

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALAN ENRIQUE ENAMORADO,

Defendant.

No. CR 15-3013-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 Alan Enrique Enamorado with a “methamphetamine conspiracy” offense. An Indictment is simply an accusation—it is not evidence of anything. The defendant has pled not guilty to the crime charged against him, and he is presumed absolutely not guilty of that offense, unless and until the prosecution proves his guilt on that offense 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 Enamorado, and not anyone else, is on trial. Also, the defendant is on trial *only* for the offense charged against him in the Indictment, and not for anything else.

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 charge, 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 the offense charged against him

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

- the defendant never, ever has to prove his innocence
- the defendant does not have to call any witnesses, produce any evidence, cross-examine the prosecution's witnesses, or testify
- if the defendant does not testify, you must not consider that fact in any way, or even discuss it, in arriving at your verdict
- you must find the defendant not guilty of the offense charged, unless the prosecution proves beyond a reasonable doubt that he has committed each and every element of the 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
- 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
- is so convincing that you would be willing to rely and act on it without hesitation in the most important of your own affairs
- 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. 4 — OTHER IMPORTANT TERMS

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

### *Elements*

The 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 the offense for you to find the defendant guilty of that offense.

### *Timing*

The Indictment alleges an approximate time period for the charged “methamphetamine conspiracy” offense.

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

### *Location*

For purposes of the “conspiracy” offense, the prosecution must prove that one or more acts of the defendant or a co-conspirator for the purpose of carrying out or carrying forward the conspiracy were begun, continued, or completed in the Northern District of Iowa

### ***Methamphetamine***

The offense charged in this case allegedly involved methamphetamine. Methamphetamine is an illegal drug. Two forms of methamphetamine are allegedly involved in this case:

- “Methamphetamine mixture” is a mixture or substance containing a detectable amount of methamphetamine
- “Actual (pure) methamphetamine” is methamphetamine itself—either by itself or contained in a methamphetamine mixture

### ***Possession***

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

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

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

### ***Distribution***

A person distributed an illegal drug, if the person transferred possession of the illegal drug to another person. The prosecution does not have to prove

- that the illegal drug was “sold,” or
- that money or anything of value changed hands

\* \* \*

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

## **No. 5 — THE ALLEGED “METHAMPHETAMINE CONSPIRACY” OFFENSE**

The Indictment charges a “methamphetamine conspiracy” offense. The defendant denies that he committed this offense.

The prosecution must prove beyond a reasonable doubt *all* of the following elements against the defendant:

***One*, at some time during the period alleged for the conspiracy, from about 2012 through about February 2015, in the Northern District of Iowa, two or more persons reached an agreement or understanding to distribute methamphetamine.**

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

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

Here, the conspirators allegedly agreed to “distribute methamphetamine.”

- To help you decide whether or not the conspirators agreed to “distribute

methamphetamine,” you should consider the elements of that crime

- The elements of “distributing methamphetamine” are the following:
  - a person intentionally distributed methamphetamine to another; and
  - at the time of the distribution, the person knew that he or she was distributing an illegal drug

Remember,

- the prosecution does not have to prove that any conspirator actually distributed methamphetamine for a conspiracy charge to be proved, *but*
- if there was no agreement, there was no conspiracy

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

The prosecution must prove that the defendant had some degree of knowing involvement and cooperation in the agreement to prove that he joined in the agreement.

The defendant may have joined in the agreement

- at any time during its existence
- even if he agreed to play only a minor role in it

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

- join the agreement at the same time as all of the other conspirators
- know all of the details of the conspiracy, such as the names, identities, or locations of all of the other members, or
- conspire with every other member of the conspiracy

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

- merely being present at the scene of an event
- merely acting in the same way as others
- merely associating with others
- being friends with or meeting socially with individuals involved in the conspiracy
- having no knowledge of a conspiracy, but acting in a way that advanced an objective of the conspiracy
- merely knowing of the existence of a conspiracy
- merely knowing that an objective of the conspiracy was being considered or attempted, or
- merely approving of the objectives of the conspiracy

If you find that there was an agreement, but you find that the defendant did not join in that agreement, then you cannot find him guilty of the conspiracy offense.

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

The prosecution

- must prove that the defendant knew the purpose of the conspiracy, ***but***
- does not have to prove that the defendant knew that what he did was unlawful

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

If you find the defendant guilty of the “methamphetamine conspiracy” offense, then you must also determine the form and quantity of any methamphetamine involved in that offense for which he can be held responsible, as explained in Instruction No. 6.

## **No. 6 — FORM AND QUANTITY OF METHAMPHETAMINE**

If you find the defendant guilty of the “methamphetamine conspiracy” offense, then you must determine beyond a reasonable doubt the form and quantity of any methamphetamine involved in that offense.

### ***Responsibility***

A defendant guilty of the “methamphetamine conspiracy” offense is responsible for any methamphetamine

- that he actually distributed or agreed to distribute during the course of the conspiracy
- that he personally used or acquired for personal use from a co-conspirator
- that fellow conspirators actually distributed or agreed to distribute during the conspiracy that was reasonably foreseeable as a necessary or natural consequence of the conspiracy

### ***Forms Of Methamphetamine***

The Indictment charges that the “methamphetamine conspiracy” involved either or both “methamphetamine mixture” and “actual (pure) methamphetamine.”

- You must determine the quantity of any form of methamphetamine that you find was involved in the “methamphetamine conspiracy.”

- If you find that the “methamphetamine conspiracy” involved both “methamphetamine mixture” and “actual (pure) methamphetamine,” then you must determine the total quantity of each form of methamphetamine, even if the “actual (pure) methamphetamine” was contained in a “methamphetamine mixture.”

### *Quantities Of Methamphetamine*

If you find the defendant guilty of the “methamphetamine conspiracy” offense, you will answer the following questions in the Verdict Form:

Form and Quantity of Methamphetamine	<i>If you found the defendant “guilty” of the “methamphetamine conspiracy” offense charged in the Indictment, please indicate (a) which one or more forms of methamphetamine were involved in the conspiracy, and (b) in the column below each such form of methamphetamine, the quantity of that form for which he is responsible, as explained in <b>Instruction No. 6.</b></i>	
(a)	___ methamphetamine mixture ↓	___ actual (pure) methamphetamine ↓
(b)	___ 500 grams or more	___ 50 grams or more
	___ 50 grams or more, but less than 500 grams	___ 5 grams or more, but less than 50 grams
	___ less than 50 grams	___ less than 5 grams

The following conversion table may be helpful:

POUNDS/OUNCES	GRAMS
1 lb.	453.6 g. (0.4536 kilogram)
2.2 lb.	1,000 g. (1 kilogram)
1 oz.	28.34 g. (0.028 kilogram)

## No. 7 — 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. 8 — 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
- The reasonableness of the witness's testimony
- 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
- 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

If the defendant testifies,

- you should judge his testimony in the same way that you judge the testimony of any other witness

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 for the opinion
- any reason that the witness may be biased, and
- all of the other evidence

You must consider *with greater caution and care* the testimony, if any, of a witness who is testifying

- that he or she participated in the charged offense, or
- after a promise from the prosecution not to use that witness's testimony, to a grand jury or at this trial, against that witness in a criminal case, or
- pursuant to a plea agreement

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

It is for you to decide

- what weight you think the testimony of such a witness deserves, and
- whether or not such a witness’s testimony has been influenced by
  - the desire to please the prosecution
  - any promises by the prosecution
  - a plea agreement, or
  - a hope for a reduced sentence

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

## **No. 9 — 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 an objection has been made, because lawyers have a duty to object to testimony or other evidence that they believe is not properly admissible

## **No. 10 — 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. 11 — 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. 12 — 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 begin your deliberations.
- 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 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, Twitter, or Instagram, 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 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 two Instructions at the end of the evidence.

### **No. 13 — 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. 14 — DUTY DURING DELIBERATIONS

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

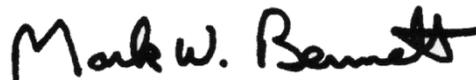
- Select a foreperson to preside over your discussions and to speak for you here in court.
- Do not consider punishment in any way in deciding whether the defendant is not guilty or guilty. If the defendant is guilty of the charged offense, I will decide what his sentence should be.
- Communicate with 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 a defendant's race, color, religious beliefs, national origin, or sex. You are not to return a verdict for or against the defendant unless you would return the same verdict without regard to his race, color, religious beliefs, national origin, or sex. To emphasize the importance of this requirement, the verdict form contains a certification statement. Each of you should carefully read that statement, then sign your name in the appropriate place in the

signature block, if the statement accurately reflects how you reached your verdict.

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

Good luck with your deliberations.

**DATED** this 14th day of March, 2016.



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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.

ALAN ENRIQUE ENAMORADO,

Defendant.

No. CR 15-3013-MWB

**VERDICT FORM**

As to defendant Alan Enrique Enamorado, we, the Jury, find as follows:

<b>THE ALLEGED METHAMPHETAMINE CONSPIRACY</b>		<b>VERDICT</b>
<b>Step 1: Verdict</b>	On the “methamphetamine conspiracy” offense, charged in the Indictment and explained in <b>Instruction No. 5</b> , please mark your verdict. <i>(If you find the defendant “not guilty” of this offense, do not answer the questions in Step 2. Instead, please read the Certification, below, sign the Verdict Form, and notify the CSO that you have reached a verdict.)</i>	<input type="checkbox"/> Not Guilty  <input type="checkbox"/> Guilty
<b>Step 2: Form and Quantity of Methamphetamine</b>	<i>If you found this defendant “guilty” of the “methamphetamine conspiracy” offense charged in the Indictment in Step 1, please indicate (a) which one or more forms of methamphetamine were involved in the conspiracy, and (b) in the column below each such form of methamphetamine, the quantity of that form for which he is responsible, as explained in Instruction No. 6. (When you have answered the questions in this step, please read the Certification, below, sign the Verdict Form, and notify the CSO that you have reached a verdict.)</i>	
(a)	<input type="checkbox"/> methamphetamine mixture 	<input type="checkbox"/> actual (pure) methamphetamine 
(b)	<input type="checkbox"/> 500 grams or more	<input type="checkbox"/> 50 grams or more
	<input type="checkbox"/> 50 grams or more, but less than 500 grams	<input type="checkbox"/> 5 grams or more, but less than 50 grams
	<input type="checkbox"/> less than 50 grams	<input type="checkbox"/> less than 5 grams

**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	_____ Juror