

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

CRIMINAL ACTION NO. 3:00CR-62-H

UNITED STATES OF AMERICA,

PLAINTIFF

v.

VALERIE LYNN COLLINS,

DEFENDANT

**JURY INSTRUCTIONS**

**Members of the Jury,**

Now that you have heard all the evidence and the argument of the attorneys, it is my duty to give you instructions regarding the law that you must follow in deciding this case.

It is your duty to decide whether the United States has proved beyond a reasonable doubt the specific facts necessary to find the Defendant, Valerie Lynn Collins, guilty of the crime charged in the Indictment.

You must make your decision only on the basis of the testimony and other evidence presented here during the trial; and you must not be influenced in any way by either sympathy, prejudice, or bias for or against the Defendant or the United States. Justice through trial by jury must always depend upon the willingness of each individual juror to seek the truth from the evidence presented and to apply that truth to the legal instructions I shall give you.

You must follow the law as I explain it to you whether you agree with the law or not; and you must follow all of my instructions as a whole. You may not single out, or disregard, any of the Court's instructions on the law.

The Indictment against the Defendant is not evidence of guilt. 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. The United States has the burden of proving the Defendant guilty beyond a reasonable doubt, and if it fails to do so you must find the Defendant not guilty.

Proof beyond a reasonable doubt does not mean proof beyond all possible doubt. Possible doubts, or doubts based purely on speculation, are not reasonable doubts. A reasonable doubt is a real doubt based on reason and common sense after careful and impartial consideration of all the evidence in the case. It may arise from the evidence, the lack of evidence, or the nature of the evidence.

Proof beyond a reasonable doubt, therefore, is proof that is so convincing that you would not hesitate to rely and act on it in making the most important decisions in your own lives. If you are convinced that the United States has proved the Defendant guilty beyond a reasonable doubt, say so by returning a guilty verdict. If you are not convinced, say so by returning a not guilty verdict.

As I explained previously, you must decide what the facts are from the evidence that you saw and heard here in court. You may consider only the evidence that I have admitted in this case. The term "evidence" includes the sworn testimony of the witnesses and the exhibits admitted in the record. Do not let rumors, suspicions, or anything else that you may have seen or heard outside of court influence your decision in any way.

Remember that anything the lawyers say is not evidence in the case. It is your own recollection and interpretation of the evidence that controls. What the lawyers say is not binding

upon you. You may draw reasonable inferences, deductions, and conclusions from the testimony and exhibits which reason and common sense lead you to make.

In saying that you must consider all the evidence, I do not mean that you must necessarily 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 the testimony of each witness.

In deciding whether you believe or do not believe any witness I suggest that you ask yourself a few questions: Did the person impress you as one who was telling the truth? Did he or she have any particular reason not to tell the truth? Did he or she have a personal interest in the outcome of the case? Did the witness seem to have a good memory? Did the witness have the opportunity and ability to observe accurately the things he or she testified about? Did he or she appear to understand the questions clearly and answer them directly? Did the witness's testimony differ from the testimony of other witnesses?

Do not make any decisions based only on the number of witnesses who testified. What is more important is how believable the witnesses were, and how much weight you think their testimony deserves. Remember, witnesses are not the property of either the Defendant or the United States; they merely give testimony which you should consider. Concentrate on that, not the numbers.

You have heard testimony that before this trial Defendant was convicted of a crime. This earlier conviction was brought to your attention only as one way of helping you decide how believable her testimony was. You cannot use it for any other purpose. It is not evidence that she is guilty of the crime for which she is now on trial.

You have heard testimony that Defendant committed some acts other than the ones charged in the Indictment. You cannot consider this testimony as evidence that Defendant committed the crime for which she is now on trial. Instead, you can only consider it in deciding whether Defendant had the intent necessary for the United States to prove her guilty beyond a reasonable doubt. Do not consider it for any other purpose. Remember that Defendant is on trial here for only the crime charged in the Indictment, and not for any previous act.

You have heard testimony that after the crime charged in the Indictment was allegedly committed, but prior to trial, the Defendant, Valerie Lynn Collins, fled the jurisdiction of this Court.

If you believe that the Defendant fled the jurisdiction of this Court prior to trial, then you may consider this conduct, along with all the other evidence, in deciding whether the United States has proved beyond a reasonable doubt that she committed the crime alleged. This conduct may indicate that the Defendant thought she was guilty and was trying to avoid punishment. On the other hand, sometimes an innocent person may flee the jurisdiction of a court for an innocent reason.

The lawyers for both sides objected to some of the things that were said or done during the trial. Do not hold that against either side. The lawyers have a duty to object whenever they think that something is not permitted by the rules of evidence. Those rules are designed to make sure that both sides receive a fair trial.

Also, do not interpret my rulings on their objections as any indication of how I think the case should be decided. My rulings were based on the rules of evidence, not on how I feel about the case.



The Indictment charges that between November 15, 1996 and March 12, 1997, the Defendant, Valerie Lynn Collins, who had filed a bankruptcy petition in U.S. Bankruptcy Court in the Western District of Kentucky, knowingly and fraudulently concealed from creditors and the United States Trustee her half-interest in property located in Russell Springs, Kentucky, in violation of Title 18, United States Code, Section 152.

The first paragraph of Title 18, Section 152 provides, in part, that:

[A person who] knowingly and fraudulently conceals . . . in connection with a case under Title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor

shall be guilty of an offense against the United States.

In order to sustain its burden of proof for the crime of knowing and fraudulent concealment of property from creditors or the United States Trustee in connection with a bankruptcy case, the United States must prove the following three elements beyond a reasonable doubt:

One: On or about the dates alleged in the Indictment, there was pending in United States Bankruptcy Court in the Western District of Kentucky a bankruptcy case in which the Defendant, Valerie Lynn Collins, was the debtor. The evidence is that Ms. Collins was a debtor in such a case.

Two: The property or an interest in the property described in the Indictment – that is, a house and accompanying lot located at 122 Hemlock Road, Russell Springs, Kentucky – was part of the bankruptcy estate of the Defendant;

Three: The Defendant knowingly and fraudulently concealed the property from creditors, or from the United States Trustee who had responsibility for custody or control

of such property.

The term “conceal” is to be given its ordinary meaning – that is, to prevent disclosure or recognition of, or to place out of sight or to withdraw from being observed. A person “fraudulently conceals” property of the estate when that person knowingly withholds information of the property, or knowingly acts for the purpose of preventing the discovery of such property, intending to deceive or cheat a creditor or the Trustee ordinarily for the purpose of causing some financial gain to oneself or a loss to another. Fraudulently concealing property of the estate of the debtor includes knowingly and willfully withholding knowledge and information concerning the existence of certain property, including knowingly failing to include such property in the debtor’s schedule of assets filed with the Bankruptcy Court. An individual fraudulently conceals property of the estate if one knowingly withholds knowledge concerning certain property of the estate about which the Trustee should be told.

Ordinarily, there is no way a defendant’s state of mind can be proved directly, because no one can read another person’s state of mind and tell what that person is thinking. However, a defendant’s state of mind can be proved indirectly from the surrounding circumstances. This includes things like what the defendant said, what the defendant did, how the defendant acted, and any other facts or circumstances in evidence that show what was in the defendant’s state of mind. You may consider the natural and probable results of any acts that the defendant knowingly did (or did not do), and whether it is reasonable to conclude that the defendant intended those results.

The word “knowingly,” as used in these instructions to describe the alleged state

of mind of the Defendant, means that she was conscious and aware of her omission, realized what she was doing, and did not fail to act because of mistake, ignorance or accident.

As a further matter, no one can avoid responsibility for a crime by deliberately ignoring the obvious. If you are convinced that the Defendant deliberately ignored a high probability that she was required to disclose in her bankruptcy case her half-interest in the house and adjacent lot located at 122 Hemlock Road in Russell Springs, Kentucky, then you may find that she knew she was required to make such a disclosure.

To find this, you must be convinced beyond a reasonable doubt that the Defendant was aware of a high probability that she was required to disclose her interest in the property in her bankruptcy case and that the defendant deliberately closed her eyes to what was obvious. Carelessness, negligence, or foolishness is not the same as knowledge, and is not enough to convict.

The good faith of the Defendant is a complete defense to the bankruptcy fraud charge in the Indictment because good faith is simply inconsistent with knowing and fraudulent concealment of assets from the United States Trustee and creditors in a bankruptcy case.

While the term “good faith” has no precise definition, it means, among other things, an honest belief, a lack of malice, and the intent to perform all legal obligations. A person who acts on a belief or opinion honestly held is not punishable under this statute merely because that honest belief turns out to be wrong. The bankruptcy laws subject to criminal punishment only those people who knowingly and fraudulently



conceal assets from the United States Trustee and creditors in a bankruptcy case. If a person believes in good faith that she is not required to report certain property on a bankruptcy petition, then that person cannot be guilty of knowingly and fraudulently failing to do so. Such belief need not be reasonable; subjective good faith is sufficient. Therefore, if you believe that the Defendant, in good faith, believed that she was not required to list the real property located at 122 Hemlock Road, Russell Springs, Kentucky, on her bankruptcy petition, even if you do not believe that her belief was reasonable, you must acquit her.

The burden of proving that the Defendant did not act in good faith is on the United States. In determining whether the Defendant acted in good faith, you should consider all of the evidence in the case which bears on the Defendant's state of mind. If the evidence leaves you with reasonable doubt as to whether the Defendant acted with intent to defraud or in good faith, you must return a verdict of not guilty.

The United States does not need to show that any creditor was injured by the concealment of property alleged in the Indictment.

Any verdict must represent the considered judgment of each juror. In order to return a verdict, it is necessary that each juror agree. Your verdict must be unanimous.

To find the Defendant guilty, every one of you must agree that the United States has overcome the presumption of innocence with evidence that proves her guilt beyond a reasonable doubt.

To find her not guilty, every one of you must agree that the United States has failed to convince you beyond a reasonable doubt.

Now that all the evidence is in and the arguments are completed, you are free to talk about the case in the jury room. It is your duty as jurors to consult with one another, and to deliberate with a view toward reaching agreement, if you can do so without violence to individual judgment. Talk with each other, listen carefully and respectfully to each other's views, and keep an open mind as you listen to what your fellow jurors have to say.

You must decide the case for yourself, but only after an impartial consideration of 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 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, you are the judges of the facts. Your only interest is to seek the truth from the evidence in the case.

No one will be allowed to hear your discussions in the jury room, and no record

will be made of what you say. So you should all feel free to speak your minds.

If you decide that the United States has proved the Defendant guilty, then it will be my job to decide what the appropriate punishment should be. It would violate your oaths as jurors to even consider the possible punishment in deciding your verdict. Your job is to look at the evidence and decide if the United States has proved the Defendant guilty beyond a reasonable doubt.

Upon retiring to the jury room, you will select one of your number to act as your foreperson. The foreperson will preside over your deliberations and will be your spokesperson here in court.

A Verdict Form has been prepared for your convenience. You will take this form to the jury room and, if and when you have reached unanimous agreement as to your verdict, you will have your foreperson fill in, date, and sign the forms which set forth the verdict with respect to each count in the case. You will then return with your verdict to the courtroom.

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DEFENDANT

**VERDICT FORM**

We, the Jury, find Defendant Valerie Lynn Collins:

\_\_\_\_\_  
NOT GUILTY

\_\_\_\_\_  
GUILTY

\_\_\_\_\_  
FOREPERSON

DATE: \_\_\_\_\_