must find the defendant guilty of the lesser included offense charged under Count 1 under this “aiding and abetting” alternative; otherwise you must find the defendant not guilty of aiding and abetting the attempted manufacture of methamphetamine.

Fourth Alternative:

Personally Manufacturing Less than 5 Grams of Actual (Pure) Methamphetamine

The crime of manufacturing methamphetamine, as charged in this lesser included offense of Count 1 of the Indictment, has three essential elements, which are:

- One*, on or about February 10, 2004, the defendant manufactured actual (pure) methamphetamine;
- Two*, the defendant knew that she was, or intended to be, manufacturing a controlled substance; and

(CONTINUED)

INSTRUCTION NUMBER ____ (Cont'd.)

Three, the amount involved in the offense was a mixture or substance containing less than 5 grams of actual (pure) methamphetamine.

If all of the essential elements of this lesser included offense have been proved beyond a reasonable doubt, then you must find the defendant guilty of the lesser included offense charged under Count 1 under this “personal commission” alternative; otherwise you must find the defendant not guilty of personally manufacturing methamphetamine.

***Fifth Alternative:
Personally Attempting to Manufacture Less than 5 Grams of Actual (Pure)
Methamphetamine***

The defendant may be found guilty of manufacturing methamphetamine, even if she attempts, but does not succeed, in manufacturing methamphetamine. For you to find the defendant guilty of manufacturing methamphetamine under this “attempt” alternative, the government must prove each of the following essential elements beyond a reasonable doubt:

- One*, on or about February 10, 2004, the defendant intended to manufacture a controlled substance;
- Two*, the defendant knew that the material she intended to manufacture was a controlled substance, i.e., methamphetamine;
- Three*, the defendant voluntarily and intentionally carried out some act that was a substantial step toward manufacturing methamphetamine; and
- Four*, the amount involved in the offense was a mixture or substance containing less than 5 grams of actual (pure) methamphetamine.

(CONTINUED)

INSTRUCTION NUMBER ____ (Cont'd.)

If all of these essential elements of this lesser included offense have been proved beyond a reasonable doubt, then you must find the defendant guilty of the lesser included offense charged under Count 1 under this “attempt” alternative; otherwise you must find the defendant not guilty of attempting to manufacture methamphetamine.

***Sixth Alternative:
Aiding and Abetting the Attempted Manufacture of Less than 5 Grams of Actual
(Pure) Methamphetamine***

A person may be found guilty of manufacturing methamphetamine even if she personally did not do every act constituting the offense charged, if she aided and abetted the attempted manufacture of methamphetamine.

In order to have aided and abetted the attempted manufacture of methamphetamine a person must:

- (1) have known the attempted manufacture of methamphetamine was being committed or going to be committed;
- (2) have knowingly acted in some way for the purpose of causing, encouraging or aiding the commission of the attempted manufacture of methamphetamine;
- (3) have intended for the attempted manufacture of methamphetamine to occur; and
- (4) the amount involved in the offense was a mixture or substance containing less than 5 grams of actual (pure) methamphetamine.

For you to find the defendant guilty of attempting to manufacture methamphetamine by reason of aiding and abetting, the Government must prove beyond a reasonable doubt that all of the essential elements of attempting to manufacture methamphetamine were committed by some person or persons and that the defendant aided and abetted the commission of that crime.

(CONTINUED)

INSTRUCTION NUMBER ____ (Cont'd.)

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.

If all of these essential elements of this lesser included offense have been proved beyond a reasonable doubt, then you must find the defendant guilty of the lesser included offense charged under Count 1 under this “aiding and abetting” alternative; otherwise you must find the defendant not guilty of aiding and abetting the attempted manufacture of methamphetamine.

If you find the defendant guilty of one of the lesser included offenses, you will be asked to make a determination of the amount of actual (pure) methamphetamine you unanimously find the defendant manufactured, attempted to manufacture, or aided and abetted an attempt to manufacture.

INSTRUCTION NUMBER _____

The crime of creating a substantial risk of harm to human life while manufacturing, attempting to manufacture, or aiding and abetting the attempted manufacture of methamphetamine, as charged in Count 3 of the Indictment, has two essential elements, which are:

One, on or about February 10, 2004, the defendant knowingly and intentionally manufactured, attempted to manufacture, or aided and abetted the attempted manufacture of methamphetamine; and

Two, the defendant created a substantial risk of harm to human life while manufacturing, attempting to manufacture, or aiding and abetting the attempted manufacture of methamphetamine.

If both of these essential elements have been proved beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 3; otherwise you must find the defendant not guilty of the crime charged under Count 3.

INSTRUCTION NUMBER _____

Count 4 of the Indictment charges that on or about March 24, 2003, the defendant knowingly received or possessed and aided and abetted the receipt or possession of a sawed-off shotgun, that is, a weapon made from 22/20 gauge over/under, Model 24 S-E Savage shotgun, with no serial number, which had a barrel length of less than 18 inches and an overall length of less than 26 inches, and which was not registered to Shannon Lochner or Carey Blanchard in the National Firearms Registration and Transfer Record. The defendant may be found guilty of this offense under one or both of the following two alternatives: (1) personally receiving and possessing an unregistered firearm; or (2) aiding and abetting the receipt and possession of an unregistered firearm.

First Alternative:

Personally Receiving or Possessing an Unregistered Firearm

The crime of receiving or possessing and aiding and abetting the receipt or possession of an unregistered firearm, as charged in Count 4 of the Indictment, has four essential elements, which are:

- One*, on or about March 24, 2003, the defendant knowingly received or possessed a sawed-off shotgun, that is, a weapon made from 22/20 gauge over/under, Model 24 S-E Savage shotgun;
- Two*, the defendant knew the firearm was a shotgun having a barrel less than 18 inches in length and an overall length of less than 26 inches;
- Three*, the firearm was capable of operating as designated; and
- Four*, the firearm was not registered to the defendant in the National Firearms Registration and Transfer Record.

(CONTINUED)

INSTRUCTION NUMBER ____ (Cont'd.)

If all of these essential elements have been proved beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 4; otherwise you must find the defendant not guilty of the crime charged under Count 4.

Second Alternative:

Aiding and Abetting the Receipt or Possession of an Unregistered Firearm

A person may be found guilty of receiving or possessing an unregistered firearm, even if she personally did not do every act constituting the offense charged, if she aided and abetted the receipt or possession of an unregistered firearm.

In order to have aided and abetted the receipt or possession of an unregistered firearm, a person must:

- (1) have known the receipt or possession of a unregistered firearm was being committed or going to be committed;
- (2) have knowingly acted in some way for the purpose of causing, encouraging or aiding the commission of the receipt or possession of an unregistered firearm; and
- (3) have intended for the receipt or possession of an unregistered firearm to occur.

For you to find the defendant guilty of receiving or possessing an unregistered firearm by reason of aiding and abetting, the Government must prove beyond a reasonable doubt that all of the essential elements of receiving or possessing an unregistered firearm were committed by some person or persons and that the defendant aided and abetted the commission of that crime.

(CONTINUED)

INSTRUCTION NUMBER ____ (Cont'd.)

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.

If all of these essential elements have been proved beyond a reasonable doubt, then you must find the defendant guilty of the crime charged under Count 4 under this “aiding and abetting” alternative; otherwise you must find the defendant not guilty of aiding and abetting the receipt or possession of an unregistered firearm.

INSTRUCTION NUMBER _____

For your information, one gram contains 1,000 milligrams, one ounce equals 28.35 grams, one pound equals 453.6 grams, and one kilogram contains 1,000 grams.

INSTRUCTION NUMBER _____

You are instructed as a matter of law that methamphetamine is a Schedule II controlled substance. You must ascertain whether or not the substances in question were methamphetamine. In so doing, you may consider all the evidence in the case which may aid in the determination of those issues.

INSTRUCTION NUMBER _____

“Possession” is an element of the offense charged in Count 4, involving “possession” of a sawed-off shot gun. 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, knowingly 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.

Mere presence where a thing was found or mere physical proximity to the thing is insufficient to establish “possession” of that thing.

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 NUMBER _____

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

INSTRUCTION NUMBER_____

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

INSTRUCTION NUMBER _____

Intent may be proven by circumstantial evidence. It rarely can be established by other means. While witnesses may see or hear and thus be able to give direct evidence of what a person does or fails to do, there can be no eyewitness account of the state of mind with which the acts were done or omitted. But what the defendant does or fails to do may indicate intent or lack of intent to commit an offense.

You may consider it reasonable to draw the inference and find that a person intends the natural and probable consequences of acts knowingly done, but you are not required to do so. As I have said, it is entirely up to you to decide what facts to find from the evidence.

INSTRUCTION NUMBER _____

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 NUMBER _____

In conducting your deliberations and returning your verdict, 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 a verdict - 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 a verdict.

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.

(CONTINUED)

INSTRUCTION NUMBER _____ (Cont'd.)

Fourth, if you need to communicate with me during your deliberations, you may send a note to me through the marshal or 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.

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

INSTRUCTION NUMBER _____

Attached to these instructions you will find the Verdict Forms. The Verdict Forms are simply the written notice of the decisions that you reach in this case. The answers to the Verdict Forms must be the unanimous decision of the jury.

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

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

DATE

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

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CAREY BLANCHARD,

Defendant.

No. CR 04-0078 LRR

VERDICT FORM - COUNT 1

Part A. Manufacturing, Attempting to Manufacture, or Aiding and Abetting the Attempted Manufacture of 50 Grams or More of Actual (Pure) Methamphetamine

We, the Jury, find the defendant, Carey Blanchard, _____ of the crime
Guilty/Not Guilty
of manufacturing, attempting to manufacture, or aiding and abetting the attempted
manufacture of 50 grams or more of actual (pure) methamphetamine on or about
February 10, 2004, as charged in Count 1 of the Indictment.

FOREPERSON

DATE

(CONTINUED)

Note: If you unanimously find the defendant guilty of the above crime, have your foreperson write “guilty” in the above blank space, and sign and date this verdict form. Proceed to consider Count 3. Do not consider the following Verdict Forms regarding the lesser included offenses charged under Count 1.

If you unanimously find the defendant not guilty of the above charge, have your foreperson write “not guilty” in the above blank space, and sign and date this verdict form. You then must consider whether the defendant is guilty of the lesser included offense of manufacturing, attempting to manufacture, and aiding and abetting the attempted manufacture of at least 5 grams but less than 50 grams of methamphetamine on the following Verdict Form.

If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide whether the defendant is guilty of manufacturing, attempting to manufacture, and aiding and abetting the attempted manufacture of at least 5 grams but less than 50 grams of methamphetamine on the following Verdict Form.

(CONTINUED)

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CAREY BLANCHARD,

Defendant.

No. CR 04-0078 LRR

VERDICT FORM - COUNT 1

Part B. Lesser Included Offense -- Manufacturing, Attempting to Manufacture, or Aiding and Abetting the Attempted Manufacture of at Least 5 Grams but Less Than 50 Grams of Actual (Pure) Methamphetamine

We, the Jury, find the defendant, Carey Blanchard _____ of the crime
Guilty/Not Guilty
of manufacturing, attempting to manufacture, or aiding and abetting the attempted
manufacture of at least 5 grams but less than 50 grams of actual (pure) methamphetamine
on or about February 10, 2004, a lesser included offense of Count 1 of the Indictment.

FOREPERSON

DATE

(CONTINUED)

DRUG QUANTITY DETERMINATION

If you found the defendant guilty of the lesser included offense of manufacturing, attempting to manufacture, or aiding and abetting the attempted manufacture of at least 5 grams but less than 50 grams of actual (pure) methamphetamine, place a checkmark (✓) next to the quantity of the actual (pure) methamphetamine for which you unanimously find the defendant manufactured, attempted to manufacture, or aided and abetted an attempt to manufacture:

- _____ at least 35 grams but less than 50 grams of actual (pure) methamphetamine
- _____ at least 20 grams but less than 35 grams of actual (pure) methamphetamine
- _____ at least 5 grams but less than 20 grams of actual (pure) methamphetamine

FOREPERSON

DATE

Note: If you unanimously find the defendant guilty of the above crime, have your foreperson write “guilty” in the above blank space, make the Drug Quantity Determination, and sign and date this Verdict Form. Proceed to consider Count 3. Do not consider the following Verdict Form regarding the lesser included offense charged under Count 1.

If you unanimously find the defendant not guilty of the above charge, have your foreperson write “not guilty” in the above blank space, and sign and date this verdict form. You then must consider whether the defendant is guilty of the lesser included offense of manufacturing, attempting to manufacture, and aiding and abetting the attempted manufacture of less than 5 grams of methamphetamine on the following Verdict Form.

(CONTINUED)

If you are unable to reach a unanimous decision on the above charge, leave the space blank and decide whether the defendant is guilty of manufacturing, attempting to manufacture, and aiding and abetting the attempted manufacture of less than 5 grams of methamphetamine on the following Verdict Form.

(CONTINUED)

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CAREY BLANCHARD,

Defendant.

No. CR 04-0078 LRR

VERDICT FORM - COUNT 1

***Part C. Lesser Included Offense -- Manufacturing, Attempting To Manufacture, Or
Aiding And Abetting The Attempted Manufacture Of Less Than 5 Grams Of Actual
(Pure) Methamphetamine***

We, the Jury, find the defendant, Carey Blanchard, _____ of the crime
Guilty/Not Guilty
of manufacturing, attempting to manufacture, or aiding and abetting the attempted
manufacture of less than 5 grams of methamphetamine on or about February 10, 2004, a
lesser included offense of Count 1 of the Indictment.

FOREPERSON

DATE

(CONTINUED)

DRUG QUANTITY DETERMINATION

If you found the defendant guilty of the lesser included offense of manufacturing, attempting to manufacture, or aiding and abetting the attempted manufacture of less than 5 grams of actual (pure) methamphetamine, place a checkmark (✓) next to the quantity of the actual (pure) methamphetamine for which you unanimously find the defendant manufactured, attempted to manufacture, or aided and abetted an attempt to manufacture:

- _____ at least 4 grams but less than 5 grams of actual (pure) methamphetamine
- _____ at least 3 grams but less than 4 grams of actual (pure) methamphetamine
- _____ at least 2 grams but less than 3 grams of actual (pure) methamphetamine
- _____ at least 1 gram but less than 2 grams of actual (pure) methamphetamine
- _____ at least 500 milligrams but less than 1 gram of actual (pure) methamphetamine
- _____ at least 250 milligrams but less than 500 milligrams of actual (pure) methamphetamine
- _____ less than 250 milligrams of actual (pure) methamphetamine

FOREPERSON

DATE

Note: If you unanimously find the defendant guilty of the above crime, have your foreperson write “guilty” in the above blank space, make the Drug Quantity Determination, and sign and date this Verdict Form. If you unanimously find the defendant not guilty of the above crime, have your foreperson write “not guilty” in the above blank space, and sign and date this Verdict Form. Proceed to consider Count 3.

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CAREY BLANCHARD,

Defendant.

No. CR 04-0078 LRR

VERDICT FORM - COUNT 3

We, the Jury, find the defendant, Carey Blanchard, _____ of the crime
Guilty/Not Guilty
of creating a substantial risk of harm to human life while manufacturing, attempting to
manufacture, or aiding and abetting the attempted manufacture of methamphetamine on or
about February 10, 2004, as charged in Count 3 of the Indictment.

FOREPERSON

DATE

Note: If you unanimously find the defendant guilty of the above crime, have your foreperson write "guilty" in the above blank space and sign and date this Verdict Form. Proceed to consider Count 4.

If you unanimously find the defendant not guilty of the above crime, have your foreperson write "not guilty" in the above blank space and sign and date this Verdict Form. Proceed to consider Count 4.

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CAREY BLANCHARD,

Defendant.

No. CR 04-0078 LRR

VERDICT FORM - COUNT 4

We, the Jury, find the defendant, Carey Blanchard, _____ of the crime
Guilty/Not Guilty
of receiving or possessing or aiding and abetting the receipt or possession of an unregistered
firearm on or about March 24, 2003, as charged in Count 4 of the Indictment.

FOREPERSON

DATE

Note: If you unanimously find the defendant guilty of the above crime, have your foreperson write "guilty" in the above blank space and sign and date this Verdict Form.

If you unanimously find the defendant not guilty of the above crime, have your foreperson write "not guilty" in the above blank space and sign and date this Verdict Form.