

UNITED STATES COURT OF APPEALS  
SIXTH CIRCUIT

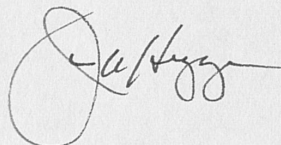
TO : Honorable G. Wix Unthank  
U.S. District Judge, E.D. Kentucky

FROM : James A. Higgins, Circuit Executive

SUBJECT : Voucher No. 815997  
United States v. Patricia A. Sullivan  
E.D. Kentucky, No. 85-9-2  
Charles F. Wilson, Jr., Attorney

DATE: January 13, 1986

Judge Lively has approved the above voucher in the amount of  
\$2,376.00 and same is returned herewith for further processing.



enc.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

CRIMINAL NO. 85-9-2

UNITED STATES OF AMERICA

PLAINTIFF,

VS:

PATRICIA ANN SULLIVAN

DEFENDANT.

COURT'S INSTRUCTION TO THE JURY

MEMBERS OF THE JURY:

YOU HAVE NOW HEARD ALL OF THE EVIDENCE IN THE CASE AS WELL AS THE FINAL ARGUMENTS OF THE LAWYERS FOR THE PARTIES.

IT BECOMES MY DUTY, THEREFORE, TO INSTRUCT YOU ON THE RULES OF THE LAW THAT YOU MUST FOLLOW AND APPLY IN ARRIVING AT YOUR DECISION IN THE CASE.

THE COURT'S INSTRUCTIONS ARE IN THREE SEPARATE PHASES:

FIRST, THE RULES OF LAW GOVERNING THE MANNER IN WHICH THE JURY CONSIDERS THE OFFENSE INSTRUCTIONS:

SECOND, THE OFFENSE INSTRUCTIONS, WHICH IS THE LAW GOVERNING THE OFFENSE CHARGED IN THE INDICTMENT;

THIRD, ARE THE DEFINITIONS OF PARTICULAR WORDS CONTAINED IN THE OFFENSE INSTRUCTIONS AND THE CONDUCT OF THE JURY AFTER THE CASE IS UNDER SUBMISSION TO THE JURY.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTIONS TO THE JURY:

DUTY TO FOLLOW INSTRUCTIONS

YOU, AS JURORS, ARE THE JUDGES OF THE FACTS. BUT IN DETERMINING WHAT ACTUALLY HAPPENED IN THIS CASE -- THAT IS, IN REACHING YOUR DECISION AS TO THE FACTS -- IT IS YOUR SWORN DUTY TO FOLLOW THE LAW I AM NOW IN THE PROCESS OF DEFINING FOR YOU. UNLESS OTHERWISE STATED YOU SHOULD CONSIDER EACH INSTRUCTION TO APPLY SEPARATELY AND INDIVIDUALLY TO EACH DEFENDANT ON TRIAL.

AND YOU MUST FOLLOW ALL OF MY INSTRUCTIONS AS A WHOLE. YOU HAVE NO RIGHT TO DISREGARD OR GIVE SPECIAL ATTENTION TO ANY ONE INSTRUCTION, OR TO QUESTION THE WISDOM OR CORRECTNESS OF ANY RULE I MAY STATE TO YOU. THAT IS, YOU MUST NOT SUBSTITUTE OR FOLLOW YOUR OWN NOTION OR OPINION AS TO WHAT THE LAW IS OR OUGHT TO BE. IT IS YOUR DUTY TO APPLY THE LAW AS I GIVE IT TO YOU, REGARDLESS OF THE CONSEQUENCES.

BY THE SAME TOKEN IT IS ALSO YOUR DUTY TO BASE YOUR VERDICT SOLELY UPON THE TESTIMONY AND EVIDENCE IN THE CASE, WITHOUT PREJUDICE OR SYMPATHY. THAT WAS THE PROMISE YOU MADE AND THE OATH YOU TOOK BEFORE BEING ACCEPTED BY THE PARTIES AS JURORS IN THIS CASE, AND THEY HAVE THE RIGHT TO EXPECT NOTHING LESS.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTIONS TO THE JURY:

PRESUMPTION OF INNOCENCE, BURDEN OF PROOF,  
REASONABLE DOUBT

THE INDICTMENT OR FORMAL CHARGE AGAINST A DEFENDANT IS NOT EVIDENCE OF GUILT. INDEED, THE DEFENDANT IS PRESUMED BY THE LAW TO BE INNOCENT. THE LAW DOES NOT REQUIRE A DEFENDANT TO PROVE HIS INNOCENCE OR PRODUCE ANY EVIDENCE AT ALL, AND NO INFERENCE WHATEVER MAY BE DRAWN FROM THE ELECTION OF A DEFENDANT NOT TO TESTIFY. THE GOVERNMENT HAS THE BURDEN OF PROVING HIM GUILTY BEYOND A REASONABLE DOUBT, AND IF IT FAILS TO DO SO YOU MUST ACQUIT HIM.

THUS, WHILE THE GOVERNMENT'S BURDEN OF PROOF IS A STRICT OR HEAVY BURDEN, IT IS NOT NECESSARY THAT THE DEFENDANT'S GUILT BE PROVED BEYOND ALL POSSIBLE DOUBT. IT IS ONLY REQUIRED THAT THE GOVERNMENT'S PROOF EXCLUDE ANY "REASONABLE DOUBT" CONCERNING THE DEFENDANT'S GUILT. A "REASONABLE DOUBT" IS A REAL DOUBT, BASED UPON REASON AND COMMON SENSE AFTER CAREFUL AND IMPARTIAL CONSIDERATION OF ALL THE EVIDENCE IN THE CASE.

PROOF BEYOND A REASONABLE DOUBT, THEREFORE, IS PROOF OF SUCH A CONVINCING CHARACTER THAT YOU WOULD BE WILLING TO RELY AND ACT UPON IT

WITHOUT HESITATION IN THE MOST IMPORTANT OF YOUR OWN AFFAIRS, IF YOU  
ARE CONVINCED THAT THE ACCUSED HAS BEEN PROVED GUILTY BEYOND REASONABLE  
DOUBT, SAY SO. IF YOU ARE NOT CONVINCED, SAY SO.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTIONS TO THE JURY:

EVIDENCE -- EXCLUDING ARGUMENT OF COUNSEL  
AND COMMENT OF COURT

AS STATED EARLIER IT IS YOUR DUTY TO DETERMINE THE FACTS, AND IN SO DOING YOU MUST CONSIDER ONLY THE EVIDENCE I HAVE ADMITTED IN THE CASE. THE TERM "EVIDENCE" INCLUDES THE SWORN TESTIMONY OF THE WITNESSES AND THE EXHIBITS ADMITTED IN THE RECORD.

REMEMBER THAT ANY STATEMENTS, OBJECTIONS OR ARGUMENTS MADE BY THE LAWYERS ARE NOT EVIDENCE IN THE CASE. THE FUNCTION OF THE LAWYERS IS TO POINT OUT THOSE THINGS THAT ARE MOST SIGNIFICANT OR MOST HELPFUL TO THEIR SIDE OF THE CASE, AND IN SO DOING TO CALL YOUR ATTENTION TO CERTAIN FACTS OR INFERENCES THAT MIGHT OTHERWISE ESCAPE YOUR NOTICE. IN THE FINAL ANALYSIS, HOWEVER, IT IS YOUR OWN RECOLLECTION AND INTERPRETATION OF THE EVIDENCE THAT CONTROLS IN THE CASE. WHAT THE LAWYERS SAY IS NOT BINDING UPON YOU. ALSO, DURING THE COURSE OF A TRIAL I OCCASIONALLY MAKE COMMENTS TO THE LAWYERS, OR ASK QUESTIONS OF A WITNESS, OR ADMONISH A WITNESS CONCERNING THE MANNER IN WHICH HE SHOULD RESPOND TO THE QUESTIONS OF COUNSEL. DO NOT ASSUME FROM ANYTHING I MAY HAVE SAID THAT I HAVE ANY OPINION CONCERNING ANY OF THE ISSUES IN THIS

CASE. EXCEPT FOR MY INSTRUCTIONS TO YOU ON THE LAW, YOU SHOULD  
DISREGARD ANYTHING I MAY HAVE SAID DURING THE TRIAL IN ARRIVING AT YOUR  
OWN FINDINGS AS TO THE FACTS.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTIONS TO THE JURY:

EVIDENCE -- INFERENCES -- DIRECT  
AND CIRCUMSTANTIAL

SO, WHILE YOU SHOULD CONSIDER ONLY THE EVIDENCE IN THE CASE, YOU ARE PERMITTED TO DRAW SUCH REASONABLE INFERENCES FROM THE TESTIMONY AND EXHIBITS AS YOU FEEL ARE JUSTIFIED IN THE LIGHT OF COMMON EXPERIENCE. IN OTHER WORDS, YOU MAY MAKE DEDUCTIONS AND REACH CONCLUSIONS WHICH REASON AND COMMON SENSE LEAD YOU TO DRAW FROM THE FACTS WHICH HAVE BEEN ESTABLISHED BY THE TESTIMONY AND EVIDENCE IN THE CASE.

YOU MAY ALSO CONSIDER EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE. "DIRECT EVIDENCE" IS THE TESTIMONY OF ONE WHO ASSERTS ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN EYE WITNESS. "CIRCUMSTANTIAL EVIDENCE" IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING EITHER THE GUILT OR INNOCENCE OF THE DEFENDANT. THE LAW MAKES NO DISTINCTION BETWEEN THE WEIGHT TO BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE. IT REQUIRES ONLY THAT YOU WEIGH ALL OF THE EVIDENCE AND BE CONVINCED OF THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT BEFORE HE CAN BE CONVICTED.



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTIONS TO THE JURY:

CREDIBILITY OF WITNESSES

NOW, I HAVE SAID THAT YOU MUST CONSIDER ALL OF THE EVIDENCE. THIS DOES NOT MEAN, HOWEVER, THAT YOU MUST ACCEPT ALL OF THE EVIDENCE AS TRUE OR ACCURATE.

YOU ARE THE SOLE JUDGES OF THE CREDIBILITY OR "BELIEVABILITY" OF EACH WITNESS AND THE WEIGHT TO BE GIVEN TO HIS TESTIMONY. IN WEIGHING THE TESTIMONY OF A WITNESS YOU SHOULD CONSIDER HIS RELATIONSHIP TO THE GOVERNMENT OR THE DEFENDANT; HIS INTEREST, IF ANY, IN THE OUTCOME OF THE CASE; HIS MANNER OF TESTIFYING; HIS OPPORTUNITY TO OBSERVE OR ACQUIRE KNOWLEDGE CONCERNING THE FACTS ABOUT WHICH HE TESTIFIED; HIS CANDOR, FAIRNESS AND INTELLIGENCE; AND THE EXTENT TO WHICH HE HAS BEEN SUPPORTED OR CONTRADICTED BY OTHER CREDIBLE EVIDENCE. YOU MAY, IN SHORT, ACCEPT OR REJECT THE TESTIMONY OF ANY WITNESS IN WHOLE OR IN PART.

ALSO, THE WEIGHT OF THE EVIDENCE IS NOT NECESSARILY DETERMINED BY THE NUMBER OF WITNESSES TESTIFYING AS TO THE EXISTENCE OR NON-EXISTENCE OF ANY FACT. YOU MAY FIND THAT THE TESTIMONY OF A SMALLER NUMBER OF WITNESSES AS TO ANY FACT IS MORE CREDIBLE THAN THE TESTIMONY OF A LARGER NUMBER OF WITNESSES TO THE CONTRARY.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTIONS TO THE JURY:

INCONSISTENT STATEMENT ONLY

A WITNESS MAY BE DISCREDITED OR "IMPEACHED" BY CONTRADICTORY EVIDENCE, BY A SHOWING THAT HE TESTIFIED FALSELY CONCERNING A MATERIAL MATTER, OR BY EVIDENCE THAT AT SOME OTHER TIME THE WITNESS HAS SAID OR DONE SOMETHING, OR HAS FAILED TO SAY OR DO SOMETHING, WHICH IS INCONSISTENT WITH THE WITNESS' PRESENT TESTIMONY.

IF YOU BELIEVE THAT ANY WITNESS HAS BEEN SO IMPEACHED, THEN IT IS YOUR EXCLUSIVE PROVINCE TO GIVE THE TESTIMONY OF THAT WITNESS SUCH CREDIBILITY OR WEIGHT, IF ANY, AS YOU MAY THINK IT DESERVES.

AS STATED EARLIER, A DEFENDANT HAS A RIGHT NOT TO TESTIFY. IF A DEFENDANT DOES TESTIFY, HOWEVER, HIS TESTIMONY SHOULD BE WEIGHED AND CONSIDERED, AND HIS CREDIBILITY DETERMINED, IN THE SAME WAY AS THAT OF ANY OTHER WITNESS.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTIONS TO THE JURY:

EXPERT WITNESSES

THE RULES OF EVIDENCE PROVIDE THAT IF SCIENTIFIC, TECHNICAL, OR OTHER SPECIALIZED KNOWLEDGE MIGHT ASSIST THE JURY IN UNDERSTANDING THE EVIDENCE OR IN DETERMINING A FACT IN ISSUE, A WITNESS QUALIFIED AS AN EXPERT BY KNOWLEDGE, SKILL, EXPERIENCE, TRAINING, OR EDUCATION, MAY TESTIFY AND STATE HIS OPINION CONCERNING SUCH MATTERS.

YOU SHOULD CONSIDER EACH EXPERT OPINION RECEIVED IN EVIDENCE IN THIS CASE AND GIVE IT SUCH WEIGHT AS YOU MAY THINK IT DESERVES. IF YOU SHOULD DECIDE THAT THE OPINION OF AN EXPERT WITNESS IS NOT BASED UPON SUFFICIENT EDUCATION AND EXPERIENCE, OR IF YOU SHOULD CONCLUDE THAT THE REASONS GIVEN IN SUPPORT OF THE OPINION ARE NOT SOUND, OR THAT THE OPINION IS OUTWEIGHED BY OTHER EVIDENCE, THEN YOU MAY DISREGARD THE OPINION ENTIRELY.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTIONS TO THE JURY:

ON OR ABOUT --KNOWINGLY

YOU WILL NOTE THAT THE INDICTMENT CHARGES THAT THE OFFENSE WAS COMMITTED "ON OR ABOUT" A CERTAIN DATE. THE PROOF NEED NOT ESTABLISH WITH CERTAINTY THE EXACT DATE OF THE ALLEGED OFFENSE. IT IS SUFFICIENT IF THE EVIDENCE IN THE CASE ESTABLISHES BEYOND A REASONABLE DOUBT THAT THE OFFENSE WAS COMMITTED ON A DATE REASONABLY NEAR THE DATE ALLEGED.

THE WORD "KNOWINGLY," AS THAT TERM HAS BEEN USED FROM TIME TO TIME IN THESE INSTRUCTIONS, MEANS THAT THE ACT WAS DONE VOLUNTARILY AND INTENTIONALLY AND NOT BECAUSE OF MISTAKE OR ACCIDENT.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTION TO THE JURY: No. \_\_\_\_\_

The indictment herein charges as follows: That on or about the 25th day of May, 1984, in Pike County, Kentucky, in the Eastern District of Kentucky, Patricia Ann Sullivan presented to the Treasury Department of the United States for payment, a claim against the United States which she knew to be false, fictitious and fraudulent. That is to say, that on or about the date aforesaid, Patricia Ann Sullivan knowingly signed and filed a fraudulent Form TFS 1133 with the Department of the Treasury, wherein she alleged that her 1982 Income Tax Refund Check, United States Treasury Check Number 9,779,386, dated February 25, 1983, in the amount of \$1,<sup>9</sup>036.93, had not been received, signed, or cashed by her, whereas she then and there well knew, the claim was false and fraudulent in that she had received, signed and cashed the said check in violation of Title 18, United States Code, Section 287.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
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THE COURT'S INSTRUCTION TO THE JURY: No. \_\_\_\_

In the indictment, the defendants are charged with a violation of Title 18, United States Code, Section 287. That law provides in part that:

"Whoever makes or presents to any. . .department or agency. . .of the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be" guilty of an offense against the United States.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTION TO THE JURY: No. \_\_\_\_\_

The essential elements of this offense, each of which must be proven beyond a reasonable doubt are: (1) that the defendant presented or caused to be presented to a department or agency of the United States a claim for payment, (2) that the claim was false, fictitious or fraudulent, and (3) that when it was presented, the defendant knew that the claim was false, fictitious or fraudulent.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTION TO THE JURY: No. \_\_\_\_

A statement is "false" or "fictitious" if untrue when made, and then known to be untrue by the person making it or causing it to be made. A statement or representation is "fraudulent", if known to be untrue, and made or caused to be made with the intent to deceive the Government agency to whom submitted.

The word "false" must be considered together with the word "knowingly." An act is done "knowingly" if done voluntarily and intentionally, and not because of mistake or accident or other innocent reason. The word "knowingly" is added in order to insure that no one would be convicted who made (or caused to be made) a statement or representation which was false because of mistake or accident or other innocent reason.



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THE COURT'S INSTRUCTION TO THE JURY: No. \_\_\_\_\_

It is necessary that you find beyond a reasonable doubt that any act you may have found beyond a reasonable doubt to have been committed by the defendant was done or committed knowingly. In this connection, however, you are instructed that a person who makes a claim or causes a claim to be made with reckless disregard for the truthfulness of the claim and with the conscious purpose to avoid learning the truthfulness of the claim is deemed to have knowledge of the claim and its truthfulness.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTION TO THE JURY: No. \_\_\_\_\_

The Treasury Department is a "department or agency of the  
United States."

UNITED STATES DISTRICT COURT  
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PIKEVILLE

THE COURT'S INSTRUCTION TO THE JURY: No. \_\_\_\_\_

Principal--To Aid, Abet, Cause, etc.

The guilt of any defendant may be established without proof that he personally did every act constituting the offense charged.

"Whoever commits an offense against the United States, or aids, abets, counsels, commands, induces, or procures its commission, is punishable as a principal.

"Whoever willfully causes an act to be done, which if directly performed by him or another would be an offense against the United States, is punishable as a principal."

In other words, every person who willfully participates in the commission of a crime may be found to be guilty of that offense. Participation is willful if done voluntarily and intentionally, and with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done; that is to say with bad purpose either to disobey or to disregard the law.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTION TO THE JURY: No. \_\_\_\_\_

The proof need not establish with certainty the exact date on which a false claim was presented or caused to be presented. It is sufficient, if the evidence in the case establishes beyond a reasonable doubt that the alleged false claim was knowingly presented or caused to be presented on a date reasonable mean the date alleged in the indictment.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTION TO THE JURY: No. \_\_\_\_\_

The rules of evidence ordinarily do not permit witnesses to testify as to opinions or conclusions. An exception to this rule exists as to those whom we call "expert witnesses." Witnesses who, by education and experience, have become expert in some art, science, profession, or calling, may state an opinion as to relevant and material matter, in which they profess to be expert, and may also state their reasons for the opinion.

You should consider each expert opinion received in evidence in this case and give it such weight as you may think it deserves. If you should decide that the opinion of an expert witnesses is not based upon sufficient education and experience, or if you should conclude that the reasons given in support of the opinion are not sound, or that the opinion is outweighed by other evidence, you may disregard the opinion entirely.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTION TO THE JURY: No. \_\_\_\_\_

INTENT

Intent and motive should never be confused. Motive is what prompts a person to act, or fail to act. Intent refers only to the state of mind with which the act is done or omitted.

Personal advancement and financial gain are two well recognized motives for much of human conduct. These laudable motives may prompt one person to voluntary acts of good, another to voluntary acts of crime.

Good motive alone is never a defense where the act done or omitted is a crime. So, the motive of the accused is immaterial except insofar as evidence of motive may aid determination of state of mind or intent.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTIONS TO THE JURY:

CAUTION--PUNISHMENT

I CAUTION YOU MEMBERS OF THE JURY, THAT YOU ARE HERE TO DETERMINE THE GUILT OR INNOCENCE OF THE ACCUSED FROM THE EVIDENCE IN THIS CASE. THE DEFENDANT IS NOT ON TRIAL FOR ANY ACT OR CONDUCT OR OFFENSE NOT ALLEGED IN THE INDICTMENT. NEITHER ARE YOU CALLED UPON TO RETURN A VERDICT AS TO THE GUILT OR INNOCENCE OF ANY OTHER PERSON OR PERSONS NOT ON TRIAL AS A DEFENDANT IN THIS CASE.

ALSO, THE PUNISHMENT PROVIDED BY LAW FOR THE OFFENSE CHARGED IN THE INDICTMENT IS A MATTER EXCLUSIVELY WITHIN THE PROVINCE OF THE COURT OR JUDGE, AND SHOULD NEVER BE CONSIDERED BY THE JURY IN ANY WAY, IN ARRIVING AT AN IMPARTIAL VERDICT AS TO THE GUILT OR INNOCENCE OF THE ACCUSED.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PIKEVILLE

THE COURT'S INSTRUCTIONS TO THE JURY:

DUTY TO DELIBERATE

ANY VERDICT MUST REPRESENT THE CONSIDERED JUDGMENT OF EACH JUROR. IN ORDER RETURN A VERDICT, IT IS NECESSARY THAT EACH JUROR AGREE THERE-TO. IN OTHER WORDS, YOUR VERDICT MUST BE UNANIMOUS.

IT IS YOUR DUTY AS JURORS, TO CONSULT WITH ONE ANOTHER, AND TO DELIBERATE IN AN EFFORT TO REACH AGREEMENT IF YOU CAN DO SO WITHOUT VIOLENCE TO INDIVIDUAL JUDGMENT. EACH OF YOU MUST DECIDE THE CASE FOR YOURSELF, BUT ONLY AFTER AN IMPARTIAL CONSIDERATION OF THE EVIDENCE IN THE CASE WITH YOUR FELLOW JURORS. IN THE COURSE OF YOUR DELIBERATIONS, DO NOT HESITATE TO RE-EXAMINE YOUR OWN VIEWS AND CHANGE YOUR OPINION IF CONVINCED IT IS ERRONEOUS. BUT DO NOT SURRENDER YOUR HONEST CONVICTION AS TO THE WEIGHT OR EFFECT OF THE EVIDENCE SOLELY BECAUSE OF THE OPINION OF YOUR FELLOW JURORS, OR FOR THE MERE PURPOSE OF RETURNING A VERDICT.

REMEMBER AT ALL TIMES, YOU ARE NOT PARTISANS. YOU ARE JUDGES--JUDGES OF THE FACTS. YOUR SOLE INTEREST IS TO SEEK THE TRUTH FROM THE EVIDENCE IN THE CASE.



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
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THE COURT'S INSTRUCTIONS TO THE JURY:

VERDICT

UPON RETIRING TO THE JURY ROOM YOU SHOULD FIRST SELECT ONE OF YOUR NUMBER TO ACT AS YOUR FOREPERSON WHO WILL PRESIDE OVER YOUR DELIBERATIONS AND WILL BE YOUR SPOKESMAN HERE IN COURT. A FORM OF VERDICT HAS BEEN PREPARED FOR YOUR CONVENIENCE.

[EXPLAIN VERDICT]

YOU WILL TAKE THE VERDICT FORM TO THE JURY ROOM AND WHEN YOU HAVE REACHED UNANIMOUS AGREEMENT AS TO YOUR VERDICT, YOU WILL HAVE YOUR FOREPERSON FILL IT IN, DATE AND SIGN IT, AND THEN RETURN TO THE COURTROOM.

IF, DURING YOUR DELIBERATIONS, YOU SHOULD DESIRE TO COMMUNICATE WITH THE COURT, PLEASE REDUCE YOUR MESSAGE OR QUESTION TO WRITING SIGNED BY THE FOREPERSON, AND PASS THE NOTE TO THE MARSHAL WHO WILL BRING IT TO MY ATTENTION. I WILL THEN RESPOND AS PROMPTLY AS POSSIBLE, EITHER IN WRITING OR BY HAVING YOU RETURNED TO THE COURTROOM SO THAT I CAN ADDRESS YOU ORALLY. I CAUTION YOU, HOWEVER, WITH REGARD TO ANY MESSAGE OR QUESTION YOU MIGHT SEND, THAT YOU SHOULD NEVER STATE OR SPECIFY YOUR NUMERICAL DIVISION AT THE TIME.