

MINUTE ENTRY  
AFRICK, J.  
NOVEMBER 6, 2023

JS10 - 05:25

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

CRIMINAL ACTION

VERSUS

NUMBER: 21-98

SHIVA AKULA

SECTION: I

**JURY TRIAL**

(continued from November 2, 2023)

COURTROOM DEPUTY: Bridget Gregory and Jennifer Limjuco  
COURT REPORTER: Samm Morgan

**APPEARANCES:**

Kathryn McHugh and Jeffrey R. McLaren, Counsel for Government  
David Michael DeVillers and Townsend Myers, Counsel for Defendant  
Shiva Akula, Defendant

All present and ready.

Court resumed at 8:20 a.m.

Jury returned to the courtroom.

Defendant's witness.

Dr. Gregg Davis, sworn and testified as an expert.

Government's exhibit 93.001, offered and admitted.

Defendant rests.

Government's rebuttal witness.

Suzanne Carol May, previously sworn.

Defendant's exhibits 38, 49-52, and 54 offered and admitted.

Government's exhibits 91.000 and 91.001, offered and admitted.

Government rests.

Jury removed from courtroom.

Court addressed counsel regarding jury charges and jury verdict form.

Jury returned to the courtroom.

Closing arguments of government and defendant.

Jury charged and instructed by the Court.

Jury retires for deliberations at 3:00 p.m.

Question 1 of the jury and response by the Court.

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Jury returns at 5:00 p.m. with a verdict.

Jury polled and all answered in the affirmative.

**PSI ORDERED.**

Sentencing set for **February 21, 2024 at 2:00 p.m.**

Jury excused.

Bond hearing set for **November 7, 2023 at 10:00 a.m.**

Court adjourned at 5:15 p.m.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA

CRIMINAL ACTION

VERSUS

NO. 21-98

SHIVA AKULA

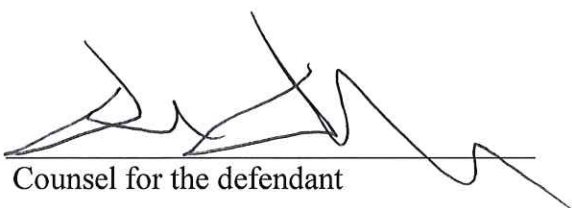
SECTION: I

CERTIFICATION OF TRIAL EXHIBITS

Undersigned counsel have reviewed all of the exhibits in the possession of the Court and certify that these comprise all of the exhibits admitted into evidence by the Court during the course of the trial. Said exhibits, excluding any proffers, will be sent to the jury for use in their deliberations.

New Orleans, Louisiana, this 6<sup>th</sup> day of November, 2023.

  
\_\_\_\_\_  
Counsel for the government

  
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Counsel for the defendant

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**UNITED STATES OF AMERICA**

**CRIMINAL ACTION**

**VERSUS**

**No. 21-98**

**SHIVA AKULA**

**SECTION I**

**JURY INSTRUCTIONS**

**INTRODUCTION TO FINAL INSTRUCTIONS<sup>1</sup>**

IN ANY JURY TRIAL THERE ARE, IN EFFECT, TWO JUDGES. I AM ONE OF THE JUDGES; THE OTHER IS THE JURY. IT IS MY DUTY TO PRESIDE OVER THE TRIAL AND TO DECIDE WHAT EVIDENCE IS PROPER FOR YOUR CONSIDERATION. IT IS ALSO MY DUTY AT THE END OF THE TRIAL TO EXPLAIN TO YOU THE RULES OF LAW THAT YOU MUST FOLLOW AND APPLY IN ARRIVING AT YOUR VERDICT.

FIRST, I WILL GIVE YOU SOME GENERAL INSTRUCTIONS WHICH APPLY IN EVERY CASE, FOR EXAMPLE, INSTRUCTIONS ABOUT THE BURDEN OF PROOF AND HOW TO JUDGE THE BELIEVABILITY OF WITNESSES. THEN I WILL GIVE YOU SOME SPECIFIC RULES OF LAW ABOUT THIS PARTICULAR CASE, AND FINALLY I WILL EXPLAIN TO YOU THE PROCEDURES YOU SHOULD FOLLOW IN YOUR DELIBERATIONS.

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<sup>1</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.03 (2019).

**DUTY TO FOLLOW INSTRUCTIONS<sup>2</sup>**

YOU, AS JURORS, ARE THE JUDGES OF THE FACTS. BUT IN DETERMINING WHAT ACTUALLY HAPPENED—THAT IS, IN REACHING YOUR DECISION AS TO THE FACTS—IT IS YOUR SWORN DUTY TO FOLLOW ALL OF THE RULES OF LAW AS I EXPLAIN THEM TO YOU.

YOU HAVE NO RIGHT TO DISREGARD OR GIVE SPECIAL ATTENTION TO ANY ONE INSTRUCTION, OR TO QUESTION THE WISDOM OR CORRECTNESS OF ANY RULE I MAY STATE TO YOU. YOU MUST NOT SUBSTITUTE OR FOLLOW YOUR OWN NOTION OR OPINION AS TO WHAT THE LAW IS OR OUGHT TO BE. IT IS YOUR DUTY TO APPLY THE LAW AS I EXPLAIN IT TO YOU, REGARDLESS OF THE CONSEQUENCES.

IT IS ALSO YOUR DUTY TO BASE YOUR VERDICT SOLELY UPON THE EVIDENCE, WITHOUT PREJUDICE OR SYMPATHY. THAT WAS THE PROMISE YOU MADE AND THE OATH YOU TOOK BEFORE BEING ACCEPTED BY THE PARTIES AS JURORS, AND THEY HAVE THE RIGHT TO EXPECT NOTHING LESS.

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<sup>2</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.04 (2019).

**PRESUMPTION OF INNOCENCE, BURDEN OF PROOF,  
REASONABLE DOUBT**<sup>3</sup>

THE INDICTMENT OR FORMAL CHARGE AGAINST A DEFENDANT IS NOT EVIDENCE OF GUILT. INDEED, THE DEFENDANT IS PRESUMED BY THE LAW TO BE INNOCENT. THE DEFENDANT BEGINS WITH A CLEAN SLATE. THE LAW DOES NOT REQUIRE A DEFENDANT TO PROVE HIS INNOCENCE OR PRODUCE ANY EVIDENCE AT ALL.

THE GOVERNMENT HAS THE BURDEN OF PROVING THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT, AND IF IT FAILS TO DO SO, YOU MUST ACQUIT THE DEFENDANT. WHILE THE GOVERNMENT'S BURDEN OF PROOF IS A STRICT OR HEAVY BURDEN, IT IS NOT NECESSARY THAT THE DEFENDANT'S GUILT BE PROVED BEYOND ALL POSSIBLE DOUBT. IT IS ONLY REQUIRED THAT THE GOVERNMENT'S PROOF EXCLUDE ANY "REASONABLE DOUBT" CONCERNING THE DEFENDANT'S GUILT.

A "REASONABLE DOUBT" IS A DOUBT BASED UPON REASON AND COMMON SENSE AFTER CAREFUL AND IMPARTIAL CONSIDERATION OF ALL THE EVIDENCE IN THE CASE. PROOF BEYOND A REASONABLE DOUBT, THEREFORE, IS PROOF OF SUCH A CONVINCING CHARACTER THAT YOU WOULD BE WILLING TO RELY AND ACT UPON IT WITHOUT HESITATION IN MAKING THE MOST IMPORTANT DECISIONS OF YOUR OWN AFFAIRS.

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<sup>3</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.05 (2019).

**EVIDENCE—EXCLUDING WHAT IS NOT EVIDENCE**<sup>4</sup>

AS I TOLD YOU EARLIER, IT IS YOUR DUTY TO DETERMINE THE FACTS. TO DO SO, YOU MUST CONSIDER ONLY THE EVIDENCE PRESENTED DURING THE TRIAL. EVIDENCE IS THE SWORN TESTIMONY OF THE WITNESSES, INCLUDING STIPULATIONS, AND THE EXHIBITS. THE QUESTIONS, STATEMENTS, OBJECTIONS, AND ARGUMENTS MADE BY THE LAWYERS ARE NOT EVIDENCE.

THE FUNCTION OF THE LAWYERS IS TO POINT OUT THOSE THINGS THAT ARE MOST SIGNIFICANT OR MOST HELPFUL TO THEIR SIDE OF THE CASE, AND IN SO DOING TO CALL YOUR ATTENTION TO CERTAIN FACTS OR INFERENCES THAT MIGHT OTHERWISE ESCAPE YOUR NOTICE. IN THE FINAL ANALYSIS, HOWEVER, IT IS YOUR OWN RECOLLECTION AND INTERPRETATION OF THE EVIDENCE THAT CONTROLS IN THE CASE. WHAT THE LAWYERS SAY IS NOT BINDING UPON YOU.

DURING THE TRIAL I SUSTAINED OBJECTIONS TO CERTAIN QUESTIONS AND EXHIBITS. YOU MUST DISREGARD THOSE QUESTIONS AND EXHIBITS ENTIRELY. DO NOT SPECULATE AS TO WHAT THE WITNESS WOULD HAVE SAID IF PERMITTED TO ANSWER THE QUESTION OR AS TO THE CONTENTS OF AN EXHIBIT. YOU HAVE BEEN INSTRUCTED TO DISREGARD CERTAIN TESTIMONY OR OTHER EVIDENCE. DO NOT CONSIDER ANY TESTIMONY OR OTHER EVIDENCE WHICH HAS BEEN

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<sup>4</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.06 (2019).



REMOVED FROM YOUR CONSIDERATION IN REACHING YOUR DECISION. YOUR VERDICT MUST BE BASED SOLELY ON THE LEGALLY ADMISSIBLE EVIDENCE AND TESTIMONY.

ALSO, DO NOT ASSUME FROM ANYTHING I MAY HAVE DONE OR SAID DURING THE TRIAL THAT I HAVE ANY OPINION CONCERNING ANY OF THE ISSUES IN THIS CASE. EXCEPT FOR THE INSTRUCTIONS TO YOU ON THE LAW, YOU SHOULD DISREGARD ANYTHING I MAY HAVE SAID DURING THE TRIAL IN ARRIVING AT YOUR OWN VERDICT.

**EVIDENCE—INFERENCES—DIRECT AND CIRCUMSTANTIAL**<sup>5</sup>

IN CONSIDERING THE EVIDENCE, YOU ARE PERMITTED TO DRAW SUCH REASONABLE INFERENCES FROM THE TESTIMONY AND EXHIBITS AS YOU FEEL ARE JUSTIFIED IN THE LIGHT OF COMMON EXPERIENCE. IN OTHER WORDS, YOU MAY MAKE DEDUCTIONS AND REACH CONCLUSIONS THAT REASON AND COMMON SENSE LEAD YOU TO DRAW FROM THE FACTS WHICH HAVE BEEN ESTABLISHED BY THE EVIDENCE.

DO NOT BE CONCERNED ABOUT WHETHER EVIDENCE IS “DIRECT EVIDENCE” OR “CIRCUMSTANTIAL EVIDENCE.” YOU SHOULD CONSIDER AND WEIGH ALL OF THE EVIDENCE THAT WAS PRESENTED TO YOU.

“DIRECT EVIDENCE” IS THE TESTIMONY OF ONE WHO ASSERTS ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN EYEWITNESS. “CIRCUMSTANTIAL EVIDENCE” IS PROOF OF A CHAIN OF EVENTS AND CIRCUMSTANCES INDICATING THAT SOMETHING IS OR IS NOT A FACT.

THE LAW MAKES NO DISTINCTION BETWEEN THE WEIGHT TO BE GIVEN EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE. BUT THE LAW REQUIRES THAT YOU, AFTER WEIGHING ALL OF THE EVIDENCE, WHETHER DIRECT OR CIRCUMSTANTIAL, BE CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT BEFORE YOU CAN FIND HIM GUILTY.

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<sup>5</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.08 (2019).

**CREDIBILITY OF WITNESSES**<sup>6</sup>

I REMIND YOU THAT IT IS YOUR JOB TO DECIDE WHETHER THE GOVERNMENT HAS PROVED THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT. IN DOING SO, YOU MUST CONSIDER ALL OF THE EVIDENCE. THIS DOES NOT MEAN, HOWEVER, THAT YOU MUST 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 WITNESS'S TESTIMONY. AN IMPORTANT PART OF YOUR JOB WILL BE MAKING JUDGMENTS ABOUT THE TESTIMONY OF THE WITNESSES INCLUDING THE DEFENDANT WHO TESTIFIED IN THIS CASE. YOU SHOULD DECIDE WHETHER YOU BELIEVE ALL, SOME PART, OR NONE OF WHAT EACH PERSON HAD TO SAY, AND HOW IMPORTANT THAT TESTIMONY WAS.

IN MAKING THAT DECISION I SUGGEST THAT YOU ASK YOURSELF A FEW QUESTIONS:

- DID THE WITNESS IMPRESS YOU AS HONEST?
- DID THE WITNESS HAVE ANY PARTICULAR REASON NOT TO TELL THE TRUTH?
- DID THE WITNESS HAVE A PERSONAL INTEREST IN THE OUTCOME OF THE CASE?

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<sup>6</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.09 (2019).

- DID THE WITNESS HAVE ANY RELATIONSHIP WITH EITHER THE GOVERNMENT OR THE DEFENSE?
- DID THE WITNESS SEEM TO HAVE A GOOD MEMORY?
- DID THE WITNESS CLEARLY SEE OR HEAR THE THINGS ABOUT WHICH HE OR SHE TESTIFIED?
- DID THE WITNESS HAVE THE OPPORTUNITY AND ABILITY TO UNDERSTAND THE QUESTIONS CLEARLY AND ANSWER THEM DIRECTLY?
- DID THE WITNESS'S TESTIMONY DIFFER FROM THE TESTIMONY OF OTHER WITNESSES?

THESE ARE A FEW OF THE CONSIDERATIONS THAT WILL HELP YOU DETERMINE THE ACCURACY OF WHAT EACH WITNESS SAID.

THE TESTIMONY OF THE DEFENDANT SHOULD BE WEIGHED, AND HIS CREDIBILITY EVALUATED IN THE SAME WAY AS THAT OF ANY OTHER WITNESS.

YOUR JOB IS TO THINK ABOUT THE TESTIMONY OF EACH WITNESS YOU HAVE HEARD AND DECIDE HOW MUCH YOU BELIEVE OF WHAT EACH WITNESS HAD TO SAY. IN MAKING UP YOUR MIND AND REACHING A VERDICT, DO NOT MAKE ANY DECISIONS SIMPLY BECAUSE THERE WERE MORE WITNESSES ON ONE SIDE THAN ON THE OTHER. DO NOT REACH A CONCLUSION ON A PARTICULAR POINT JUST BECAUSE THERE WERE MORE WITNESSES TESTIFYING FOR ONE SIDE ON THAT POINT. YOU WILL

ALWAYS BEAR IN MIND THAT THE LAW NEVER IMPOSES UPON A DEFENDANT IN A CRIMINAL CASE THE BURDEN OR DUTY OF CALLING ANY WITNESSES OR PRODUCING ANY EVIDENCE.

**IMPEACHMENT BY PRIOR INCONSISTENCIES**<sup>7</sup>

THE TESTIMONY OF A WITNESS MAY BE DISCREDITED BY SHOWING THAT THE WITNESS TESTIFIED FALSELY, OR BY EVIDENCE THAT AT SOME OTHER TIME THE WITNESS SAID OR DID SOMETHING, OR FAILED TO SAY OR DO SOMETHING, WHICH IS INCONSISTENT WITH THE TESTIMONY THE WITNESS GAVE AT THIS TRIAL.

EARLIER STATEMENTS OF A WITNESS WERE NOT ADMITTED IN EVIDENCE TO PROVE THAT THE CONTENTS OF THOSE STATEMENTS ARE TRUE. YOU MAY NOT CONSIDER THE EARLIER STATEMENTS TO PROVE THAT THE CONTENT OF AN EARLIER STATEMENT IS TRUE; YOU MAY ONLY USE EARLIER STATEMENTS TO DETERMINE WHETHER YOU THINK THE EARLIER STATEMENTS ARE CONSISTENT OR INCONSISTENT WITH THE TRIAL TESTIMONY OF THE WITNESS AND THEREFORE WHETHER THEY AFFECT THE CREDIBILITY OF THAT WITNESS.

IF YOU BELIEVE THAT A WITNESS HAS BEEN DISCREDITED IN THIS MANNER, IT IS YOUR EXCLUSIVE RIGHT TO GIVE THE TESTIMONY OF THAT WITNESS WHATEVER WEIGHT YOU THINK IT DESERVES.

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<sup>7</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.11 (2019).

**IMPEACHMENT BY PRIOR CONVICTION (WITNESS OTHER THAN THE DEFENDANT)<sup>8</sup>**

YOU HAVE BEEN TOLD THAT THE WITNESS, SUE MAY, WAS CONVICTED IN 2019 OF CONSPIRACY TO ALTER OR FALSIFY DOCUMENTS. A CONVICTION IS A FACTOR YOU MAY CONSIDER IN DECIDING WHETHER TO BELIEVE THAT WITNESS, BUT IT DOES NOT NECESSARILY DESTROY THE WITNESS'S CREDIBILITY. IT HAS BEEN BROUGHT TO YOUR ATTENTION ONLY BECAUSE YOU MAY WISH TO CONSIDER IT WHEN YOU DECIDE WHETHER YOU BELIEVE THE WITNESS'S TESTIMONY. IT IS NOT EVIDENCE OF ANYTHING ELSE.

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<sup>8</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.13 (2019).

**EXPERT OPINION TESTIMONY**<sup>9</sup>

DURING THE TRIAL YOU HEARD THE TESTIMONY OF TWO EXPERT WITNESSES WHO EXPRESSED OPINIONS CONCERNING THEIR FIELDS OF EXPERTISE. IF SCIENTIFIC, TECHNICAL, OR OTHER SPECIALIZED KNOWLEDGE MIGHT ASSIST THE JURY IN UNDERSTANDING THE EVIDENCE OR IN DETERMINING A FACT IN ISSUE, A WITNESS QUALIFIED BY KNOWLEDGE, SKILL, EXPERIENCE, TRAINING, OR EDUCATION MAY TESTIFY AND STATE AN OPINION CONCERNING SUCH MATTERS.

MERELY BECAUSE SUCH A WITNESS HAS EXPRESSED AN OPINION DOES NOT MEAN, HOWEVER, THAT YOU MUST ACCEPT THIS OPINION. YOU SHOULD JUDGE SUCH TESTIMONY LIKE ANY OTHER TESTIMONY. YOU MAY ACCEPT IT OR REJECT IT AND GIVE IT AS MUCH WEIGHT AS YOU THINK IT DESERVES, CONSIDERING THE WITNESS'S EDUCATION AND EXPERIENCE, THE SOUNDNESS OF THE REASONS GIVEN FOR THE OPINION, AND ALL OTHER EVIDENCE IN THE CASE.

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<sup>9</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.18 (2019).



**ON OR ABOUT<sup>10</sup>**

YOU WILL NOTE THAT THE INDICTMENT CHARGES THAT THE OFFENSES WERE COMMITTED ON OR ABOUT SPECIFIED DATES. THE GOVERNMENT DOES NOT HAVE TO PROVE THAT THE CRIMES WERE COMMITTED ON THOSE EXACT DATES, SO LONG AS THE GOVERNMENT PROVES BEYOND A REASONABLE DOUBT THAT THE DEFENDANT COMMITTED THE CRIMES ON DATES REASONABLY NEAR THE DATES STATED IN THE INDICTMENT.

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<sup>10</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.19 (2019).

**CAUTION—CONSIDER ONLY CRIME CHARGED**<sup>11</sup>

DURING THIS TRIAL, YOU HAVE HEARD EVIDENCE CONCERNING BILLING SUBMITTED BY CANON HOSPICE TO MEDICARE.<sup>12</sup> YOU ARE HERE TO DECIDE WHETHER THE GOVERNMENT HAS PROVED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT IS GUILTY OF THE CRIMES CHARGED IN THE INDICTMENT.<sup>13</sup> THE DEFENDANT IS NOT ON TRIAL FOR ANY ACT, CONDUCT, OR OFFENSE NOT ALLEGED IN THE INDICTMENT. NEITHER ARE YOU CALLED UPON TO RETURN A VERDICT AS TO THE GUILT OF ANY OTHER PERSON OR PERSONS NOT ON TRIAL AS A DEFENDANT IN THIS CASE, EXCEPT AS YOU ARE OTHERWISE INSTRUCTED.

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<sup>11</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.21 (2019)

<sup>12</sup> This sentence was suggested by both parties in an email to the Court dated October 26, 2023.

<sup>13</sup> The phrase “in the indictment” was added pursuant to the defendant’s proposed jury instruction sent to the Court via email on October 26, 2023.

**CAUTION—PUNISHMENT**<sup>14</sup>

IF THE DEFENDANT IS FOUND GUILTY, IT WILL BE MY DUTY TO DECIDE WHAT THE PUNISHMENT WILL BE. YOU SHOULD NOT BE CONCERNED WITH PUNISHMENT IN ANY WAY. IT SHOULD NOT ENTER YOUR CONSIDERATION OR DISCUSSION.

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<sup>14</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.22 (2019).

**SINGLE DEFENDANT—MULTIPLE COUNTS**<sup>15</sup>

A SEPARATE CRIME IS CHARGED IN EACH COUNT OF THE INDICTMENT. EACH COUNT, AND THE EVIDENCE PERTAINING TO IT, SHOULD BE CONSIDERED SEPARATELY. THE FACT THAT YOU MAY FIND THE DEFENDANT GUILTY OR NOT GUILTY AS TO ONE OF THE CRIMES CHARGED SHOULD NOT CONTROL YOUR VERDICT AS TO ANY OTHER.

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<sup>15</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.23 (2019).

**SIMILAR ACTS**<sup>16</sup>

YOU HAVE HEARD EVIDENCE OF ACTS OF THE DEFENDANT WHICH MAY BE SIMILAR TO THOSE CHARGED IN THE INDICTMENT, BUT WHICH WERE COMMITTED ON OTHER OCCASIONS. YOU MUST NOT CONSIDER ANY OF THIS EVIDENCE IN DECIDING IF THE DEFENDANT COMMITTED THE ACTS CHARGED IN THE INDICTMENT. HOWEVER, YOU MAY CONSIDER THIS EVIDENCE FOR OTHER, VERY LIMITED, PURPOSES.

IF YOU FIND BEYOND A REASONABLE DOUBT FROM OTHER EVIDENCE IN THIS CASE THAT THE DEFENDANT DID COMMIT THE ACTS CHARGED IN THE INDICTMENT, THEN YOU MAY CONSIDER EVIDENCE OF THE SIMILAR ACTS ALLEGEDLY COMMITTED ON OTHER OCCASIONS TO DETERMINE:

WHETHER THE DEFENDANT HAD THE STATE OF MIND OR INTENT NECESSARY TO COMMIT THE CRIMES CHARGED IN THE INDICTMENT;

OR

WHETHER THE DEFENDANT HAD A MOTIVE OR THE OPPORTUNITY TO COMMIT THE ACTS CHARGED IN THE INDICTMENT;

OR

WHETHER THE DEFENDANT COMMITTED THE ACTS FOR WHICH HE IS ON TRIAL BY ACCIDENT OR MISTAKE.

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<sup>16</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.32 (2019).

THESE ARE THE LIMITED PURPOSES FOR WHICH ANY EVIDENCE OF  
OTHER SIMILAR ACTS MAY BE CONSIDERED.

**AIDING AND ABETTING (AGENCY)<sup>17</sup>**  
**18 U.S.C. § 2**

THE GUILT OF A DEFENDANT IN A CRIMINAL CASE MAY BE ESTABLISHED WITHOUT PROOF THAT THE DEFENDANT PERSONALLY DID EVERY ACT CONSTITUTING THE OFFENSES 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 AGENT, OR BY ACTING IN CONCERT WITH, OR UNDER THE DIRECTION OF ANOTHER PERSON OR PERSONS IN A JOINT EFFORT OR ENTERPRISE.

IF ANOTHER PERSON IS ACTING UNDER THE DIRECTION OF THE DEFENDANT OR IF THE DEFENDANT JOINS ANOTHER PERSON AND PERFORMS ACTS WITH THE INTENT TO COMMIT A CRIME, THEN THE LAW HOLDS THE DEFENDANT RESPONSIBLE FOR THE ACTS AND CONDUCT OF SUCH OTHER PERSONS JUST AS THOUGH THE DEFENDANT HAD COMMITTED THE ACTS OR ENGAGED IN SUCH CONDUCT.

BEFORE ANY DEFENDANT MAY BE HELD CRIMINALLY RESPONSIBLE FOR THE ACTS OF OTHERS, IT IS NECESSARY THAT THE ACCUSED DELIBERATELY ASSOCIATE HIMSELF IN SOME WAY WITH THE CRIME AND PARTICIPATE IN IT WITH THE INTENT TO BRING ABOUT THE CRIME.

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<sup>17</sup> Fifth Circuit Criminal Pattern Jury Instructions § 2.04 (2019).

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 DEFENDANT WAS A PARTICIPANT AND NOT MERELY A KNOWING SPECTATOR.

IN OTHER WORDS, YOU MAY NOT FIND ANY DEFENDANT GUILTY UNLESS YOU FIND BEYOND A REASONABLE DOUBT THAT EVERY ELEMENT OF THE OFFENSE AS DEFINED IN THESE INSTRUCTIONS WAS COMMITTED BY SOME PERSON OR PERSONS, AND THAT THE DEFENDANT VOLUNTARILY PARTICIPATED IN ITS COMMISSION WITH THE INTENT TO VIOLATE THE LAW.

FOR YOU TO FIND THE DEFENDANT GUILTY OF THIS CRIME, YOU MUST BE CONVINCED THAT THE GOVERNMENT HAS PROVED EACH OF THE FOLLOWING BEYOND A REASONABLE DOUBT:

**FIRST:** THAT THE OFFENSE OF HEALTH CARE FRAUD WAS COMMITTED BY SOME PERSON;

**SECOND:** THAT THE DEFENDANT ASSOCIATED WITH THE CRIMINAL VENTURE;

**THIRD:** THAT THE DEFENDANT PURPOSEFULLY PARTICIPATED IN THE CRIMINAL VENTURE; AND



**FOURTH:** THAT THE DEFENDANT SOUGHT BY ACTION TO MAKE THAT VENTURE SUCCESSFUL.

“TO ASSOCIATE WITH THE CRIMINAL VENTURE” MEANS THAT THE DEFENDANT SHARED THE CRIMINAL INTENT OF THE PRINCIPAL. THIS ELEMENT CANNOT BE ESTABLISHED IF THE DEFENDANT HAD NO KNOWLEDGE OF THE PRINCIPAL’S CRIMINAL VENTURE.

“TO PARTICIPATE IN THE CRIMINAL VENTURE” MEANS THAT THE DEFENDANT ENGAGED IN SOME AFFIRMATIVE CONDUCT DESIGNED TO AID THE VENTURE OR ASSIST THE PRINCIPAL OF THE CRIME.

AN AIDER AND ABETTOR MUST SHARE THE SAME LEVEL OF INTENT AS THE PRINCIPAL.<sup>18</sup>

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<sup>18</sup> *United States v. Nora*, 988 F.3d 823, 830 (5th Cir. 2021).

**COUNTS 1 THROUGH 23: 18 U.S.C. § 1347(a)<sup>19</sup>**  
**HEALTH CARE FRAUD**

THE INDICTMENT ALLEGES THAT, ON OR ABOUT THE DATES AND IN THE APPROXIMATE AMOUNTS SET FORTH IN THE INDICTMENT, IN THE EASTERN DISTRICT OF LOUISIANA AND ELSEWHERE, THE DEFENDANT SHIVA AKULA, FOR THE PURPOSE OF EXECUTING AND ATTEMPTING TO EXECUTE THE FRAUDULENT SCHEME DESCRIBED IN THE INDICTMENT, KNOWINGLY AND WILLFULLY SUBMITTED OR CAUSED TO BE SUBMITTED CLAIMS FOR PAYMENT FOR THE FALSE AND FRAUDULENT CLAIMS ALLEGED IN THE INDICTMENT.

TITLE 18, UNITED STATES CODE, SECTION 1347(a), MAKES IT A CRIME FOR ANYONE TO KNOWINGLY AND WILLFULLY EXECUTE OR ATTEMPT TO EXECUTE A SCHEME OR ARTIFICE (1) TO DEFRAUD ANY HEALTH CARE BENEFIT PROGRAM, OR (2) TO OBTAIN ANY OF THE MONEY OR PROPERTY OWNED BY OR UNDER THE CUSTODY OR CONTROL OF ANY HEALTH CARE BENEFIT PROGRAM BY MEANS OF FALSE OR FRAUDULENT PRETENSES, REPRESENTATIONS, OR PROMISES.

FOR YOU TO FIND THE DEFENDANT GUILTY OF THIS CRIME, YOU MUST BE CONVINCED THAT THE GOVERNMENT HAS PROVED EACH OF THE FOLLOWING BEYOND A REASONABLE DOUBT AS TO EACH COUNT:

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<sup>19</sup> Fifth Circuit Criminal Pattern Jury Instructions § 2.59 (2019).

**FIRST:** THAT THE DEFENDANT KNOWINGLY AND WILLFULLY EXECUTED A SCHEME OR ARTIFICE TO DEFRAUD A HEALTH CARE BENEFIT PROGRAM, OR TO OBTAIN MONEY OR PROPERTY FROM A HEALTH CARE BENEFIT PROGRAM, NAMELY, MEDICARE, BY MEANS OF FALSE OR FRAUDULENT REPRESENTATIONS IN CONNECTION WITH THE DELIVERY OF OR PAYMENT FOR HEALTH CARE BENEFITS, ITEMS, OR SERVICES;

**SECOND:** THAT THE DEFENDANT ACTED WITH A SPECIFIC INTENT TO DEFRAUD A HEALTH CARE BENEFIT PROGRAM;

**THIRD:** THAT THE FALSE OR FRAUDULENT REPRESENTATIONS THAT THE DEFENDANT MADE WERE MATERIAL; AND

**FOURTH:** THAT THE OPERATION OF THE HEALTH CARE BENEFIT PROGRAM AFFECTED INTERSTATE COMMERCE. SHOULD YOU FIND THAT THE DEFENDANT RECEIVED PAYMENTS FROM

MEDICARE, THE INTERSTATE COMMERCE  
ELEMENT IS SATISFIED.<sup>20</sup>

THE WORD “KNOWINGLY” AS USED IN THESE INSTRUCTIONS MEANS THAT THE ACT WAS DONE VOLUNTARILY AND INTENTIONALLY, NOT BECAUSE OF MISTAKE OR ACCIDENT.<sup>21</sup>

YOU MAY FIND THAT A DEFENDANT HAD KNOWLEDGE OF A FACT IF YOU FIND THAT THE DEFENDANT DELIBERATELY CLOSED HIS EYES TO WHAT WOULD OTHERWISE HAVE BEEN OBVIOUS TO HIM. WHILE KNOWLEDGE ON THE PART OF THE DEFENDANT CANNOT BE ESTABLISHED MERELY BY DEMONSTRATING THAT THE DEFENDANT WAS NEGLIGENT, CARELESS, OR FOOLISH, KNOWLEDGE CAN BE INFERRED IF THE DEFENDANT DELIBERATELY BLINDED HIMSELF TO THE EXISTENCE OF A FACT.<sup>22</sup> THIS INSTRUCTION DOES NOT LESSEN THE GOVERNMENT’S

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<sup>20</sup> *United States v. Ogba*, 526 F.3d 214, 238 (5th Cir. 2008) (“[I]t cannot seriously be contended that Medicare and Medicaid do not affect commerce. The provision of medical services affects interstate commerce because both physicians and hospitals serve nonresident patients and receive reimbursement through Medicare payments[.]”) (cleaned up).

<sup>21</sup> Fifth Circuit Criminal Pattern Jury Instructions § 2.59 (2019); *see also* Fifth Circuit Criminal Pattern Jury Instructions § 1.41 (2019).

<sup>22</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.42 (2019). *See also United States v. Gibson*, 875 F.3d 179, 196 (5th Cir. 2017) (“A deliberate ignorance instruction is warranted when a defendant claims a lack of guilty knowledge and the proof at trial supports an inference of deliberate indifference. The evidence must raise two inferences: (1) the defendant was subjectively aware of high probability of the existence of illegal conduct, and (2) the defendant purposely contrived to avoid learning of the illegal conduct.”) (cleaned up); *United States v. Hesson*, 746 F. App’x 324, 336 (5th Cir. 2018) (unpublished) (noting that the Fifth Circuit has “repeated[ly] endorse[d] deliberate ignorance instructions in health care fraud . . . cases”) (cleaned

BURDEN TO SHOW, BEYOND A REASONABLE DOUBT, THAT THE KNOWLEDGE ELEMENT OF THE CRIME HAS BEEN SATISFIED.<sup>23</sup>

THE WORD “WILLFULLY” AS USED IN THESE INSTRUCTIONS MEANS THAT THE ACT WAS COMMITTED VOLUNTARILY AND PURPOSEFULLY, WITH THE SPECIFIC INTENT TO DO SOMETHING THAT THE LAW FORBIDS; THAT IS TO SAY, WITH BAD PURPOSE EITHER TO DISOBEY OR DISREGARD THE LAW.<sup>24</sup>

A DEFENDANT ACTS WITH THE REQUISITE “INTENT TO DEFRAUD” IF THE DEFENDANT ACTED KNOWINGLY AND WITH THE SPECIFIC INTENT TO DECEIVE FOR THE PURPOSE OF CAUSING SOME FINANCIAL LOSS TO ANOTHER OR BRINGING ABOUT SOME FINANCIAL GAIN TO THE DEFENDANT.<sup>25</sup>

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up); *United States v. Martinez*, 921 F.3d 452, 478 (5th Cir. 2019) (approving this instruction in dicta in a health care fraud case).

<sup>23</sup> *United States v. Vasquez*, 677 F.3d 685, 696 (5th Cir. 2012); *see also United States v. Gibson*, 875 F.3d 179, 198 (5th Cir. 2017) (citing *Vasquez* in rejecting argument that deliberate ignorance instruction lowered the government’s burden of proof in health care fraud case).

<sup>24</sup> Fifth Circuit Criminal Pattern Jury Instructions § 2.59 (2019); *see also* Fifth Circuit Criminal Pattern Jury Instructions § 1.43 (2019). *United States v. St. John*, 625 F. App’x 661, 666 (5th Cir. 2015) (accepting the district court’s § 1347 willfulness instruction, which stated that “willfully . . . means that the act was committed voluntarily and purposely, with the specific intent to do something the law forbids; that is to say, with bad purpose either to disobey or disregard the law”).

<sup>25</sup> The Fifth Circuit recently explained that its caselaw holds “that a jury cannot convict a defendant under the fraud statutes based on deceit alone” and noted that “it has long been our understanding that an ‘intent to defraud’ requires ‘an intent to (1) deceive, and (2) cause some harm to result from the deceit.’” *United States v. Greenlaw*, No. 22-10511, 2023 WL 6617934, at \*13 (5th Cir. Oct. 11, 2023) (quoting *United States v. Evans*, 892 F.3d 692, 712 (5th Cir. 2018)). Accordingly, this instruction removes the word “ordinarily” from the Fifth Circuit pattern instruction. The pattern

GOOD FAITH IS A COMPLETE DEFENSE TO THE CHARGES OF HEALTH CARE FRAUD CONTAINED IN THE INDICTMENT SINCE GOOD FAITH ON THE PART OF THE DEFENDANT IS INCONSISTENT WITH THE INTENT TO DEFRAUD AND WILLFULNESS, WHICH ARE ESSENTIAL PARTS OF THE CHARGES.<sup>26</sup>

A “SCHEME OR ARTIFICE” MEANS ANY PLAN, PATTERN, OR COURSE OF ACTION INVOLVING A FALSE OR FRAUDULENT PRETENSE, REPRESENTATION, OR PROMISE INTENDED TO DECEIVE OTHERS IN ORDER TO OBTAIN SOMETHING OF VALUE, SUCH AS MONEY, FROM THE INSTITUTION TO BE DECEIVED.

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instruction states: “A defendant acts with the requisite ‘intent to defraud’ if the defendant acted knowingly and with the specific intent to deceive, *ordinarily* for the purpose of causing some financial loss to another or bringing about some financial gain to the defendant.” Fifth Circuit Criminal Pattern Jury Instructions § 2.59 (2019) (emphasis added). *See also United States v. Umawa Oke Imo*, 739 F.3d 226, 236 (5th Cir. 2014) (“A defendant ‘acts with the specific intent to defraud when he acts knowingly with the specific intent to deceive for the purpose of causing pecuniary loss to another or bringing about some financial gain to himself.’”) (quoting *United States v. Akpan*, 407 F.3d 360, 370 (5th Cir. 2005)).

<sup>26</sup> *See United States v. Harris*, 821 F.3d 589, 601 (5th Cir. 2016) (accepting the district court’s similar instruction regarding good faith in a prosecution for wire fraud pursuant to 18 U.S.C. § 1343, which also requires the intent to defraud and willfulness); *see also United States v. Rabe*, No. 00-20018, 2001 U.S. App. LEXIS 30975, at \*5 n.1 (5th Cir. 2001) (accepting a similar instruction on good faith in a bank fraud case). The Court notes that, although this instruction regarding good faith is permissible, it is not required. *See, e.g., United States v. Martinez*, 921 F.3d 452, 481 (5th Cir. 2019) (explaining that “[f]ailure to instruct on good faith is not fatal when the jury is given detailed instruction on specific intent and the defendant has the opportunity to argue good faith to the jury” in a health care fraud prosecution); *United States v. Sanjar*, 876 F.3d 725, 742 (5th Cir. 2017) (same).

A “HEALTH CARE BENEFIT PROGRAM” IS DEFINED AS “ANY PUBLIC OR PRIVATE PLAN OR CONTRACT, AFFECTING COMMERCE, UNDER WHICH ANY MEDICAL BENEFIT, ITEM, OR SERVICE IS PROVIDED TO ANY INDIVIDUAL, AND INCLUDES ANY INDIVIDUAL OR ENTITY WHO IS PROVIDING A MEDICAL BENEFIT, ITEM, OR SERVICE, FOR WHICH PAYMENT MAY BE MADE UNDER THE PLAN OR CONTRACT.” MEDICARE IS A HEALTH CARE BENEFIT PROGRAM.

THE GOVERNMENT DOES NOT HAVE TO PROVE THAT THE DEFENDANT HAD ACTUAL KNOWLEDGE OF OR SPECIFICALLY INTENDED TO VIOLATE THE APPLICABLE HEALTH CARE FRAUD STATUTE.<sup>27</sup>

A REPRESENTATION IS “FALSE” IF IT IS KNOWN TO BE UNTRUE OR IS MADE WITH RECKLESS INDIFFERENCE AS TO ITS TRUTH OR FALSITY. A REPRESENTATION IS ALSO “FALSE” WHEN IT CONSTITUTES A HALF-TRUTH, OR EFFECTIVELY OMITTS OR CONCEALS A MATERIAL FACT, PROVIDED IT IS MADE WITH THE INTENT TO DEFRAUD.

A FALSE REPRESENTATION IS “MATERIAL” IF IT HAS A NATURAL TENDENCY TO INFLUENCE, OR IS CAPABLE OF INFLUENCING, THE INSTITUTION TO WHICH IT IS ADDRESSED. THE GOVERNMENT CAN PROVE MATERIALITY IN EITHER OF TWO WAYS. FIRST, A REPRESENTATION IS “MATERIAL” IF A REASONABLE PERSON WOULD ATTACH IMPORTANCE TO ITS EXISTENCE OR NONEXISTENCE IN DETERMINING HIS CHOICE OF

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<sup>27</sup> *United States v. Umawa Oke Imo*, 739 F.3d 226, 236 (5th Cir. 2014).

ACTION IN THE TRANSACTION IN QUESTION. SECOND, A STATEMENT COULD BE MATERIAL, EVEN THOUGH ONLY AN UNREASONABLE PERSON WOULD RELY ON IT, IF THE PERSON WHO MADE THE STATEMENT KNEW OR HAD REASON TO KNOW HIS VICTIM WAS LIKELY TO RELY ON IT.

IN DETERMINING MATERIALITY, YOU SHOULD CONSIDER THAT NAIVETY, CARELESSNESS, NEGLIGENCE, OR STUPIDITY OF A VICTIM DOES NOT EXCUSE CRIMINAL CONDUCT, IF ANY, ON THE PART OF THE DEFENDANT.<sup>28</sup>

“AFFECTING COMMERCE” MEANS THAT THERE IS ANY EFFECT AT ALL ON INTERSTATE OR FOREIGN COMMERCE, HOWEVER MINIMAL.

“INTERSTATE COMMERCE” MEANS COMMERCE OR TRAVEL BETWEEN ONE STATE, TERRITORY, OR POSSESSION OF THE UNITED STATES AND ANOTHER STATE, TERRITORY, OR POSSESSION OF THE UNITED STATES, INCLUDING THE DISTRICT OF COLUMBIA. “COMMERCE” INCLUDES TRAVEL, TRADE, TRANSPORTATION, AND COMMUNICATION. ONLY A MINIMAL EFFECT IS REQUIRED IN ORDER TO SHOW THAT THE HEALTH CARE BENEFITS PROGRAM “AFFECTED INTERSTATE COMMERCE.” PROOF THAT THE MONEY OBTAINED THROUGH EXECUTION OF THE SCHEME WAS PAID THROUGH A FINANCIAL INSTITUTION

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<sup>28</sup> The first sentence of this definition of “material” is derived from Fifth Circuit Criminal Pattern Jury Instructions § 2.59 (2019). The remainder of the definition is derived from Fifth Circuit Criminal Pattern Jury Instructions § 1.40 (2019).



INSURED BY THE FDIC, FOR EXAMPLE, IS SUFFICIENT TO ESTABLISH THAT THE ACTIVITY “AFFECTED INTERSTATE COMMERCE.”

IT IS NOT NECESSARY THAT THE GOVERNMENT PROVE ALL OF THE DETAILS ALLEGED IN THE INDICTMENT CONCERNING THE PRECISE NATURE OF THE ALLEGED SCHEME, OR THAT THE ALLEGED SCHEME ACTUALLY SUCCEEDED IN DEFRAUDING SOMEONE. WHAT MUST BE PROVEN BEYOND A REASONABLE DOUBT IS THAT THE ACCUSED KNOWINGLY EXECUTED OR ATTEMPTED TO EXECUTE A SCHEME THAT WAS SUBSTANTIALLY SIMILAR TO THE SCHEME ALLEGED IN THE INDICTMENT.

**CONDUCT OF THE JURY**

YOU, AS JURORS, MUST DECIDE THIS CASE BASED SOLELY ON THE EVIDENCE PRESENTED WITHIN THE FOUR WALLS OF THIS COURTROOM. THIS MEANS YOU MUST NOT CONDUCT ANY INDEPENDENT RESEARCH ABOUT THIS CASE, THE MATTERS IN THIS CASE, AND THE INDIVIDUALS INVOLVED IN THE CASE. IN OTHER WORDS, YOU SHOULD NOT CONSULT DICTIONARIES OR REFERENCE MATERIALS, SEARCH THE INTERNET, WEBSITES, BLOGS, OR USE ANY OTHER ELECTRONIC TOOLS TO OBTAIN INFORMATION ABOUT THIS CASE OR TO HELP YOU DECIDE THE CASE. PLEASE DO NOT TRY TO FIND OUT INFORMATION FROM ANY SOURCE OUTSIDE THE CONFINES OF THIS COURTROOM.

AFTER YOU RETIRE TO DELIBERATE, YOU MAY BEGIN DISCUSSING THE CASE WITH YOUR FELLOW JURORS, BUT YOU CANNOT DISCUSS THE CASE WITH ANYONE ELSE UNTIL YOU HAVE RETURNED A VERDICT AND THE CASE IS AT AN END.

I HOPE THAT FOR ALL OF YOU THIS CASE IS INTERESTING AND NOTEWORTHY. I KNOW MANY OF YOU USE CELL PHONES, THE INTERNET AND OTHER TOOLS OF TECHNOLOGY. YOU ALSO MUST NOT TALK TO ANYONE ABOUT THIS CASE OR USE THESE TOOLS TO COMMUNICATE ELECTRONICALLY WITH ANYONE ABOUT THE CASE. THIS INCLUDES YOUR FAMILY AND FRIENDS. YOU MAY NOT COMMUNICATE WITH ANYONE ABOUT THE CASE ON YOUR CELL PHONE, THROUGH E-MAIL, TEXT

MESSAGING, OR ON TWITTER, THROUGH ANY BLOG OR WEBSITE, THROUGH ANY INTERNET CHATROOM, OR BY WAY OF ANY OTHER SOCIAL NETWORKING WEBSITES, INCLUDING FACEBOOK, INSTAGRAM, LINKEDIN, AND YOUTUBE.

THE EVIDENCE THAT YOU ARE TO CONSIDER WILL BE LIMITED TO THE EVIDENCE THAT YOU HEAR AND REVIEW IN THIS COURTROOM.

**DUTY TO DELIBERATE**<sup>29</sup>

TO REACH A VERDICT, WHETHER IT IS GUILTY OR NOT GUILTY, ALL OF YOU MUST AGREE. YOUR VERDICT MUST BE UNANIMOUS ON EACH COUNT OF THE INDICTMENT.

IT IS YOUR DUTY TO CONSULT WITH ONE ANOTHER AND TO DELIBERATE IN AN EFFORT TO REACH AGREEMENT IF YOU CAN DO SO. EACH OF YOU MUST DECIDE THE CASE FOR YOURSELF, BUT ONLY AFTER AN IMPARTIAL CONSIDERATION OF THE EVIDENCE WITH YOUR FELLOW JURORS. DO NOT LET ANY BIAS, SYMPATHY, OR PREJUDICE THAT YOU MAY FEEL TOWARD ONE SIDE OR THE OTHER INFLUENCE YOUR DECISION IN ANY WAY. IN PARTICULAR, DO NOT LET RACIAL, ETHNIC, NATIONAL ORIGIN, OR OTHER BIAS INFLUENCE YOUR DECISION IN ANY WAY. DURING YOUR DELIBERATIONS, DO NOT HESITATE TO REEXAMINE YOUR OWN OPINIONS AND CHANGE YOUR MIND IF CONVINCED THAT YOU WERE WRONG. BUT DO NOT GIVE UP YOUR HONEST BELIEFS 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 AT ALL TIMES, YOU ARE JUDGES—JUDGES OF THE FACTS. YOUR DUTY IS TO DECIDE WHETHER THE GOVERNMENT HAS PROVED THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT.

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<sup>29</sup> Fifth Circuit Criminal Pattern Jury Instructions § 1.26 (2019).

WHEN YOU GO TO THE JURY ROOM, THE FIRST THING THAT YOU SHOULD DO IS SELECT ONE OF YOUR NUMBER AS YOUR FOREPERSON, WHO WILL HELP TO GUIDE YOUR DELIBERATIONS AND WILL SPEAK FOR YOU HERE IN THE COURTROOM.

A VERDICT FORM HAS BEEN PREPARED FOR YOUR CONVENIENCE. THE FOREPERSON WILL WRITE THE UNANIMOUS ANSWER OF THE JURY IN THE SPACE PROVIDED FOR EACH COUNT OF THE INDICTMENT, EITHER GUILTY OR NOT GUILTY. AT THE CONCLUSION OF YOUR DELIBERATIONS, THE FOREPERSON SHOULD DATE AND SIGN THE VERDICT FORM.

IF YOU NEED TO COMMUNICATE WITH ME DURING YOUR DELIBERATIONS, THE FOREPERSON SHOULD WRITE THE MESSAGE AND GIVE IT TO THE COURT SECURITY OFFICE. I WILL EITHER REPLY IN WRITING OR BRING YOU BACK INTO THE COURT TO ANSWER YOUR MESSAGE.

BEAR IN MIND THAT YOU ARE NEVER TO REVEAL TO ANY PERSON, NOT EVEN TO THE COURT, HOW THE JURY STANDS, NUMERICALLY OR OTHERWISE, ON ANY COUNT OF THE INDICTMENT, UNTIL AFTER YOU HAVE REACHED A UNANIMOUS VERDICT.

YOU MAY NOW PROCEED TO THE JURY ROOM AND BEGIN YOUR DELIBERATIONS.