

Jury Instructions

United States v. Ademola Kayode, Jr., Cr. 18-cr-00030-WES

Introduction

At this time, it is my duty to instruct you on the law applicable to this case. You must accept the rules of law that I give you and apply them to the facts in this case as you find those facts to be.

In applying the law that I am about to explain to you in these instructions, you must consider the instructions as a whole. You should not choose one part and disregard another. You must accept and apply the law as I give it to you in its entirety.

You must accept and apply the rules of law that I give to you whether you agree with them or not. It would be a violation of the oath you took as jurors to base a decision on any version of the law other than that contained in my instructions just as it would be a violation of that oath to return a decision upon anything but the evidence in this case. It is not up to you to decide what the law is or should be. Your duty is to apply the law as I explain it to you.

You should not worry about memorizing or writing down all of the instructions as I state them, because I will send into

the jury room a written copy of my instructions. However, you must know that the law is as I will give it to you from the bench; the written copy is merely a guide to assist you.

Presumption of Innocence

As I have previously told you during the course of this trial, Mr. Kayode is presumed to be innocent of the accusations against him. This presumption of innocence remains with the Defendant unless and until the Government presents evidence satisfying you beyond a reasonable doubt that he is guilty. The presumption is not a mere formality. It is a matter of the most important substance.

The presumption of innocence until proven guilty means that the burden of proof is always on the Government to satisfy you beyond a reasonable doubt that Mr. Kayode is guilty of the crime with which he is charged. It is a heavy burden, but the law does not require that the Government prove guilt beyond all possible doubt; proof beyond a reasonable doubt is sufficient to convict. This burden never shifts to Mr. Kayode to prove his innocence. It is always the Government's burden to prove each of the elements of the crimes charged beyond a reasonable doubt by the evidence and the reasonable inferences to be drawn from that evidence. Mr. Kayode has the right to rely upon the failure or inability of the Government to establish beyond a reasonable

doubt any essential element of a crime charged against him. The presumption of innocence is sufficient to require a not guilty verdict unless you find that such evidence has been presented.

If you collectively find that the Government has proved the Defendant guilty beyond a reasonable doubt during your deliberations, the presumption of innocence disappears and is of no further avail to him. However, until that time, the presumption remains with the Defendant.

Indictment - Effect

You will have the indictment with you in the jury room to help you remember the precise nature of the charges against the Defendant.

I remind you, once again, that an indictment is nothing more than an accusation. It should not be considered as evidence of guilt. It may not even be the basis of an inference of guilt. All that it does is to bring this matter before you for determination. Beyond that, it has no significance, whatever. It merely sets forth the elements of the offenses which the Government must prove beyond a reasonable doubt.

Definition of "On or About"

You will note 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.

Proof of All Elements

I will shortly explain the offenses with which the Defendant is charged and the elements the Government must prove in order to establish that the Defendant is guilty of any of those offenses.

In order for the Government to prove the Defendant guilty of an offense, it must convince you, beyond a reasonable doubt, that it has proved each and every element of that offense. Possibilities or even probabilities are not sufficient.

If the Government fails to prove any one or more elements of an offense beyond a reasonable doubt, you must find the Defendant not guilty of that particular offense.

On the other hand, if you are convinced, beyond a reasonable doubt, that all elements of an offense with which the

Defendant has been charged have been proved, then you should find the Defendant guilty of that offense.

Bear in mind that the requirement that the Government prove every element of an offense with which a Defendant is charged does not mean that the Government is required to prove every statement contained in the indictment.

What it means is that the Government must prove facts sufficient to prove all of the elements of the offense with which the Defendant is charged as I have explained them.

Reasonable Doubt

As I stated previously, the Government's obligation to prove the Defendant's guilt beyond a reasonable doubt does not mean that it must do so beyond all doubt or beyond any conceivable shadow of a doubt. What it means is that the Government must prove the Defendant's guilt beyond a reasonable doubt.

I cannot provide you with a definition of reasonable doubt. You know what "reasonable" means and you know what a "doubt" is. Therefore, it is up to you to decide whether the Government has proved the Defendant guilty beyond a reasonable doubt.

Summary of the Charges

As you know, the indictment against the Defendant, Ademola Kayode, charges him with committing five separate crimes.

Count One of the Indictment alleges that from on or about March 25, 2015 until on or about July 16, 2016, the Defendant engaged in the business of dealing in firearms without a license, in violation of Title 18, United States Code, Sections 922(a)(1)(A) and 923(a).

In Count Two of the Indictment, the Government alleges that on June 24, 2016, the Defendant knowingly possessed four firearms and at the time he was an unlawful user of a controlled substance, particularly marijuana. Marijuana is a controlled substance under federal law and it is illegal under federal law for a user of a controlled substance to possess a firearm.

In Count Three of the Indictment, the Government alleges that on June 16th and 24th of 2016, Defendant knowingly made false written statements when he applied to purchase four firearms. The Indictment alleges that when the Defendant purchased these firearms, he falsely wrote that he was not an unlawful user of marijuana.

In Counts Four and Five of the Indictment, the Government alleges that on two different occasions the Defendant knowingly

made false statement to a Special Agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"). Count Four alleges that on July 28, 2016, the Defendant falsely told an ATF agent that the firearms he had recently purchased in Rhode Island were located in different places in Georgia. Count Five alleges that on March 25, 2018, Defendant falsely told an ATF agent that his firearms had been stolen.

Elements of Specific Charges

I will now go through the elements of each charge and explain the definitions of some of the important terms. Please continue to listen carefully.

Count One - Engaging in the Business of Dealing in Firearms

Without a License

The Indictment and the Statute

Count One of the indictment charges that the Defendant engaged in the business of dealing in firearms without a license.

The law applicable to Count One is found in parts of an act of Congress called the Gun Control Act of 1968. Title I of that Act provides, in relevant part, as follows: "It shall be unlawful ... for any person, except a licensed ... dealer, to engage in the business of ... dealing in firearms."

In general, these laws include provisions that prohibit certain categories of people from receiving firearms that were shipped interstate and requires any person in the business of dealing in firearms to be licensed. The Government contends that the Defendant was a person engaged in the business of dealing in firearms.

Elements of the Offense

In order to prove the Defendant guilty of the charge contained in Count One of the indictment, the Government must establish each of the following elements beyond a reasonable doubt:

- First, that on or about the dates set forth in the indictment, the Defendant engaged in the business of dealing in firearms.
- Second, that the Defendant did not have a federal license to do so.
- Third, that the Defendant acted willfully.

Definitions

Now, as I told you, the charge in Count One of the indictment involves dealing in firearms. Before explaining each of the elements, let me define some of the terms I have used.

The term "firearm" means: "(A) any weapon ... which will or is designed to or may be readily converted to expel a projectile by the action of an explosive; or (B) the frame or receiver of any such weapon."

A person is a "dealer" when he is "engaged in the business of selling firearms at wholesale or retail."

The term "licensed dealer" means any dealer who is licensed under the provisions of the Gun Control Act of 1968.

First Element—Dealing in Firearms

The first element that the Government must prove beyond a reasonable doubt is that the Defendant engaged in the business of dealing in firearms.

As I told you, a "dealer" is someone who engages in the business of dealing in firearms. The term "engaged in the business" means "a person who devotes time, attention and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms." Such a person "does not include a person who makes occasional sales, exchanges, or purchase of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of that person's personal collection of firearms."

The term "with the principal objective of livelihood and profit" is also a technical term; it means "that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection." The Government must prove the Defendant's activities rose above the occasional sale of a hobbyist, but does not need to show the Defendant's primary business was dealing in firearms or that he actually made a profit from dealing in firearms if he engaged in the regular and repetitive purchase and disposition of firearms for a criminal purpose."

Second Element—Defendant Was Not a Licensed Dealer

The second element the Government must establish beyond a reasonable doubt is that the Defendant did not have a license as an importer, manufacturer, or dealer in firearms.

In order to be a licensed dealer, a person must file an application with and receive a license from the Secretary of the Treasury.

Third Element—Willfulness

The third element the Government must prove beyond a reasonable doubt is that the Defendant acted willfully.

To act "willfully" means to act voluntarily and intelligently and with the specific intent that the underlying crime be committed – that is to say, with bad purpose, either to disobey or disregard the law – not to act by ignorance, accident or mistake. In order to satisfy this element, the need not be aware of the specific law or rule that his conduct may be violating, but he must act with the intent to do something that the law forbids.

Count Two: Possession of Firearm by Unlawful User of Controlled Substance – 18 USC 922(g) (3)

Elements of Offense of Possession of Firearms by an Unlawful User of a Controlled Substance

Defendant is charged in Count Two with possessing firearms in or affecting commerce, knowing that he was an unlawful user of a controlled substance. It is against federal law for a user of a controlled substance to possess a firearm that was connected with interstate commerce. For you to find Defendant guilty of this crime, you must be satisfied that the Government has proven each of the following things beyond a reasonable doubt:

- First, that Defendant was an "Unlawful user of any controlled substance" at the time the Defendant possessed the firearms. Marijuana is a controlled

substance under federal law.

- Second, that Defendant knowingly possessed the firearms described in the indictment.
- Third, at the time of the charged act, the Defendant knew that he was an unlawful user of a controlled substance, namely, marijuana, and;
- Fourth, that the firearm was connected with interstate commerce. This means that the firearm, at any time after it was manufactured, moved from one state to another. The travel need not have been connected to the charge in the indictment and need not have been in furtherance of any unlawful activity. The Government does not have to prove that the firearm's travel between states was caused by the Defendant or occurred while in Defendant's possession.

For the Defendant to be considered an "unlawful user of marijuana," "the Government must prove beyond a reasonable doubt that (1) the Defendant used [marijuana] regularly, (2) that the use took place over a long period of time, and (3) that the use was proximate to or contemporaneous with his possession of a firearm."

The term "firearm" means the same thing it did in the first count: any weapon which will or is designed or may readily be

converted to expel a projectile by the action of an explosive, including the frame or receiver of any such weapon.

The word "knowingly" means that the act was done voluntarily and intentionally, not because of mistake or accident. More specifically, the Government must prove that Mr. Kayode knew he possessed a firearm or firearms, and that he knew he was an unlawful user of marijuana. However, this does not require proof that the Defendant specifically knew that he would be legally prohibited from possessing a firearm if he was an unlawful user of marijuana.

The term "possess" means to exercise authority, dominion, or control over something. It is not necessarily the same as legal ownership. The law recognizes different kinds of possession.

Possession includes both actual and constructive possession. A person who has direct physical control of something on or around his or her person is then in actual possession of it. A person who is not in actual possession, but who has both the power and the intention to exercise control over something is in constructive possession of it. Whenever I use the term "possession" in these instructions, I mean actual as well as constructive possession.

Possession includes both sole and joint possession. If one person alone has actual or constructive possession, possession is sole. If two or more persons share actual or constructive possession, possession is joint. Whenever I have used the word "possession" in these instructions, I mean joint as well as sole possession.

Count 3: False Statements During Purchase of Firearms

Elements for Offense of False Statements During Purchase of Firearms - 18 USC 922(a)(6)

Defendant is charged in Count Three with making a false statement in connection with trying to buy a firearm. Specifically, the Government alleges that he indicated on a form that he was not an unlawful user of marijuana when he knew he was. It is against federal law to knowingly make a false statement in connection with trying to buy a firearm. For you to find Defendant guilty of this crime, you must be convinced that the Government has proven each of these elements beyond a reasonable doubt:

- First, that Defendant knowingly made a false statement as charged in the Indictment;
- Second, that at the time he made the statement, Defendant was trying to buy a firearm from a licensed dealer; and

- Third, that the statement was intended to, or likely to, deceive the licensed dealer about a fact material to the lawfulness of the sale.

Here, the Government does not have to prove that Defendant knew that he was violating the law.

A statement is "false" if it is untrue when made. A false statement is made "knowingly" if the person making it knows that it is false or demonstrates a reckless disregard for the truth, with a conscious purpose to avoid learning the truth.

A fact is "material" if it matters in context. Here, a fact is material if it has a natural tendency to influence or to be capable of influencing the decision of the licensed dealer as to whether it is lawful to sell the firearm to the buyer, regardless of whether the licensed dealer actually relies upon the statement.

Intent or knowledge may not ordinarily be proven directly because there is no way of directly scrutinizing the workings of the human mind. In determining what Defendant knew or intended at a particular time, you may consider any statements made or acts done or omitted by Defendant and all other facts and circumstances received in evidence that may aid in your determination of Defendant's knowledge or intent. You may infer, but you certainly are not required to infer, that a person

intends the natural and probable consequences of acts knowingly done or knowingly omitted. It is entirely up to you, however, to decide what facts are proven by the evidence received during this trial.

Counts 4 and 5: Making False Statements to a Federal Agent

Elements of Offense of Making False Statements to a Federal Agent - 18 USC 1001(a)(2)

Defendant is charged in Counts 4 and 5 with making false statements in a matter within the jurisdiction of a Government agency, which is against federal law. For you to find the Defendant guilty of this crime you must be convinced that the Government has proven each of these things beyond a reasonable doubt:

- First, that Defendant knowingly made a material false statement;
- Second, that Defendant made the statement voluntarily and intentionally; and
- Third, that Defendant made the statement to a representative of a Government agency of the United States, in this case a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives.

A false statement is made "knowingly" if the Defendant knew that it was false or demonstrated a reckless disregard for the truth with a conscious purpose to avoid learning the truth.

As I said before, a statement is "material" if it matters in context. Here, a statement is material if it has a natural tendency to influence or to be capable of influencing the decision of the agent, regardless of whether the agent actually relied upon it.

A statement is "false" if it was untrue when made.

Method of Assessing Evidence

Now that you know what it is that the Government must prove and the standard of proof to be applied, the next question is how do you determine whether the Government has proved these things beyond a reasonable doubt?

Obviously, you must make your determination solely from the evidence properly before you and from all reasonable and legitimate inferences to be drawn from that evidence.

The evidence that is properly before you consists of:

- 1.The testimony of the witnesses;
- 2.The exhibits that I have admitted into evidence; and

3. Any stipulations among the attorneys in which they agree as to what the facts are.

From that evidence, you may draw whatever conclusions are reasonable under the circumstances. I will say more about each of these types of evidence in a moment.

The evidence that is properly before you does not include

1. Comments or statements by the attorneys;
2. Answers given by witnesses which I ordered stricken and instructed you to disregard;
3. Documents, photographs or other items which may have been referred to but have not been admitted into evidence. Since they are not proper evidence, you should not speculate or guess as to what they might say or show and you may not consider them except to the extent that, and for the purpose that, they may have been read or shown to you during the course of the trial; or
4. Anything you may have heard or seen outside of this courtroom regarding the events in question or the participants in this case.

Witnesses - Credibility - General Factors

As to the testimony of witnesses, your principal task is to determine the credibility of the witnesses and the weight you will give to the testimony of each.

In making that determination, there are a number of factors that you may consider:

1. The opportunity or lack of opportunity the witness had to acquire knowledge of the facts about which the witnesses testified. In other words, was the witness in a position to have accurately perceived the facts that the witness related to you.

2. The reliability or unreliability of the witness's memory. In other words, did the witness have a clear recollection of what happened or was the witness's memory uncertain or unclear.

3. The witness's appearance on the stand. Did the witness appear to be a person who was telling the complete and unadulterated truth, or did it appear that the witness was slanting things one way or another either consciously or unconsciously.

4. The probability or improbability of the witness's testimony. Did what the witness had to say sound

reasonable or plausible or did it appear to be highly unlikely or impossible?

5. Whether the witness had anything to gain or lose from the outcome of this case. In other words, was the witness totally impartial or did the witness have some stake in the outcome or some reason to favor one side or the other.

Witnesses - Credibility - Government Agents

The fact that a witness may be employed by a law enforcement agency does not, by itself, mean that you should give that witness's testimony any greater or any lesser weight simply because of that fact. You should assess the credibility and testimony of such a witness by applying the same factors as you would with respect to any other witness.

Witnesses - Number - Weight of Testimony

In evaluating the testimonial evidence, remember that you are not required to believe something to be a fact simply because a witness has stated it to be a fact and no one has contradicted what that witness said. If, in the light of all of the evidence, you believe that the witness is mistaken or has testified falsely or that he or she is proposing something that is inherently impossible or unworthy of belief, you may

disregard that witness's testimony even in the absence of any contradictory evidence.

You should also bear in mind that it is not the number of witnesses testifying on either side of a particular issue that determines where the weight of the evidence lies. Rather, it is the quality of the witnesses' testimony that counts.

Thus, just because one witness testifies on one side of an issue and one witness testifies on the other side does not necessarily mean that you must consider the evidence evenly balanced. If you feel that one of the witnesses was more credible than the other, for whatever reason, you may find that the weight of the evidence lies on the side of that witness.

Similarly, just because there may be more witnesses testifying on one side of an issue than on the other does not mean that the weight of the evidence lies in favor of the greater number of witnesses. Once again, it is the credibility or quality of the testimony that determines where the weight of the evidence lies.

Expert Witness

During this trial, you have heard testimony from at least one witness who claims to have specialized knowledge in a technical field. Such persons are sometimes referred to as

expert witnesses. Because of their specialized knowledge, they are permitted to express opinions which may be helpful to you in determining the facts.

Since they do have specialized knowledge, the opinions of expert witnesses, whether expressed personally or in documents which have been admitted into evidence, should not be disregarded lightly.

On the other hand, you are not required to accept such opinions just because the witnesses have specialized knowledge.

In determining what weight to give to the testimony of a so-called expert witness, you should apply the same tests of credibility that apply to the testimony of any other witness. That is to say, you should consider such things as the witness':

- opportunity to have observed the facts about which he testified; and
- apparent candor or lack of candor.

In addition, you should take into account the witness':

- qualifications, especially in comparison to the qualifications of expert witnesses who may have expressed contrary opinions; and

- the accuracy of the facts upon which the witness's opinions were based.

In short, you should carefully consider the opinions of expert witnesses, but they are not necessarily conclusive.

Exhibits

In addition to assessing the credibility of the witnesses and the weight to be given to their testimony, you should also evaluate the exhibits which you will have with you in the jury room. Examine them and consider them carefully.

However, bear in mind that merely because an exhibit has been admitted into evidence does not mean that you are required to accept it at face value. Like the testimony of a witness, the significance of an exhibit or the weight you attach to it will depend upon your evaluation of that exhibit in light of all the facts and circumstances of the case.

Tape Recordings and Transcripts

During this trial, you have heard a number of tape recorded conversations. These conversations may be considered by you, like any other evidence.

When you listened to those tapes, the Government was permitted to furnish you with transcripts it prepared of those conversations as an aid to assist you.

I remind you, again, that it is the recording (on disk) and not the transcripts that constitute evidence of what was said. Therefore, if what you heard on the recording is, in any way different from what appeared on the transcripts, what you heard on the tapes is controlling.

Stipulations

The evidence in this case includes facts to which the lawyers have agreed or stipulated. A stipulation means simply that the Government and the Defendant accept the truth of a particular proposition or fact. Since there is no disagreement, there is no need for evidence apart from the stipulation. You must accept the stipulation as fact to be given whatever weight you choose.

Other Considerations in Evaluating Evidence

Having reviewed the three main types of evidence in this case - witness testimony, exhibits, and stipulations - I will give a few additional instructions about how to evaluate this evidence, before we turn to the question of how you are to deliberate.

Circumstantial Evidence

As I mentioned previously, you may consider only the evidence that is properly before you. However, that does not

mean that, in determining the facts, you are limited to the statements of the witnesses or the contents of the exhibits.

In reaching your conclusions, you are permitted to draw, from facts which you find have been proved, such reasonable inferences as seem justified in the light of your experience.

Inferences are deductions or conclusions which reason and common sense lead you to draw from facts which have been established by the evidence in the case.

Such evidence is sometimes called circumstantial evidence.

To put it another way, a fact may be proved either by direct evidence or by circumstantial evidence. Direct evidence includes such things as the testimony of an eyewitness who personally observed the fact in question or a photograph or document showing the actual thing described.

Circumstantial evidence consists of proof of a series of facts or circumstances from which the existence or nonexistence of another fact may be reasonably inferred.

The law makes no distinction between the weight to be given to direct and circumstantial evidence. However, it does require that any fact required to convict a Defendant be proved beyond a reasonable doubt.

Example of circumstantial evidence: rain on the driveway/grass.

Evidence for a Particular Purpose

A particular item of evidence is sometimes received for a limited purpose only. That is, it can be used by you only for one particular purpose, and not for any other purpose. I have told you when that occurred, and instructed you on the purposes for which the item can and cannot be used.

Statements by Defendant

You have heard evidence that Mr. Kayode made a statement in which the Government claims he admitted certain facts. It is for you to decide (1) whether Mr. Kayode made the statement, and (2) if so, how much weight to give it. In making those decisions, you should consider all of the evidence about the statement, including the circumstances under which the statement may have been made and any facts or circumstances tending to corroborate or contradict the version of events described in the statement.

Defendant's Constitutional Right Not to Testify

Mr. Kayode has a constitutional right not to testify and no inference of guilt, or of anything else, may be drawn from the fact that he did not testify. For any of you to draw such an inference would be wrong; indeed, it would be a violation of your oath as a juror.

Conduct of Court - General

As I have said before, it is up to you to determine the facts in this case. You should not interpret anything I have said or done during this trial as expressing an opinion on my part as to what the facts in this case are. I have not intended to express any such opinion and you should not be concerned about what my opinions might be regarding the facts. That is a matter for you to decide.

Objections by Counsel

During this trial there have been occasions when the attorneys have objected to a question that was asked of a witness. You should not penalize an attorney, or more importantly, her client, for objecting. It is the attorney's right and duty to protect a client's interests by objecting to what the attorney may believe is evidence that does not satisfy the requirements of the rules of evidence.

If I sustained the objection, it is important that you not speculate about what the answer to the objected-to question might have been. By sustaining the objection, the court has determined that the evidence should not be considered by you.

The Government as a Party

The mere fact that this case is brought in the name of the United States of America does not entitle the prosecution to any greater consideration than that accorded to the Defendant. By the same token, it does not mean that the prosecution is entitled to any less consideration. All parties, whether Government or individuals, stand as equals at the bar of justice.

Bias and Prejudice

Neither bias in favor of any person or cause, prejudice against any person or cause, nor sympathy of any kind should be permitted to influence you in the course of your deliberations.

All that any party here is entitled to, or, for that matter expects, is a verdict based upon your fair, scrupulous and conscientious examination of the evidence before you and your application of the law as I have explained it to you.

Deliberations

Having instructed you on your role as jurors, the elements of the crimes alleged in this case, and how you are to evaluate the evidence presented, I would like to say a few words about the deliberations you are about to undertake.

Copy of Instructions

I have instructed you on the law that governs your deliberations. As I mentioned at the beginning, I will send into the jury room a written copy of my instructions. You are reminded, however, that the law is as I have given it to you from the bench; the written copy is merely a guide to assist you.

Verdict - Unanimity Required

In order to return a verdict in this case, all twelve of you must agree as to what that verdict will be. You cannot return a verdict of either guilty or not guilty with respect to any charge against the Defendant unless your decision is unanimous.

Therefore there are two things that you should keep in mind during the course of your deliberations. On the one hand, you should listen carefully as to what your fellow jurors have to say and should be open minded enough to change your opinion if you become convinced that it was incorrect. On the other hand, you must recognize that each of you has an individual responsibility to vote for the verdict that you believe is the correct one based on the evidence that has been presented and the law as I have explained it. Accordingly, you should have the courage to stick to your opinion even though some or all of

the other jurors may disagree as long as you have listened to their views with an open mind.

Selection of Foreperson and Duty to Deliberate

When you begin your deliberations, you should elect one member of the jury as your foreperson. The foreperson will preside over the deliberations and speak for you here in court.

You will then discuss the case with your fellow jurors to reach agreement if you can do so. Your verdict must be unanimous. Each of you must decide the case for yourself, but you should do so only after you have considered all of the evidence, discussed it fully with the other jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinion during the course of the deliberations if the discussion persuades you that should. Do not come to a decision simply because other jurors think it is right.

Communications with the Court

If it becomes necessary during your deliberations to communicate with me, you may send a note through the marshal, signed by the foreperson. No member of the jury should ever attempt to contact me except by a signed writing; and I will

communicate with any member of the jury on anything concerning the case only in writing, or here in open court.

Jury Recollection Controls - Rehearing Testimony

If any reference by the court or by counsel to matters of evidence does not coincide with your own recollection, it is your recollection which should control during your deliberations.

Occasionally, juries want to rehear testimony. Understand that in a short trial, generally, your collective recollection should be sufficient for you to be able to deliberate effectively. However, if you feel that you need to rehear testimony, I will consider your request. However keep in mind that this is a time-consuming and difficult process, so if you think you need this, consider your request carefully and be as specific as possible.

Return of Verdict

A verdict form has been prepared for you by the Court. After you have reached unanimous agreement on a verdict, your foreperson will fill in the form that has been given to you, sign and date it, and advise the Court that you are ready to return to the courtroom.