

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT LOUISVILLE

CRIMINAL ACTION NO. 3:02CR-20-H

UNITED STATES OF AMERICA

PLAINTIFF

v.

TIMOTHY LAMONT DOBBINS

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, Timothy Lamont Dobbins, 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 a good deal of testimony during this trial about a gentleman named

Kevin Richardson and you may be wondering why Mr. Richardson did not testify. Efforts were undertaken to secure Mr. Richardson's presence, but due to circumstances beyond the control of either party Mr. Richardson was unavailable. It is not the fault of either party that Mr. Richardson did not testify, and you should not hold this fact against either the prosecution or the defense or draw any inferences as to the Defendant's innocence or guilt from the fact that Mr. Richardson did not testify.

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 three separate offenses called "counts" against Timothy Lamont Dobbins. 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 1951(a), makes it a crime for anyone to obtain or take the property of another by robbery and in so doing to interfere with interstate commerce.

To find the Defendant guilty on this count you must be convinced that the United States has proved each of the following beyond a reasonable doubt:

- First:** That on or about December 25, 2001, the Defendant knowingly and willfully obtained or took property from another, or in the presence of another, as charged in the indictment; **and**
- Second:** That Defendant took the property against the will of another by means of actual or threatened force or violence or fear of injury, whether immediately or in the future; **and**
- Third:** That, as a result of Defendant's actions, interstate commerce, or an item moving in interstate commerce, was delayed, obstructed or affected in any way or degree.

The term "property" includes not only money and other tangible things of value, but also includes any intangible right considered as a source or element of income or wealth.

The term "fear" means a state of anxious concern, alarm or apprehension of harm.

The term "obstructs, delays, or affects commerce" means any action which, in any manner or to any degree, interferes with, changes, or alters the movement or transportation or flow of goods, merchandise, money or other property in commerce. The government is not required to prove that the Defendant knew that his conduct would interfere with or affect interstate commerce, or that the Defendant actually intended or anticipated an effect on interstate

commerce by his actions or that commerce was actually affected. All that is necessary is that the natural and probable consequence of the acts the Defendant took would be to affect interstate commerce. If you decide that there would be any effect at all on interstate commerce, then that is enough to satisfy this element. The effect can be minimal.

If you are convinced that the United States has proved all of these elements, 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 this Count.

## 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 each of the following beyond a reasonable doubt:

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

The term “firearm” means any weapon that will or is designed to or may be readily converted to expel a projectile by the action of an explosive.

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, attempting to fire, or referring to the weapon so that others present knew that Defendant had the firearm available if needed.

To prove that Defendant “carried” a firearm the government must prove beyond a reasonable doubt that the Defendant had the weapon within his control so that it was available in such a way that it furthered the commission of the crime charged or was an integral part of the commission of the crime charged. The government does not have to prove that Defendant physically held the firearm or had actual possession of it on his person. It is enough for the government to show that Defendant had dominion and control over the place where the firearm



was located, and had the power and intention to exercise control over the firearm, so that it was available for his use in the commission of the charged crime if the need arose.

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.

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.

### INSTRUCTION NO. 3

Title 18 of the United States Code, Sections 922(g)(1) and 924(a)(2) make it a crime for a convicted felon to possess a firearm.

For you to find the Defendant guilty of this crime you must be convinced that the United States has proven each of the following beyond a reasonable doubt:

**First:** That on or about December 25, 201, Defendant knowingly possessed a firearm as charged; **and**

**Second:** That before Defendant possessed the firearm, he had been convicted in a court of a felony crime punishable by imprisonment for a term in excess of one year; **and**

**Third:** That before Defendant possessed the firearm on or about December 25, 2001, it had traveled from one state to another.

The term “firearm” means any weapon that will or is designed to or may be readily converted to expel a projectile by the action of an explosive.

The term “knowingly” means that Defendant carried the firearm purposefully, and not by accident or mistake. However, it is not a defense to the charged offense that Defendant was ignorant of his disqualification from owning or possessing a firearm. All that is necessary is that he knew he possessed a firearm.

The parties have stipulated and agreed that Defendant had previously been convicted in a court of a felony; that is, a crime punishable by imprisonment for a term exceeding one year.

If you are convinced that the United States has proved all of these elements, say so by returning a guilty verdict on Count No. 3 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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**VERDICT FORM**

**WE, THE JURY**, find Timothy Lamont Dobbins,

As to Count 1

\_\_\_\_\_

GUILTY

\_\_\_\_\_

NOT GUILTY

As to Count 2

\_\_\_\_\_

GUILTY

\_\_\_\_\_

NOT GUILTY

As to Count 3

\_\_\_\_\_

GUILTY

\_\_\_\_\_

NOT GUILTY

\_\_\_\_\_  
FOREPERSON

Date: \_\_\_\_\_