

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRYAN KING,

Defendant.

No. CR15-87-LTS

**COURT’S INSTRUCTIONS
TO THE JURY**

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No. 1 — INTRODUCTION

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

In an Indictment, a Grand Jury has charged defendant Bryan King with three offenses involving “sexual exploitation of a child,” “distributing child pornography” and “receiving child pornography.” An Indictment is simply an accusation—it is not evidence of anything. The defendant has pled not guilty to each offense, and he is presumed absolutely not guilty of each offense, unless and until the prosecution proves his guilt beyond a reasonable doubt.

You must decide whether or not the prosecution has proved the defendant’s guilt 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, these instructions, and any additional oral or written instructions that I may give you. 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 Bryan King, and not anyone else, is on trial. Also, he is on trial *only* for the offenses charged in the Indictment, and not for anything else.

The defendant is entitled to have each charge against him considered separately, based solely on the evidence that applies to that offense. *Therefore, you must give separate consideration to each charge against the defendant 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
- remains with the defendant throughout the trial
- is enough, alone, for you to find the defendant not guilty of each offense charged against him

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
- means that the defendant does not have to call any witnesses, produce any evidence, cross-examine the prosecution's witnesses, or testify
- 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
- means that you must find the defendant not guilty of each offense charged, unless the prosecution proves beyond a reasonable doubt that he has committed each and every element of that offense

No. 3 — THEORY OF DEFENSE: DIMINISHED CAPACITY

One of the offenses charged against the defendant requires a showing that he had a specific intent or purpose. This offense is Count 1, which contains the alternatives of “alleged sexual exploitation of a child” and “alleged attempted sexual exploitation of a child.” When a defendant is charged with a crime that requires a showing of a certain specific intent or purpose, you must take all evidence into consideration and determine from the evidence if, at the time the crime was allegedly committed, the defendant was suffering from some abnormal mental or physical condition, however caused, that prevented him from forming the specific intent or purpose essential to constitute the crime.

The defendant may offer testimony to show that he could not, or in fact did not, have the specific intent or purpose essential to commit one of the crimes with which he is charged. The burden is on the government to show beyond a reasonable doubt that the defendant did form this specific intent or purpose needed. If the government fails to make that showing, then you may not convict the defendant of either alternative of this crime.

For the alternative of “sexual exploitation of a child,” as described in Instruction No. 7, one of the elements requires the government to prove a specific intent or purpose: Element 3.

For the alternative of “attempted sexual exploitation of a child,” as described in Instruction No. 8, two of the elements require the government to prove a specific intent or purpose: Element 2(a) and Element 3.

Thus, you should consider any testimony offered related to mental disorders or problems the defendant was suffering from at the time of the alleged offenses herein, which may be relevant as to whether he was suffering from a diminished mental capacity.

No. 4 — 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 also 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 without hesitation in the most important of your own affairs
- Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt

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

No. 5 — 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 an offense charged against the defendant for you to find him guilty of that offense.

Timing

The Indictment alleges an approximate time period or an approximate date for each offense.

- The prosecution does not have to prove that an offense occurred on an exact date
- It only has to prove that an offense occurred at a time that was reasonably close to or within the period or the date alleged for that offense in the Indictment

Knowingly

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

Location

You must decide whether the defendant's conduct occurred in the Northern District of Iowa. Linn County is in the Northern District of Iowa.

No. 6 — GLOSSARY OF CHILD PORNOGRAPHY TERMINOLOGY

In these Instructions, the following terms have these meanings:

- “Child pornography” means
 - any visual depiction of
 - a person under the age of 18 years
 - engaging in sexually explicit conduct
 - where the child was engaged in the sexually explicit conduct during production of the depiction

- “Visual depiction” includes
 - any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means
 - undeveloped film and videotape, and data stored on computer disk or by electronic means that is capable of conversion into a visual image

- “Sexually explicit conduct” means
 - actual or simulated sexual intercourse, including genital-genital, oral-genital, anal-genital, and oral-anal, whether between persons of the same or opposite sex
 - bestiality
 - masturbation
 - sadistic or masochistic abuse, or
 - lascivious exhibition of the genitals or pubic area of any person

- “Lascivious” means open and offensive sexual display

- Whether a visual depiction of the genitals or pubic area constitutes a lascivious exhibition requires a consideration of the overall content of the material, including the following factors:
 - whether the focal point of the picture is on the minor’s genitals or pubic area;
 - whether the setting of the picture is sexually suggestive, that is, in a place or pose generally associated with sexual activity;
 - whether the minor is depicted in an unnatural pose or in inappropriate attire, considering the age of the minor;
 - whether the minor is fully or partially clothed, or nude;
 - whether the picture suggests sexual coyness or a willingness to engage in sexual activity;
 - whether the picture is intended or designed to elicit a sexual response in the viewer;
 - whether the picture portrays the minor as a sexual object; and
 - the caption(s) on the picture(s)
- You must decide the weight or lack of weight to be given any of these factors
- A picture need not involve all of these factors to constitute a lascivious exhibition of the genitals or pubic area
- A visual depiction was “produced” if it was produced, directed, manufactured, issued, published, advertised, created, made, or in any other way brought into being by the involvement of an individual participating in the recording of the visual depiction.
- “Commerce” includes, among other things,
 - travel, trade, transportation and communication

- “Interstate commerce” means commerce between any combination of states, territories and possessions of the United States, including the District of Columbia
- “Foreign commerce” means commerce between any state, territory or possession of the United States and a foreign country
- Items have moved in “commerce” if they have crossed state or international borders by any means
 - Images transmitted or received over the Internet or an instant messaging service have moved in interstate or foreign commerce
 - The Internet, an instant messaging service and a cell phone are each a “means or facility of interstate or foreign commerce”
- You may, but are not required to, find that an item moved in interstate or foreign commerce, if you find both of the following:
 - the item was manufactured in a state other than Nebraska or another country, **and**
 - the person using the item possessed that item in Nebraska
- The prosecution does not have to prove that the defendant knew that the material in question had moved in interstate or foreign commerce

* * *

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

**No. 7 — COUNT 1 (First Alternative): ALLEGED SEXUAL
EXPLOITATION OF A CHILD**

Count 1 of the Indictment charges the defendant with “sexual exploitation of a child.” The defendant denies that he committed this offense.

The defendant can be found guilty of Count 1 under either of the following alternatives: (1) sexual exploitation of a child or (2) attempted sexual exploitation of a child. This instruction will describe the first alternative for Count 1.

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

One, in or about October 2014, S.D. was under the age of eighteen years.

For this element to be proved,

- the prosecution does not have to prove the defendant knew that S.D. was under the age of eighteen years
- the defendant’s lack of knowledge of S.D.’s age also is not a defense to this charge

Two, the defendant knowingly persuaded, induced or enticed S.D. to engage in sexually explicit conduct.

The defendant

- “persuaded” S.D. if he urged or entreated her to engage in sexually explicit conduct
- “induced” S.D. if he influenced or stimulated her to engage in sexually explicit conduct
- “enticed” S.D. if he attracted her by offering pleasure or advantage, that is, he tempted her, to engage in sexually explicit conduct

***Three*, the defendant acted for the purpose of producing one or more images depicting the child's sexually explicit conduct.**

***Four*, one or more of the following occurred:**

(a) the defendant caused one or more of the visual depictions of sexually explicit conduct to be produced using material that had been moved in interstate or foreign commerce.

The prosecution alleges that the material used to produce the visual depictions was a Kyocera cell phone. The Kyocera cell phone was manufactured outside of Nebraska and had moved in interstate or foreign commerce.

(b) the defendant knew or had reason to know that one or more of the visual depictions of sexually explicit conduct would be moved in interstate or foreign commerce or moved using a means or facility of interstate or foreign commerce.

The defendant knew a fact if he was aware of it. The defendant had reason to know a fact if he knew other facts or circumstances from which he could reasonably have concluded that the fact in question was true. It is seldom, if ever, possible to determine directly what was in the defendant's mind. Thus, the defendant's knowledge must be proved like anything else, from reasonable conclusions drawn from the evidence. The prosecution does not have to prove that the defendant knew that transporting the visual depictions in question in interstate or foreign commerce was unlawful.

(c) one or more of the visual depictions of sexually explicit conduct were actually moved in interstate or foreign commerce or moved using a means or facility of interstate or foreign commerce.

If you find beyond a reasonable doubt that a visual depiction in question was produced in a state other than Iowa and that the defendant received that visual depiction in the State of Iowa, then you may, but are not required to, find that the visual depiction moved in interstate or foreign commerce.

If the prosecution does not prove all of these elements beyond a reasonable doubt, then you must find the defendant not guilty of the “sexual exploitation of a child” alternative of **Count 1**.

**No. 8 — COUNT 1 (Second Alternative): ALLEGED
ATTEMPTED SEXUAL EXPLOITATION OF A CHILD**

This instruction will describe the second alternative for Count 1, which involves the alleged attempted sexual exploitation of a child.

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

One, in or about October 2014, the defendant believed S.D. was under the age of eighteen years.

Two, the defendant attempted to persuade, induce or entice S.D. to engage in sexually explicit conduct.

For this element to be proved, the prosecution must prove both of the following:

- (a) The defendant intended to persuade, induce or entice S.D. to engage in sexually explicit conduct.**
- (b) The defendant voluntarily and intentionally carried out some act that was a substantial step toward the sexual exploitation of a child.**

A “substantial step” must be something more than mere preparation, yet may be less than the last act necessary before the actual commission of the crime of sexual exploitation of a child. In order for behavior to be punishable as an attempt, it need not be incompatible with innocence, yet it must be necessary to the sexual exploitation of a child and be of such a nature that a reasonable observer viewing it in context could conclude beyond a reasonable

doubt that it was undertaken in accordance with a design to commit the crime of sexual exploitation of a child.

***Three*, the defendant acted for the purpose of producing one or more images depicting the child’s sexually explicit conduct.**

***Four*, one or more of the following occurred:**

(a) the Kyocera cell phone used to attempt to produce the visual depiction had been moved in interstate or foreign commerce.

(b) the defendant knew or had reason to know that, if his attempt succeeded, one or more of the visual depictions of sexually explicit conduct would be moved in interstate or foreign commerce or moved using a means or facility of interstate or foreign commerce.

If the prosecution does not prove all of these elements beyond a reasonable doubt, then you must find the defendant not guilty of the “attempted sexual exploitation of a child” alternative of **Count 1**.

**No. 9 — COUNT 2: ALLEGEDLY “DISTRIBUTING CHILD
PORNOGRAPHY”**

Count 2 of the Indictment charges the defendant with “distributing child pornography.” The defendant denies that he committed this offense.

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

One, in or about October 2014, the defendant knowingly distributed one or more depictions of child pornography.

For this element to be proved,

- the prosecution is not required to prove that the defendant distributed all the depictions of child pornography alleged by the prosecution, **but**
- the prosecution must prove that he distributed at least one depiction of child pornography between the dates alleged
- you must unanimously agree which depiction or depictions, if any, that the defendant knowingly distributed were “child pornography”

Two, the defendant knew the visual depiction or depictions in question were child pornography.

For this element to be proved,

- the defendant need not have known of the legal definition of “child pornography” or “sexually explicit conduct,” **but**
- the prosecution must prove

- that the defendant knew that the depiction or depictions in question were of “sexually explicit conduct,” as defined in instruction No. 6, **and**
- that the person depicted was under the age of eighteen years

Three, one or more of the following occurred:

- (a) the depiction or depictions of child pornography in question had moved in interstate or foreign commerce**
- (b) the defendant distributed the depiction or depictions of child pornography in question using a means or facility of interstate or foreign commerce**

If the prosecution does not prove all of these elements beyond a reasonable doubt, then you must find the defendant not guilty of “distributing” child pornography,” as charged in **Count 2**.

**No. 10 — COUNT 3: ALLEGEDLY “RECEIVING CHILD
PORNOGRAPHY”**

Count 3 of the Indictment charges the defendant with “receiving child pornography.” The defendant denies that he committed this offense.

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

One, in or about October 2014, the defendant knowingly received one or more visual depictions of child pornography.

For this element to be proved,

- the prosecution is not required to prove that the defendant received all of the depictions of child pornography alleged by the prosecution, **but**
- the prosecution must prove that he received at least one depiction of child pornography in or about October 2014
- you must unanimously agree which depiction or depictions, if any, that the defendant knowingly received were “child pornography”

To “receive” something means to come into possession of it or to acquire it. The prosecution is not required to prove that the defendant bought or paid for the child pornography or exchanged anything of value for it.

Two, the defendant knew the visual depiction or depictions in question were child pornography.

For this element to be proved,

- the defendant need not have known the legal definition of “child pornography” or “sexually explicit conduct,” **but**
- the prosecution must prove
 - that the defendant knew that the image or images in question were of “sexually explicit conduct,” as defined in instruction No. 6, **and**
 - that the person depicted was under the age of eighteen years

Three, one or more of the following occurred:

- (a) the depiction or depictions of child pornography in question had moved in interstate or foreign commerce**
- (b) the depiction or depictions in question had been transported using a means or facility of interstate or foreign commerce**

If the prosecution does not prove all of these elements beyond a reasonable doubt, then you must find the defendant not guilty of “receiving child pornography,” as charged in **Count 3**.

No. 11 — 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. 12 — 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 witness's

- Opportunity to have seen and heard what happened
- Motives for testifying
- Interest in the outcome of the case
- Drug or alcohol use or addiction, if any
- Memory. Memory is not an exact recording of past events and witnesses may misremember events and conversations. 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
 - 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
 - that a witness's memory, even if testified to in good faith, and with a high degree of confidence, may be inaccurate, unreliable, and falsely remembered; thus, human memory can be distorted, contaminated, or changed, and events and conversations can even be falsely imagined
 - that distortion, contamination, and falsely imagined memories may happen at each of the three stages of memory: acquisition (perception of events); storage (period of time between

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

- Demeanor. Scientific research has established
 - that there is not necessarily a relationship between how confident witnesses are about their testimony and the accuracy of their testimony; thus, less confident witnesses may be more accurate than confident witnesses
 - 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

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

- Any differences between what the witness says now and said earlier
- The reasonableness of the witness's testimony
- 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

- a public official or law enforcement officer

- an expert

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

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

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

No. 13 — 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. 14 — 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. 15 — 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 and these instructions 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. 16 — CONDUCT OF JURORS DURING TRIAL

You must decide this case *solely* on the evidence and the law in these Instructions and any additional written or oral instructions that I may give. 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, through social media—or in any other way conduct 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, in any “blog,” or through social media 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.” 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 and the instructions that I give you. Our system of justice is counting on you to render a fair decision based on the evidence, not on biases.

- A Verdict Form is attached to these Instructions. A Verdict Form is simply a written notice of your decision. After your deliberations, if 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.
- 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 Instructions at the end of the evidence.

No. 17 — 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.

- 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 and the instructions that I give you
- 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. 18 — 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 offenses, I will decide what his sentence should be.
- Communicate with me by sending me a note through a 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.
- Again, nothing I have said or done was intended to suggest what your verdict should be—that is entirely for you to decide.
- Reach your verdict without discrimination. In reaching your verdict, you must not consider the defendant's race, color, religious beliefs, national origin, or sex. You are not to return a verdict for or against the defendant unless you would return the same verdict without regard to his race, color, religious beliefs, national origin, or sex. To emphasize the importance of this requirement, the verdict form contains a certification statement. Each of you should carefully read that statement, then sign your name in the appropriate place in the signature block, if the statement accurately reflects how you reached your verdict.
- Complete the Verdict Form. The foreperson must bring the signed Verdict Form to the courtroom when it is time to announce your verdict.

- When you have reached a verdict, the foreperson will advise the CSO that you are ready to return to the courtroom.

Good luck with your deliberations.

IT IS SO ORDERED.

DATED this 8th day of August, 2016.

LEONARD T. STRAND
UNITED STATES DISTRICT JUDGE

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRYAN KING,

Defendant.

No. CR15-87-LTS

VERDICT FORM

As to defendant Bryan King, we, the Jury, find as follows:

COUNT 1: SEXUAL EXPLOITATION OF A CHILD		VERDICT
Step 1: Verdict	On the charge of sexual exploitation of a child as set out in Count 1 and explained in Instructions 7 and 8 , please mark your verdict. (If you find the defendant “not guilty,” do not consider Steps 2-5 of Count 1. Instead, go on to consider your verdict on Count 2.)	___ Not Guilty ___ Guilty
Step 2: Alternatives	If you found the defendant “guilty” in Step 1, please indicate the alternative or alternatives on which you find him guilty ___ (a) sexual exploitation of a child ___ (b) attempted sexual exploitation of a child	
Step 3: Depictions of Child Pornography	If you found the defendant “guilty” of the “sexual exploitation of a child” alternative in Step 2(a), please indicate which one or more of the two depictions listed below you unanimously find were child pornography produced by the defendant. ___ The image on pages 32 and 33 of Exhibit 1 ___ The image on pages 40 and 41 of Exhibit 1	
Step 4: Moved in Interstate Commerce	If you found the defendant “guilty” of the “sexual exploitation of a child” alternative in Step 2(a), please mark the alternative or alternatives for	

	<p>element four of the offense that you unanimously find beyond a reasonable doubt.</p> <p>_____ the defendant caused one or more visual depictions of sexually explicit conduct to be produced using material that had been moved in interstate or foreign commerce</p> <p>_____ the defendant knew or had reason to know that one or more of the visual depictions of sexually explicit conduct would be moved in interstate or foreign commerce or moved using a means or facility of interstate or foreign commerce</p> <p>_____ one or more of the visual depictions of sexually explicit conduct were actually moved in interstate or foreign commerce or moved using a means or facility of interstate or foreign commerce</p>	
Step 5: Moved in Interstate Commerce	<p>If you found the defendant “guilty” of the “attempted sexual exploitation of a child” alternative in Step 2(b), please mark the alternative or alternatives for element four of the offense that you unanimously find beyond a reasonable doubt.</p> <p>_____ the Kyocera cell phone used to attempt to produce the visual depiction had been moved in interstate or foreign commerce</p> <p>_____ the defendant knew or had reason to know that, if his attempt succeeded, one or more of the visual depictions of sexually explicit conduct would be moved in interstate or foreign commerce or moved using a means or facility of interstate or foreign commerce</p>	
COUNT 2: DISTRIBUTION OF CHILD PORNOGRAPHY		VERDICT
Step 1: Verdict	<p>On the charge of distribution of child pornography as set out in Count 2 and explained in Instruction 9, please mark your verdict. (If you find the defendant “not guilty,” do not consider Steps 2-3 of Count 2. Instead, go on to consider your verdict on Count 3.)</p>	<p>___ Not Guilty</p> <p>___ Guilty</p>
Step 2: Depictions of Child Pornography	<p>If you found the defendant “guilty” in Step 1, please indicate which one or more of the depictions listed below you unanimously find were child pornography distributed by the defendant.</p>	

	<p>___ The image on page 11 of Exhibit 2</p> <p>___ The image of two boys on page 12 of Exhibit 2</p> <p>___ The image on page 26 of Exhibit 2</p>	
Step 3: Alternatives	<p>If you found the defendant “guilty” in Step 1, please mark the alternative or alternatives for element three of the offense that you unanimously find beyond a reasonable doubt.</p> <p>___ the depiction or depictions of child pornography in question had moved in interstate or foreign commerce</p> <p>___ the defendant distributed the depiction or depictions of child pornography in question using a means or facility of interstate or foreign commerce</p>	
COUNT 3: RECEIPT OF CHILD PORNOGRAPHY		VERDICT
Step 1: Verdict	<p>On the charge of receipt of child pornography as set out in Count 3 and explained in Instruction 10, please mark your verdict. (If you find the defendant “not guilty,” do not consider Steps 2-3. Instead, notify the Court Security Officer (CSO) that you have reached a verdict.)</p>	<p>___ Not Guilty</p> <p>___ Guilty</p>
Step 2: Depictions of Child Pornography	<p>If you found the defendant “guilty” in Step 1, please indicate which one or more of the depictions listed below you unanimously find were child pornography received by the defendant.</p> <p>___ The image on pages 32 and 33 of Exhibit 1</p> <p>___ The image on pages 40 and 41 of Exhibit 1</p>	
Step 3: Alternatives	<p>If you found the defendant “guilty” in Step 1, please mark the alternative or alternatives for element three of the offense that you unanimously find beyond a reasonable doubt.</p> <p>___ the depiction or depictions in question had moved in interstate or foreign commerce</p> <p>___ the depiction or depictions in question had been transported using a means or facility of interstate or foreign commerce</p>	

CERTIFICATION

By signing below, each juror certifies the following:

(1) that consideration of the defendant's race, color, religious beliefs, national origin, or sex was not involved in reaching the juror's individual decision, *and*

(2) that the individual juror would have returned the same verdict for or against the defendant on the charged offense regardless of the defendant's race, color, religious beliefs, national origin, or sex.

Date

Foreperson

Juror

Juror