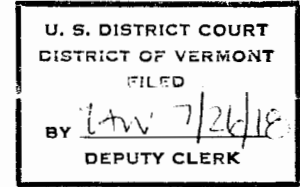


UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT



UNITED STATES OF AMERICA, )  
)  
v. )  
)  
JOHN CHINNICI, )  
)  
Defendant. )

Case No. 2:17-cr-00077

**JURY CHARGE**

Members of the Jury:

Now that you have heard the evidence and the arguments, it is my duty to instruct you on the law. It is your duty to accept these instructions of law and apply them to the facts as you determine them.

This case is a criminal prosecution brought by the United States against the defendant JOHN CHINNICI. The indictment charges JOHN CHINNICI with obstructing interstate commerce through the use of robbery. The indictment reads as follows:

On or about January 11, 2016, in the District of Vermont, the defendant, JOHN CHINNICI, unlawfully obstructed, delayed, and affected commerce and the movement of articles and commodities in commerce, by robbery, in that the defendant, JOHN CHINNICI, took and obtained property consisting of U.S. currency from employees A.F. and S.G. of Martin’s Mobil gas station on Main Street in Bennington, Vermont, against the employees’ will by means of actual and threatened force, violence, and fear of injury.

The indictment charges the defendant with violating § 1951 of Title 18 of the United States Code. Section 1951, in pertinent part, provides:

Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery . . . or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section [commits a crime].

### **ROLE OF THE INDICTMENT**

At this time, I would like to remind you of the function of an indictment. An indictment is merely a formal way to accuse a defendant of a crime before trial. An indictment is not evidence. An indictment does not create any presumption of guilt or permit an inference of guilt. It should not influence your verdict in any way other than to inform you of the charge against the defendant. The defendant has pleaded not guilty to the count in the indictment. You have been chosen and sworn as jurors in this case to determine the issues of fact that have been raised by the allegations in the indictment and the denial made by the not guilty plea of the defendant. You are to perform this duty without bias or prejudice against the defendant or the government.

### **REASONABLE DOUBT AND PRESUMPTION OF INNOCENCE**

The government must prove the defendant guilty beyond a reasonable doubt. The question is what is a reasonable doubt? The words almost define themselves. It is a doubt based upon reason and common sense. Proof beyond a reasonable doubt must, therefore, be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the most important of his or her own affairs. A reasonable doubt is not a whim, speculation, or suspicion. However, a reasonable doubt may arise from a lack of evidence. It is not an excuse to avoid the performance of an unpleasant duty, and it is not sympathy.

In a criminal case, the burden is at all times upon the government to prove guilt beyond a reasonable doubt. The law does not require the government to prove guilt beyond all possible doubt; proof beyond a reasonable doubt is sufficient to convict. This burden never shifts to a defendant, which means that it is always the government's burden to prove each element of the crime charged beyond a reasonable doubt. The law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. A defendant is not even obligated to produce any evidence by cross-examining the witnesses for the government.

The law presumes the defendant is innocent of the charge against him. The presumption of innocence is a piece of evidence that lasts throughout the trial and during

your deliberations. The presumption of innocence ends only if you, the jury, find beyond a reasonable doubt that the defendant is guilty. Should the government fail to prove the guilt of the defendant beyond a reasonable doubt, you must find the defendant not guilty.

If, after a fair and impartial consideration of all the evidence against the defendant, you have a reasonable doubt, then it is your duty to find the defendant not guilty. On the other hand, if, after a fair and impartial consideration of all the evidence, you are satisfied of the defendant's guilt beyond a reasonable doubt, you should vote to convict.

### **EVIDENCE**

You have seen and heard the evidence produced in this trial, and it is the sole province of the jury to determine the facts of this case. The evidence consists of the sworn testimony of the witnesses, any exhibits that have been admitted into evidence, and all the facts that have been admitted or stipulated. I would now like to call your attention to certain guidelines by which you are to evaluate the evidence.

There are two types of evidence that you may properly use in reaching your verdict. One type of evidence is direct evidence. Direct evidence is when a witness testifies about something he or she knows by virtue of his or her own senses—something he or she has seen, felt, touched, or heard. Direct evidence may also be in the form of an exhibit.

Circumstantial evidence is evidence that tends to prove a disputed fact by proof of other facts. You infer on the basis of reason, experience, and common sense from one established fact, the existence or non-existence of some other fact. For example, if you were to see cow tracks in a pasture, that would be circumstantial evidence that there are or were cows in the pasture.

Circumstantial evidence is of no less value than direct evidence. Circumstantial evidence alone may be sufficient evidence of guilt.

You should weigh all the evidence in the case. After weighing all the evidence, if you are not convinced of the defendant's guilt beyond a reasonable doubt, then you must find him not guilty. Your verdict must be based solely on the evidence introduced at trial, or the lack thereof.

**GOVERNMENT NOT REQUIRED TO UTILIZE PARTICULAR  
INVESTIGATIVE METHODS**

The government is not required to pursue any particular investigative method or methods in the investigation or prosecution of a crime. I remind you, however, that the government is always required to prove the defendant's guilt beyond a reasonable doubt.

**STRICKEN TESTIMONY, ATTORNEYS' STATEMENTS AND OBJECTIONS,  
AND THE COURT'S RULINGS**

I caution you that you should entirely disregard any testimony or exhibit that has been excluded or stricken from the record. Likewise, the arguments of the attorneys and the questions asked by the attorneys are not evidence in the case. By the rulings the court made in the course of the trial, I did not intend to indicate to you any of my own preferences, or to influence you in any manner regarding how you should decide the case. The attorneys have a duty to object to evidence they believe is not admissible. You must not hold it against either side if an attorney made an objection.

**CREDIBILITY OF WITNESSES**

You, as jurors, are the sole judges of the credibility of the witnesses and the weight of their testimony. You do not have to accept all the evidence presented in this case as true or accurate. Instead, it is your job to determine the credibility or believability of each witness. You do not have to give the same weight to the testimony of each witness, because you may accept or reject the testimony of any witness, in whole or in part. In weighing the testimony of the witnesses you have heard, you should consider: their interest, if any, in the outcome of the case; their manner of testifying; their candor; their bias, if any; their resentment or anger, if any, toward the defendant; the extent to which other evidence in the case supports or contradicts their testimony; and the reasonableness of their testimony. You may believe as much or as little of the testimony of each witness as you think proper. You may accept all of it, some of it, or reject it altogether.

The weight of the evidence is not determined by the number of witnesses testifying. You may find the testimony of a small number of witnesses or a single

witness about a fact more credible than the different testimony of a larger number of witnesses. The fact that one party called more witnesses and introduced more evidence than the other does not mean that you should necessarily find the facts in favor of the side offering the most witnesses or the most evidence. Remember, a defendant in a criminal prosecution has no obligation to present any evidence or call any witnesses.

Inconsistencies or discrepancies in the testimony of a witness, or between the testimony of different witnesses, may or may not cause you to discredit such testimony. Two or more persons may hear or see things differently, or may have a different point of view regarding various occurrences. It is for you to weigh the effect of any discrepancies in testimony, considering whether they pertain to matters of importance, or unimportant details, and whether a discrepancy results from innocent error or intentional falsehood. You should attempt to resolve inconsistencies if you can, but you also are free to believe or disbelieve any part of the testimony of any witness as you see fit.

#### **INTEREST IN THE OUTCOME**

As a general matter, in evaluating the credibility of each witness, you should take into account any evidence that the witness who testified may benefit in some way from the outcome of this case. Such an interest may create a motive to testify falsely and may sway the witness to testify in a way that advances his or her own interests. Therefore, if you find that any witness whose testimony you are considering has an interest in the outcome of this trial, then you should bear that factor in mind when evaluating the credibility of his or her testimony and accept it only with great care.

This is not to suggest that any witness who has an interest in the outcome of a case will testify falsely. It is for you to decide to what extent, if at all, the witness's interest has affected or colored his or her testimony.

#### **EXPERT WITNESSES**

You have heard evidence from witnesses who are known as expert witnesses. An expert witness is a person who has special knowledge, experience, training, or education in his or her profession or area of study. Because of this expertise, an expert witness may offer an opinion about one or more of the issues in the case.

In evaluating an expert witness's testimony, you should evaluate his or her credibility and statements just as you would with any other witness. You should also evaluate whether the expert witness's opinion is supported by the facts that have been proved, and whether the opinion is supported by the witness's knowledge, experience, training, or education. You are not required to give the testimony of an expert witness any greater weight than you believe it deserves just because the witness has been referred to as an expert.

### **LAW ENFORCEMENT WITNESSES**

You have heard the testimony of law enforcement officials. The fact that a witness may be employed by the federal, state, or local government as a law enforcement official does not mean that his or her testimony is deserving of more or less consideration or greater or lesser weight than that of an ordinary witness.

At the same time, it is proper for defense counsel to try to attack the credibility of a law enforcement witness on the grounds that his or her testimony may be colored by a personal or professional interest in the outcome of the case.

It is your decision, after reviewing all the evidence, whether to accept the testimony of a law enforcement witness and to give that testimony whatever weight, if any, you find it deserves.

### **WITNESSES WHO HAVE, OR HAVE RECENTLY, OR ARE CURRENTLY USING CONTROLLED SUBSTANCES**

There has been evidence introduced at trial that some of the individuals who the government called as witnesses were using controlled substances when the events they observed or participated in took place. There is nothing improper about calling such witnesses to testify about events within their personal knowledge.

However, testimony from such witnesses must be examined with greater scrutiny than the testimony of other witnesses. The testimony of a witness who was using controlled substances at the time of the events he or she is testifying about, or who has recently or is currently using controlled substances during the time of his or her

testimony, may be less believable because of the effect the controlled substances may have on his or her ability to perceive or remember the events in question.

If you decide to accept the testimony of such a witness, after considering it in light of all the evidence in this case, then you may give it whatever weight, if any, you find it deserves.

**PRIOR INCONSISTENT STATEMENTS OF NON-PARTY WITNESSES**

You may find that a witness has made statements outside of this trial that are inconsistent with the statements that the witness gave here. You may consider the out-of-court statements not made under oath only to determine the credibility of the witness and not as evidence of any facts contained in the statements. As to out-of-court statements that were made under oath, such as statements made in prior testimony, you may consider them for all purposes, including for the truth of the facts contained therein.

**ACCOMPLICE CALLED BY THE GOVERNMENT**

You have heard a witness who testified that he was actually involved in planning and carrying out the crime charged in the indictment.

The government argues, as it is permitted to do, that it must take the witnesses as it finds them. It argues that only people who themselves take part in criminal activity have the knowledge required to show criminal behavior by others.

For those reasons, the law allows the use of accomplice testimony. Indeed, it is the law in federal courts that the testimony of accomplices may be enough in itself for conviction, if the jury finds that the testimony establishes guilt beyond a reasonable doubt. However, it is also the case that accomplice testimony is of such nature that it must be scrutinized with great care and viewed with particular caution when you decide how much of that testimony to believe.

I have given you some general considerations on credibility, and I will not repeat them all here. Nor will I repeat all of the arguments made on both sides. However, there are a few factors that you may want to consider during your deliberations on the subject of accomplices.

You should ask yourselves whether the so-called accomplice would benefit more by lying or by telling the truth. Was the testimony made up in any way because he believed or hoped that he would somehow receive favorable treatment by testifying falsely? Or did he believe that his interests would be best served by testifying truthfully? If you believe that the witness was motivated by hopes of personal gain, was the motivation one that would cause him to lie, or was it one that would cause him to tell the truth? Did this motivation color his testimony?

In sum, you should look at all of the evidence in deciding what credence and what weight, if any, you will want to give to the accomplice witness.

**STATUTORY IMMUNITY OF GOVERNMENT WITNESS**

You have heard the testimony of a witness who has testified under a grant of immunity from this court. What this means is that the testimony of the witness may not be used against him in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the immunity order of this court.

You are instructed that the government is entitled to call, as a witness, a person who has been granted immunity by order of this court and that you may convict a defendant on the basis of such a witness's testimony alone, if you find that the testimony proves the defendant guilty beyond a reasonable doubt.

However, the testimony of a witness who has been granted immunity should be examined by you with greater care than the testimony of an ordinary witness. You should scrutinize it closely to determine whether or not it is colored in such a way as to place guilt upon the defendant in order to further the witness's own interests; for, such a witness, confronted with the realization that he can win his own freedom by helping to convict another, has a motive to falsify his testimony.

Such testimony should be scrutinized by you with great care and you should act upon it with caution. If you believe it to be true, and determine to accept the testimony, you may give it such weight, if any, as you believe it deserves.



**ADMISSIONS BY A DEFENDANT**

There has been evidence that the defendant made certain statements in which the government claims he admitted certain facts.

In deciding what weight to give the defendant's statements, you should first examine with great care whether each statement was made and whether, in fact, it was voluntarily and understandingly made. I instruct you that you are to give the statements such weight as you feel they deserve in light of all the evidence.

**CONSCIOUSNESS OF GUILT FROM FABRICATION OF ALIBI**

You have heard evidence that the defendant made statements outside the courtroom in which he claimed he was not present at the scene of the crime when it was committed. The government claims that this alibi statement was false.

If you find that the defendant intentionally gave a false statement in order to mislead the investigating authorities that he was not present at the scene of the crime, you may, but need not, infer that the defendant believed that he was guilty. You may not, however, infer on the basis of this alone, that the defendant is, in fact, guilty of the crime for which he is charged.

Whether evidence as to the defendant's fabrication of an alibi shows that the defendant knew that he was guilty and the significance, if any, to be given to this evidence, are matters for you, the jury, to decide.

**SPOILIATION OF EVIDENCE**

You have heard evidence that the government lost Defendant John Chinnici's phone after it obtained information from that phone using Cellebrite technology, but before Defendant could conduct his own forensic analysis. You may, but are not required to, draw an inference that there was information on the lost cell phone that was unfavorable to the government.

**USE OF RECORDINGS AND TRANSCRIPTS**

The government was permitted to display a transcript it prepared containing the government's interpretation of what is heard on the audio recordings which have been admitted into evidence. The transcript was provided as an aid or guide to assist you, the

jury, in listening to the recordings; however, the transcripts themselves are not evidence. It is the recordings that are evidence, and you should rely upon your own interpretation of what you heard on the recordings. If you think you heard something different on the recording than what was on the transcript, then what you heard on the recording must control.

**IMPERMISSIBLE TO INFER PARTICIPATION FROM ASSOCIATION**

You may not infer that a defendant is guilty of participating in criminal conduct merely from the fact that he or she was associated with other people who were guilty of wrongdoing.

**DEFENDANT NOT TESTIFYING**

You may have observed that the defendant did not testify in this case. The defendant has a constitutional right not to do so. He does not have to testify, and the government may not call him as a witness. The defendant's decision not to testify raises no presumption of guilt and does not permit you to draw any unfavorable inference. A defendant is never required to prove that he or she is not guilty. Therefore, in determining the defendant's guilt or innocence of a crime charged, you are not to consider, in any manner, the fact that the defendant did not testify. Do not even discuss it in your deliberations.

**OTHER ACTS**

You are only to determine whether the defendant is guilty or not guilty of the charge in the indictment. Your determination must be made only from the evidence admitted by the court in this case. The defendant is not on trial for any conduct or offense not charged in the indictment. You should consider evidence about other acts, only as they relate to the charge against the defendant.

**CHARTS AND SUMMARIES**

The charts and summaries were shown to you in order to make the other evidence more meaningful and to aid you in considering the evidence. They are no better than the testimony or the documents upon which they are based, and are not themselves independent evidence. Therefore, you are to give no greater consideration to these

summaries than you would give to the evidence upon which they are based. It is for you to decide whether the charts or summaries correctly present the information contained in the testimony and in the exhibits on which they were based. You are entitled to consider the charts and summaries if you find that they are of assistance to you in analyzing the evidence and understanding the evidence.

**JURORS' EXPERIENCE OR SPECIALIZED KNOWLEDGE**

Anything you have seen or heard outside the courtroom is not evidence, and must be disregarded entirely. It would be a violation of your oath as jurors to consider anything outside the courtroom in your deliberations. But in your consideration of the evidence, you do not leave behind your common sense and life experiences. In other words, you are not limited solely to what you see and hear as the witnesses testify. You are permitted to draw, from facts which you find have been proved, such reasonable inferences as you feel are justified in light of the evidence. However, if any juror has specialized knowledge, expertise, or information with regard to the facts and circumstances of this case, he or she may not rely upon it in deliberations or communicate it to other jurors.

**JURORS' SYMPATHY, PASSION, OR PREJUDICE**

In arriving at a verdict, you must not permit yourselves to be influenced in the slightest degree by sympathy, passion, or prejudice, or any other emotion in favor of or against either party. The law forbids you to be governed by mere sentiment, conjecture, sympathy, passion, or prejudice.

**RACE, RELIGION, NATIONAL ORIGIN, SEX, OR AGE**

You may not consider the race, religion, national origin, sex, or age of the defendant or any of the witnesses in your deliberations over the verdict or in the weight given to any evidence.

**BIAS, PREJUDICE, AND EQUALITY BEFORE THE COURT**

You are to perform the duty of finding the facts without bias or prejudice toward any party. You are to perform this duty in an attitude of complete fairness and impartiality. You must not allow any of your personal feelings about the nature of the

crime charged to interfere with your deliberations, or to influence the weight given to any of the evidence.

This case is important to the parties and the court. You must give it the fair and serious consideration that it deserves.

The fact that the prosecution is brought in the name of the United States of America entitles the government to no greater consideration than that accorded to any other party to a case. By the same token, it is entitled to no less consideration. All parties, whether government or individuals, stand as equals before the court.

**INSTRUCTIONS ON THE SUBSTANTIVE LAW OF THE CASE**

Having explained the general guidelines by which you will evaluate the evidence in this case, I will now instruct you with regard to the law that is applicable to your determinations in this case.

It is your duty as jurors to follow the law as stated to you in these instructions and to apply the rules of law to the facts that you find from the evidence. You will not be faithful to your oath as jurors if you find a verdict that is contrary to the law that I give to you.

However, it is the sole province of the jury to determine the facts in this case. I do not, by any instructions given to you, intend to persuade you in any way as to any question of fact.

The parties in this case have a right to expect that you will carefully and impartially consider all the evidence in the case, that you will follow the law as I state it to you, and that you will reach a just verdict.

**OBSTRUCTION OF INTERSTATE COMMERCE BY ROBBERY**

The indictment charges the defendant, JOHN CHINNICI, with obstructing interstate commerce by robbery in violation of § 1951 of Title 18 of the United States Code. I remind you that § 1951 makes it a crime to, in any way or degree, obstruct, delay, or affect commerce or the movement of any article or commodity in commerce, by robbery, or attempt or conspire so to do, or commit or threaten physical violence to any

person or property in furtherance of a plan or purpose to do anything in violation of § 1951.

**ROBBERY DEFINED**

“Robbery” is defined as the unlawful taking or obtaining of personal property of another against his or her will by threatening or actually using force, violence, or fear of injury, immediately or in the future, to person or property.

**ESSENTIAL ELEMENTS OF THE OFFENSE OF OBSTRUCTION OF INTERSTATE COMMERCE BY ROBBERY**

In order to meet its burden of proof that the defendant obstructed interstate commerce by robbery, the government must prove each of the following elements beyond a reasonable doubt:

First, that the defendant knowingly obtained or took the personal property of another, or from the presence of another;

Second, that the defendant took this property against the victim’s will, by actual or threatened force, violence, or fear of injury, whether immediately or in the future; and

Third, that as a result of the defendant’s actions, interstate commerce, or an item moving in interstate commerce, was delayed, obstructed, or affected in any way or degree.

**FIRST ELEMENT – PERSONAL PROPERTY**

The first element that the government must prove beyond a reasonable doubt is that the defendant knowingly obtained or took the personal property of another, or from the presence of another.

The term “property” includes money and other tangible and intangible things of value that are capable of being transferred from one person to another.

**SECOND ELEMENT – UNLAWFUL TAKING BY FORCE, VIOLENCE, OR FEAR**

The second element the government must prove beyond a reasonable doubt is that the defendant unlawfully took this property against the victim’s will, by actual or threatened force, violence, or fear of injury, whether immediately or in the future.

In considering whether the defendant used, or threatened to use force, violence, or fear, you should give those words their common and ordinary meaning, and understand them as you normally would. The violence does not have to be directed at the person whose property was taken. The use or threat of force or violence might be aimed at a third person, or at causing economic rather than physical injury. A threat may be made verbally or by a physical gesture. Whether a statement or physical gesture by the defendant actually was a threat depends upon the surrounding facts.

### **FEAR OF INJURY**

As I have just instructed you, you must determine whether the defendant knowingly and willfully threatened to use force, violence, or fear to unlawfully obtain the property. Fear exists if a victim experiences anxiety, concern, or worry over expected personal harm or business loss, or over financial or job security. The existence of fear must be determined by the facts existing at the time of the defendant's actions.

Your decision whether the defendant used or threatened fear of injury involves a decision about the victim's state of mind at the time of the defendant's actions. It is obviously impossible to ascertain or prove directly a person's subjective feeling. You cannot look into a person's mind to see what his state of mind is or was. But a careful consideration of the circumstances and evidence should enable you to decide whether fear would reasonably have been the victim's state of mind.

Looking at the situation and the actions of people involved may help you determine what their state of mind was. You can consider this kind of evidence—which is called “circumstantial evidence”—in deciding whether property was obtained by the defendant through the use or threat of fear.

You have also heard the testimony of a witness describing his state of mind—that is, how he felt—in giving up the property. This testimony was allowed so as to help you in deciding whether the property was obtained by fear. You should consider this testimony for that purpose only.

You may also consider the relationship between the defendant and the alleged victim in deciding whether the element of fear exists. However, a friendly relationship between the parties does not mean that you cannot find that fear exists.

**THIRD ELEMENT – AFFECTING INTERSTATE COMMERCE**

If you decide that the defendant obtained another's property, against his or her will, by the use or threat of force, violence, or fear of injury, you must then decide whether this action would affect interstate commerce in any way or degree. You must determine whether there is an actual or potential effect on commerce between any two or more states.

If you decide that there was any effect at all on interstate commerce, then that is enough to satisfy this element. The effect can be minimal. For example, if a successful robbery of money would prevent the use of those funds to purchase articles that travel through interstate commerce, that would be a sufficient effect on interstate commerce.

If you decide that interstate commerce would potentially or probably be affected if the defendant had successfully and fully completed his actions, then the element of affecting interstate commerce is satisfied. You do not have to find that interstate commerce was actually affected. However, if the defendant has finished his actions, and done all he intended to do, and you determine there has been no effect on interstate commerce, then you cannot find the defendant guilty.

You do not have to decide whether the effect on interstate commerce was harmful or beneficial to a particular business, or to commerce in general. The government satisfies its burden of proving an effect on interstate commerce if it proves beyond a reasonable doubt any effect, whether it was harmful or not.

The defendant need not have intended or anticipated an effect on interstate commerce. You may find the effect is a natural consequence of his actions. If you find that the defendant intended to take certain actions—that is, he did the act charged in the indictment in order to obtain property—and you find that act has either caused, or would probably cause, an effect on interstate commerce, then you may find the requirements of this element have been satisfied.

**UNANIMOUS VERDICT REQUIRED**

To return a verdict, it is necessary that every juror agree to the verdict. In other words, your verdict must be unanimous regarding each essential element of the crime charged.

**JUROR NOTE TAKING**

During this trial, you have been provided with pencil and paper, and some of you have taken notes. As I explained at the beginning of the trial, all jurors should be given equal attention during the deliberations regardless of whether they have taken notes. Any notes you have taken may only be used to refresh your memory during deliberations. You may not use your notes as authority to persuade your fellow jurors as to what a witness did or did not say. In your deliberations you must rely upon your collective memory of the evidence in deciding the facts of the case. If there is any difference between your memory of the evidence and your notes, you may ask that the record of the proceedings be read back. If a difference still exists, the record must prevail over your notes.

**RECOLLECTION OF EVIDENCE**

Let me remind you that in deliberating upon your verdict, you are to rely solely and entirely upon your own memory of the testimony.

If, during your deliberations, you are unable to recall with any degree of accuracy, a particular part of the testimony, or a part of these instructions, you may do the following:

- (1) Write out your question, and have the foreperson sign it;
- (2) Knock on the door of the jury room; and
- (3) Deliver your note to the Court Officer to give to me.

After the attorneys have been consulted, and the record has been reviewed, I will decide what action to take, and I will tell you my ruling.

**CONCLUSION**

I caution you, members of the jury, that you are here to determine whether the defendant before you today is not guilty or guilty solely from the evidence in this case. I



remind you that the mere fact that a defendant has been indicted is not evidence against him. Also, a defendant is not on trial for any act or conduct or offense not alleged in the indictment. Nor 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.

You should not consider the consequences of a guilty or not guilty determination. The punishment provided by law for the offense charged in the indictment is a matter exclusively within the responsibility of the judge, and should never be considered by the jury in any way in arriving at an impartial verdict.

It is your duty as jurors to consult with one another and to deliberate. 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. Do not hesitate to re-examine your own views and change your opinion if you think that you were wrong. Do not, however, surrender your honest convictions about the case solely because of the opinion of your fellow jurors or for the mere purpose of returning a verdict.

Upon retiring to the jury room, your foreperson will preside over your deliberations and will be your spokesperson here in court. If a vote is to be taken, your foreperson will ensure that it is done. A verdict form has been prepared for your conclusions. If the verdict form varies in any way from the instructions provided within this jury charge, I instruct you that you are to follow the instructions provided within this jury charge.


After you have reached an agreement, the foreperson will record a verdict of guilty or not guilty. Your foreperson will then sign and date the verdict form and you will return to the courtroom. In all other respects, a foreperson is the same as any other juror. His or her vote does not count more than any other member of the jury.

If, during your deliberations, you should desire to communicate with the court, please put your message or question in writing signed by the foreperson, and pass the note to the Court Officer who will bring it to my attention. I will then confer with the attorneys and I will respond as promptly as possible, either in writing or by having you return to the courtroom so that I can speak with you. 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. You should also never communicate the subject matter of your note or your deliberations to any member of the court's staff.

I appoint [REDACTED] as your foreperson.

Dated at Burlington, in the District of Vermont, this 26<sup>th</sup> day of July, 2018.

  
Christina Reiss, District Judge  
United States District Court