

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

CRIMINAL ACTION NO. 3:02CR-154-H

UNITED STATES OF AMERICA

PLAINTIFF

v.

WOODROW WILSON GEORGE

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, Woodrow Wilson George, guilty of the crimes 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 or formal charge 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.

In considering the evidence 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?

A Defendant has an absolute right not to testify. A Defendant need not prove anything. Therefore, the fact that the Defendant did not testify cannot be considered by you in any way during your deliberations.

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 Defendant or the United States; they merely give testimony which you should consider. Concentrate on that, not the numbers.

You have heard the testimony of witnesses who have been given immunity in exchange for their testimony. You have heard that the government has promised him that these witnesses will not be prosecuted for crimes they may have committed in exchange for their testimony against the defendant. The government may make such a promise. But you should consider these individuals' testimony with more caution than the testimony of other witnesses. You may consider whether their testimony may have been influenced by the government's promise. Do not convict the defendant based upon the unsupported testimony of such a witness, standing alone, unless you believe his testimony beyond a reasonable doubt.

You have also heard the testimony of witnesses who identified defendant as the person who committed the crimes alleged in this case. You should carefully consider whether their identifications are accurate and reliable. In deciding this, you should especially consider if these witnesses had a good opportunity to see the person at that time. You should also consider the circumstance of the earlier identification that occurred outside of court. For instance, you may consider how that earlier identification was conducted and how much time passed after the alleged crime before the identification was made. Remember that the government has the burden of proving beyond a reasonable doubt that the defendant was the person who committed the crime charged.

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.

In this case, the indictment charges two separate offenses called “counts” against Woodrow Wilson George. The number of counts is not evidence of guilt, and this should not influence your decision in any way. The Defendant is on trial only for the particular crimes charged in the indictment. It is your duty to consider separately the evidence that relates to each count, and to return a separate verdict for each count. For each count, you must decide whether the government has presented proof beyond a reasonable doubt that the Defendant is guilty of that particular count. Your decision on one count, whether it is guilty or not guilty, should not influence your decision on any of the other counts.

Now I will explain the law governing each of the offenses charged in the indictment that you must consider and I will give you guidance on how to apply that law.

INSTRUCTION NO. 1

Title 18 of the United States Code, Section 2119, makes it a federal crime for anyone to take or attempt to take a motor vehicle that has been transported, shipped or received in interstate or foreign commerce from the person or presence of another, by force and violence or intimidation with the intent to cause death or serious bodily harm.

The Defendant can be found guilty of that offense only if all of the following facts are proved beyond a reasonable doubt:

1. That the Defendant took a motor vehicle from a person or presence of another;
and
2. That the Defendant did so by force and violence, or by intimidation; **and**
3. That the motor vehicle previously had been transported, shipped, or received in interstate or foreign commerce; **and**
4. That the Defendant intended to cause death or serious bodily harm when the Defendant took the motor vehicle.

The term “by force or violence” means the use of actual physical strength or actual physical violence.

The term “by intimidation” means the commission of some act or the making of some statement that would put a reasonable person of ordinary sensibilities in fear of bodily harm. It is not necessary for the Government to prove that the alleged victim was actually placed in fear.

Whether the Defendant “intended to cause death or serious bodily harm” is to be judged objectively from the Defendant’s conduct as disclosed by the evidence and from what one in the position of the alleged victim might reasonably conclude.

The phrase “transported, shipped or received in interstate or foreign commerce” means the movement of a motor vehicle between any place in one state and any place in another state or another country. It is not necessary for the Government to prove that the Defendant knew that the motor vehicle had moved in interstate or foreign commerce. The Government need only prove that the motor vehicle had moved in interstate or foreign commerce.

If you are convinced that the United States has proved all of these elements beyond a reasonable doubt, say so by returning a guilty verdict on Count No. 1 of the Verdict Form. If you have a reasonable doubt about any one of these elements, you must find Defendant not guilty of Count No. 1.

Please turn to Instruction No. 2

INSTRUCTION NO. 2

Title 18 of the United States Code, Section 924(c)(1) makes it a separate crime for anyone to carry or use a firearm during and in relation to a crime of violence.

To find the Defendant guilty of this crime, you must be convinced that the United States has proven all of the following elements beyond a reasonable doubt:

1. That Defendant committed the crime of violence charged in Count 1 of the indictment; **and**
2. That during and in relation to the commission of that offense Defendant carried or used a firearm, as charged; **and**
3. That Defendant did so knowingly.

The term “firearm” means any weapon which is designed to, or may be readily converted to, expel a projectile by the action of an explosive; and the term includes the frame or receiver of any such weapon or any firearm muffler or firearm silencer.

To “use” a firearm means more than mere possession of a firearm. The government must prove beyond a reasonable doubt that Defendant actively employed the firearm by brandishing, displaying, bartering, striking with, firing, or attempting to fire the firearm; but it may also include the mere mention or disclosure of the firearm’s presence in a manner intended to intimidate or influence others.

To “carry” a firearm means that the Defendant either had a firearm on or around his person or transported, conveyed or possessed a firearm in such a way that it was available for immediate use if the Defendant so desired.

The phrase “during and in relation to” the commission of an offense means that there

must be a connection between the Defendant, the firearm and the crime of violence so that the firearm facilitated the crime by serving some important function or purpose of criminal activity.

The term “knowingly” means that Defendant carried the firearm purposefully, and not by accident or mistake.

The guilt of a defendant in a criminal case may be established without proof that the defendant personally did every act constituting the offense alleged. The law recognizes that, ordinarily, anything a person can do for himself may also be accomplished by him through the direction of another person as his or her agent, or by acting in concert with, or under the direction of, another person or persons in a joint effort or enterprise. Mere presence at the scene of a crime and knowledge that a crime is being committed are not sufficient to establish that a defendant either directed or aided and abetted the crime unless you find beyond a reasonable doubt that the offense of carjacking was committed by some person, the defendant was a knowing participant and purposefully participated in it through his conduct, and the defendant sought by his action to make the criminal venture successful.

If you are convinced that the United States has proved all of these elements, say so by returning a guilty verdict on Count No. 2 of the Verdict Form. If you have a reasonable doubt about any one of these elements, you must find Defendant not guilty of this Count.

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 government has overcome the presumption of innocence with evidence that proves his guilt beyond a reasonable doubt.

To find him not guilty, every one of you must agree that the government 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 government 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 government 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 Woodrow Wilson George,

As to Count 1:

GUILTY

NOT GUILTY

As to Count 2:

GUILTY

NOT GUILTY

FOREPERSON

Date: _____