



All parties expect that you will carefully and impartially consider all of the evidence, follow the law as it is now being given to you, and reach a just verdict, regardless of the consequences.

Evidence in the Case

Statements and arguments of counsel are not evidence in the case. However, when the attorneys on both sides stipulate or agree as to the existence of a fact, you must, unless otherwise instructed, accept the stipulation and regard that fact as proved.

Unless you are otherwise instructed, the evidence in the case always consists of the sworn testimony of the witnesses, and all facts which may have been admitted or stipulated.

Any evidence to which an objection was sustained by me, and any evidence ordered stricken by me, must be disregarded.

Evidence - Direct and Circumstantial

There are, generally speaking, two types of evidence from which a jury may properly find the truth as to the facts of a case. One is direct evidence - such as the testimony of an eyewitness about something he knows by virtue of his own senses. The other is indirect or circumstantial evidence - the proof of a chain of circumstances pointing to the existence or non-existence of certain facts. Circumstantial evidence is evidence which tends to prove a disputed fact by proof of other facts.

Circumstantial evidence is of no less value than direct evidence; for, it is a general rule that the law makes no distinction between direct or circumstantial evidence. You may find the facts by a preponderance of all the evidence in the case, both direct and circumstantial.

Credibility of Witnesses - Discrepancies in Testimony

You, as jurors, are the sole judges of the credibility of the witnesses and the weight their testimony deserves. You may be guided by the appearance and conduct of the witness, by the manner in which the witness testifies, by the character of the testimony given, or by evidence to the contrary of the testimony given.

You should carefully scrutinize all the testimony given, the circumstances under which each witness has testified, and every matter in evidence which tends to show whether a witness is believable. Consider each witness's intelligence, motive and state of mind, and demeanor or manner while on the stand. Consider the witness's ability to observe the matters to which the witness testifies, and whether the witness impresses you as having an accurate recollection of these matters. Consider also any relation each witness may bear to either side of the case, any bias or prejudice, the manner in which each witness might be affected by the verdict, and the extent to which, if at all, each witness is either supported or contradicted by other evidence in the case.

Inconsistencies or discrepancies in the testimony of a witness, or between the testimony of different witnesses, may or may not cause you to discredit their testimony. Two or more persons witnessing an incident or a transaction may see or hear it differently, which is not an uncommon experience. In weighing the effect of a discrepancy, always consider whether it pertains to a matter of importance or an unimportant detail, and whether the discrepancy results from innocent error or intentional falsehood.

You may give the testimony of each witness such weight, if any, as you think it deserves, and accept or reject the testimony in whole or in part.

The weight of the evidence is not necessarily determined by the number of witnesses testifying. You may find that the testimony of a small number of witnesses is more credible than the testimony of a larger number of witnesses to the contrary.

Expert Witnesses

Some of the testimony you heard was given by an expert witness. This witness is a person who, by education, training or experience, has developed expertise beyond the level of the average person in some field. An expert is allowed to state opinions on matters within the area of his or her expertise and the reasons for those opinions.

You are not required to accept an expert's opinion. Rather, you should consider the expert opinion and give it the weight you think it deserves. As with the testimony of any witness, you must decide whether it is believable. For instance, you may disregard an expert's opinion entirely or in part if: you conclude the opinion is not based on sufficient education, training and experience; the reasons given by an expert in support of his or her opinion are not sound; the expert's testimony is outweighed by other evidence; or the expert is biased.

The determination of the facts rests solely with you.

Law Enforcement Witness

You have heard the testimony of a law enforcement official. The fact that a witness may be employed by the federal, state, or municipal government as a law enforcement official is of no significance. The testimony of a law enforcement witness is not deserving of more or less weight than the testimony of an ordinary witness. It is your decision, after reviewing all of the evidence, whether to accept the testimony of each law enforcement witness and to give that testimony whatever weight, if any, you find it deserves.



Unanimous Verdict - Duty to Deliberate

The verdict must represent the considered judgment of each juror. To return a verdict, all jurors must agree. Your verdict must be unanimous.

It is your duty, as jurors, to consult with one another, and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. You must each 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 reexamine your own views, and change your opinion, if you are convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of other jurors, or for the mere purpose of returning a verdict.

Remember at all times that you are not partisans. You are judges of the facts. Your sole interest is to seek the truth from the evidence in the case.

Instructions of Law

Now I will give you instructions concerning the law that applies to this case. You must follow the law as stated in these instructions. You must then apply these rules of the law to the facts you find from the evidence.

You are to determine the facts in this case. By these instructions, I do not intend to indicate in any way how you should decide any question of fact.

Burden of Proof and Preponderance of the Evidence

The Plaintiff must prove every element of his claims by a preponderance of the evidence. To prove “by a preponderance of the evidence” means to prove that something is more likely so than not so.

Stated another way, a preponderance of the evidence means the greater weight of the evidence. It refers to the quality and persuasiveness of the evidence, not to the number of witnesses or documents. In determining whether a fact, claim or defense has been proven by a preponderance of the evidence, you may consider the relevant testimony of all witnesses, regardless of who may have called them, all the relevant exhibits received in evidence, regardless of who may have produced them, and any stipulations the parties may have entered into.

Civil Rights Claim Under  
42 USC § 1983 For Violation of  
Fourth Amendment by  
Unreasonable Detention of Pretrial Detainee

Plaintiff claims that Defendant Ingrid Jonas violated his civil rights under the United States Constitution. Specifically, Plaintiff alleges that while Jonas was acting under color of the authority of the State of Vermont as a detective with the state police, Jonas violated Plaintiff's constitutional rights. Plaintiff alleges that Jonas violated his right to be free from unreasonable pre-trial detention by refusing to investigate, mishandling, and failing to disclose exculpatory evidence.

The law to be applied in this case is the federal civil rights law, which provides a remedy for individuals who have been deprived of their constitutional or statutory rights under color of state law. Section 1983 of Title 42 of the United States Code states:

Every person who, under color of any statute, ordinance, regulation, custom or usage of any State or Territory or the District of Columbia, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the other party in action at law, suit in equity, or other proper proceeding for redress.

Section 1983 creates a federal remedy for a person who has been deprived by state officials of rights, privileges, and immunities secured by the United States Constitution and federal statutes.

The Plaintiff has the burden of proving each essential element of his Section 1983 claim by a preponderance of the evidence. To prove an assertion by a preponderance of the evidence

means proving that it is more likely true than not true. If you find that any of the essential elements of Plaintiff's Section 1983 claim has not been proven by a preponderance of the evidence, you must return a verdict for the defendant.

In order to prevail on his Section 1983 claim, Plaintiff must prove each of the following three essential elements by a preponderance of the evidence:

First, that the acts complained of were committed by the Defendant acting under color of state law;

Second, that in committing these acts, the Defendant intentionally or with a reckless disregard deprived the Plaintiff of rights, privileges, or immunities secured by the Constitution or laws of the United States; and

Third, that the Defendant's acts were the proximate cause of injuries sustained by the Plaintiff.

I will now give you more detail on these elements:

The first element of the Section 1983 claim is not in dispute. Because Ingrid Jones was an official of the State of Vermont at the relevant time, I instruct you that she was acting under color of state law. In other words, you must find that this element has been established.

The second element of Plaintiff's Section 1983 claim is that Detective Ingrid Jonas, in committing the acts complained of, intentionally or recklessly deprived him of a federal constitutional right. In this case, Plaintiff claims that a portion of his pre-trial detention was unreasonable as a result of Detective Jonas's refusal to investigate, mishandling of, and failure to disclose exculpatory evidence. The Fourth Amendment of the United States Constitution protects individuals from prolonged detention stemming from the refusal to investigate, mishandling of, or suppression of exculpatory evidence by law enforcement officials in a manner

which shocks the conscience. Exculpatory evidence is evidence that tends to suggest the innocence of a person charged with a crime. It includes evidence which tends to prove that the Plaintiff in this case (the defendant in the criminal case) did not commit the crime, evidence which suggests that the crime might have been committed by someone else, and evidence which might be used to impeach witnesses who would testify against the person accused. Exculpatory evidence is material when it would undermine confidence in a conclusion that the defendant was guilty of the crime.

To prove the second essential element of his claim, Plaintiff must not only show that Detective Jonas's acts deprived Plaintiff of a federal right, which in this case was the right to be free from unreasonable continued detention, but also that Detective Jonas took those acts with the intent to deprive the plaintiff of his rights or with reckless indifference to those rights. An act is reckless if done in conscious disregard of its known probable consequences. In other words, even if a defendant did not intentionally seek to deprive a plaintiff of the plaintiff's rights, if nevertheless she purposely disregarded the high probability that her actions would deprive the plaintiff of the plaintiff's rights, then the second essential element would be satisfied. An act is intentional if it is done voluntarily and deliberately and not because of mistake, accident, negligence, or other innocent reason. Intent can be proved directly or it can be proved by reasonable inference from circumstantial evidence. However, negligent conduct alone cannot support a finding of liability. To amount to a constitutional violation satisfying the second element, a police officer's conduct must shock the conscience. Furthermore, the duration of a wrongful incarceration, and the ease with which exculpatory evidence could have been investigated, are factors in assessing the existence of a constitutional encroachment.

Regarding the third element, an act is a proximate cause of an injury if it was a substantial factor in bringing about that injury, and if the injury was a reasonably foreseeable consequence of the defendant's act.

Effect of Instructions as to Damages

I will now instruct you as to the proper measure of damages, but you should not consider this instruction as an indication of whether you should award damages. The instructions are given only for your guidance. If you decide in favor of the Defendant, you need not consider the following instructions on the issue of damages. If you decide for the Plaintiff, you must consider the issues of damages.



Compensatory Damages

If you find in favor of John Grenier because he has proven all three elements of his claim, you must award him an amount of money that you believe will fairly and justly compensate him for any injury you believe he actually sustained as a proximate result of Detective Jonas's conduct.

The Plaintiff has to prove his injuries by a preponderance of the evidence. The Plaintiff must also show that Defendant's acts played a substantial part in bringing about the injury and that the injury was either a direct result or a reasonably probable consequence of the Defendant's act.

Compensatory damages must not be based on speculation or sympathy. They must be based on the evidence presented at trial and only on that evidence. Plaintiff claims the damages he suffered consist of loss of liberty, loss of wages, and damage to his family and professional relationships.

There is no exact standard for determining the amount that will fairly compensate a plaintiff for things like loss of liberty, loss of wages, and damage to family and professional relationships; you should simply decide what would be fair and just in light of the evidence.

Nominal Damages

If you return a verdict for the Plaintiff because he has proven all three elements of his claim, but find he has failed to prove he suffered actual damages, then you must award nominal damages of \$1.00, evidencing that liability has been proved.

A person whose federal rights were violated is entitled to a recognition of that violation, even if they suffered no actual damages. Nominal damages (of \$1.00) are designed to acknowledge the deprivation of a federal right.

Punitive Damages

Whether or not you award the plaintiff actual damages, you may also, in your discretion, make an award of punitive damages. Punitive damages are awarded to punish a defendant for extreme or outrageous conduct, and to deter or prevent a defendant and others like him from committing such conduct in the future.

The Plaintiff claims that the acts of the Defendant were done with malice and reckless indifference to the Plaintiff's federally protected rights so as to entitle the Plaintiff to an award of punitive damages in addition to compensatory damages.

If you find for the Plaintiff, and if you further find that the Defendant did act with malice or reckless indifference to the Plaintiff's federally protected rights, the law would allow you, in your discretion, to assess punitive damages against the Defendant as punishment and as a deterrent to others.

Selection of a Foreperson

I will select \_\_\_\_\_ to act as your foreperson. The foreperson will preside over your deliberations and will be your spokesperson here in Court.

I direct your attention to the verdict form, which has been prepared for your convenience. You will take this form to the jury room.

The answer to each question on the form must be the unanimous answer of the jury. Your foreperson will write the unanimous answer of the jury in the space provided for each question and, when completed, will date and sign the verdict.

Conclusion

To return a verdict, all jurors must agree to the verdict. In other words, your verdict must be unanimous.

If, during your deliberations, you should desire to communicate with me, please reduce your message or question to writing, signed by the foreperson, and pass the note to the court security officer. The officer will then bring the message to my attention. I will respond as promptly as possible, either in writing or by having you return to the courtroom so that I may address your question orally. I caution you, with regard to any message or question you might send, that you should never specify where you are in your deliberations or your numerical division, if any, at the time.



3. That the Plaintiff should be awarded compensatory damages?

Answer Yes or No \_\_\_\_\_

If you answered "Yes,"  
in what amount? \$ \_\_\_\_\_

If you answered "No" to this Question but "Yes" to Questions 1 and 2,  
you must return an award of damages in the sum of one dollar evidencing liability  
has been proved:

Nominal Damages \$ \_\_\_\_\_

4. That the Defendant acted with malice or reckless indifference to the Plaintiff's  
federally protected rights and that punitive damages should be assessed against  
the Defendant?

Answer Yes or No \_\_\_\_\_

If you answered Yes,  
in what amount? \$ \_\_\_\_\_

SO SAY WE ALL.

\_\_\_\_\_  
Foreperson

DATED: \_\_\_\_\_