

INSTRUCTION NO. 1

DATE FILED: July 16, 2021

Members of the jury, the evidence in this case has been completed. In a moment, I will read to you jury instructions that contain the rules of law you must apply to reach your verdict. You will have copies of what I read to take with you to the jury room. But first, I want to mention a few things you need to keep in mind when you are discussing this case in the jury room.

Until you have returned a verdict, you must not do any research about this case or this kind of case using any source, including dictionaries, reference materials, the internet or any other electronic means. You must not communicate in any way with anyone else about this case or this kind of case until you have returned a verdict in court. This includes your family and friends. If you have a cell phone or other electronic device, you must keep it turned off during jury deliberations.

It is my job to decide what rules of law apply to the case. While the attorneys may comment on some of these rules, you must follow the instructions I give you. Even if you disagree with or do not understand the reasons for some of the rules of law, you must follow them. No single instruction describes all the law which must be applied; the instructions must be considered together as a whole.

During the trial, you received all of the evidence that you may properly consider in deciding the case. Your decision must be made by applying the rules of law that I give you to the evidence presented at trial. Remember, you must not be influenced by sympathy, bias or prejudice in reaching your decision.

You should not allow bias or any kind of prejudice based upon gender to influence your decision.

If you decide that the prosecution has proved beyond a reasonable doubt that the defendant is guilty, it will be my job to decide what the punishment will be. In making your decision, you must not consider punishment at all. At times during the trial, attorneys made objections. Do not draw any conclusions from the objections or from my rulings on the objections. These only related to legal questions I had to decide and should not influence your thinking. If I told you not to consider a particular statement that was made during the trial, you must not consider it in your deliberations.

I have asked questions of witnesses during the trial. That did not mean I had any opinion about the facts in the case.

Finally, you should consider all the evidence in light of your experience in life.

INSTRUCTION NO. 2

The charges against the defendant are not evidence. The charge against the defendant is just an accusation. The fact that the defendant has been accused is not evidence that the defendant committed any crime.

The defendant is charged with committing the crimes of:

Count 1: Murder in the Second Degree

Count 2: Child Abuse - Resulting in Death

in La Plata County, Colorado, on or between November 18, 2012 and November 19, 2012. The defendant has pleaded not guilty.

INSTRUCTION NO. 3

In this case a separate offense is charged against the defendant in each count of the indictment. Each count charges a separate and distinct offense and the evidence and the law applicable to each count should be considered separately, uninfluenced by your decision as to any other count. The fact that you may find the defendant guilty or not guilty of one of the offenses charged, should not control your verdict as to any other offense charged against the defendant.

The defendant may be found guilty or not guilty of any one or all of the offenses charged.

INSTRUCTION NO. 4

Every person charged with a crime is presumed innocent. This presumption of innocence remains with the defendant throughout the trial and should be given effect by you unless, after considering all of the evidence, you are then convinced that the defendant is guilty beyond a reasonable doubt.

The burden of proof is upon the prosecution to prove to the satisfaction of the jury beyond a reasonable doubt the existence of all of the elements necessary to constitute the crime charged.

Reasonable doubt means a doubt based upon reason and common sense which arises from a fair and rational consideration of all of the evidence, or the lack of evidence, in the case. It is a doubt which is not a vague, speculative or imaginary doubt, but such a doubt as would cause reasonable people to hesitate to act in matters of importance to themselves.

If you find from the evidence that each and every element of a crime has been proven beyond a reasonable doubt, you should find the defendant guilty of that crime. If you find from the evidence that the prosecution has failed to prove any one or more of the elements of a crime beyond a reasonable doubt, you should find the defendant not guilty of that crime.

INSTRUCTION NO. 5

A fact may be proven by either direct or circumstantial evidence. Under the law, both are acceptable ways to prove something. Neither is necessarily more reliable than the other.

Direct evidence is based on first-hand observation of the fact in question. For example, a witness's testimony that she looked out a window and saw snow falling might be offered as direct evidence that it had snowed.

Circumstantial evidence is indirect. It is based on observations of related facts that may lead you to reach a conclusion about the fact in question. For example, a witness's testimony that she looked out a window and saw snow covering the ground might be offered as circumstantial evidence that it had snowed.

INSTRUCTION NO. 6

The court admitted certain evidence for a limited purpose.

You are again instructed that you cannot consider that evidence except for the limited purpose I told you about when it was admitted.

In this case, one type of such evidence includes testimony and evidence relating to certain photographs and the defendant's reaction when confronted about such photographs. Evidence concerning the photographs were admitted into evidence for two purposes. The first was to allow the prosecution to attempt to prove that the defendant became violently enraged when confronted by others with the photographs. The second reason such evidence was admitted was to allow the prosecution to attempt to prove motive.

INSTRUCTION NO. 7

It is the defense theory of the case that Dylan Redwine left the home of his father on the morning of November 19, 2012 while his father was at work and running errands.

Mr. Redwine has no burden to establish how his child died. He is not asserting that animal attack is the only means by which his son was harmed, only that he did not harm his child. The defense contends that the prosecution has failed to present sufficient evidence to prove the guilt of the defendant as to the crimes charged and as to the lesser included offenses.

INSTRUCTION NO. 8

Every defendant has a constitutional right not to testify. The decision not to testify cannot be used as an inference of guilt and cannot prejudice the defendant. It is not evidence, does not prove anything, and must not be considered for any purpose.



INSTRUCTION NO. 9

You are the sole judges of the credibility of each witness and the weight to be given to the witness's testimony. You should carefully consider all of the testimony given and the circumstances under which each witness has testified.

For each witness, consider that person's knowledge, motive, state of mind, demeanor, and manner while testifying. Consider the witness's ability to observe, the strength of that person's memory, and how that person obtained his or her knowledge. Consider any relationship the witness may have to either side of the case, and how each witness might be affected by the verdict. Consider how the testimony of the witness is supported or contradicted by other evidence in the case. You should consider all facts and circumstances shown by the evidence when you evaluate each witness's testimony.

You may believe all of the testimony of a witness, part of it, or none of it.

INSTRUCTION NO. 10

The number of witnesses testifying for or against a certain fact does not, by itself, prove or disprove that fact.

INSTRUCTION NO. 11

You are not bound by the testimony of witnesses who have testified as experts; the credibility of an expert's testimony is to be considered as that of any other witness. You may believe all of an expert witness's testimony, part of it, or none of it.

The weight you give the testimony is entirely your decision.

INSTRUCTION NO. 12

The elements of the crime of Murder in the Second Degree as charged in Count 1 are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. caused the death of Dylan Redwine.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of murder in the second degree.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of murder in the second degree.

INSTRUCTION NO. 13

If you are not satisfied beyond a reasonable doubt that Mr. Redwine is guilty of the offense charged, he may, however, be found guilty of any lesser offense, the commission of which is necessarily included in the offense charged if the evidence is sufficient to establish his guilt of the lesser offense beyond a reasonable doubt.

The offense of Second-Degree Murder as charged in the information in this case necessarily includes the lesser offense of Criminally Negligent Homicide.

The elements of the crime of Criminally Negligent Homicide are:

1. That Mr. Redwine,
2. in the State of Colorado, at or about the date and place charged,
3. caused the death of another person,
4. by conduct amounting to criminal negligence.

You should bear in mind that the burden is always upon the prosecution to prove beyond a reasonable doubt each and every element of any lesser-included offense which is necessarily included in any offense charged in the information; the law never imposes upon a defendant in a criminal case the burden of calling any witnesses or producing any evidence.

After considering all the evidence, if you decide that the prosecution has proven each of the elements of the crime charged or of a lesser-included offense, you should find Mr. Redwine guilty of the offense proven, and you should so state in your verdict.

INSTRUCTION NO. 14

The elements of the crime of Child Abuse are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly or recklessly,
4. caused an injury to a child's life or health, or permitted a child to be unreasonably placed in a situation that posed a threat of injury to the child's life or health.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of child abuse.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of child abuse.

INSTRUCTION NO. 15

If you are not satisfied beyond a reasonable doubt that Mr. Redwine is guilty of the offense charged, he may, however, be found guilty of any lesser offense, the commission of which is necessarily included in the offense charged if the evidence is sufficient to establish his guilt of the lesser offense beyond a reasonable doubt.

The offense of Child Abuse as charged in the information in this case necessarily includes the lesser offense of Child Abuse Committed with Criminal Negligence.

The elements of the crime of Child Abuse Committed with Criminal Negligence are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. ~~knowingly or recklessly,~~ *with CRIMINAL negligence*
4. caused an injury to a child's life or health, or permitted a child to be unreasonably placed in a situation that posed a threat of injury to the child's life or health.

You should bear in mind that the burden is always upon the prosecution to prove beyond a reasonable doubt each and every element of any lesser-included offense which is necessarily included in any offense charged in the information; the law never imposes upon a defendant in a criminal case the burden of calling any witnesses or producing any evidence.

After considering all the evidence, if you decide that the prosecution has proven each of the elements of the crime charged or of a lesser-included offense, you should find Mr. Redwine guilty of the offense proven, and you should so state in your verdict.

INSTRUCTION NO. 16

If you find the defendant not guilty of Child Abuse and Child Abuse Committed with Criminal Negligence, you should disregard this instruction and sign the verdict form to indicate your not guilty verdict.

If, however, you find the defendant guilty of Child Abuse or the lesser include offense of Child Abuse Committed with Criminal Negligence, you should sign the verdict form to indicate your finding of guilt, and answer the following verdict question on the verdict form:

Did the child abuse result in death? (Answer "Yes" or "No")

The prosecution has the burden to prove, beyond a reasonable doubt, that the child abuse resulted in death.

After considering all the evidence, if you decide the prosecution has met this burden, you should mark "Yes" in the appropriate place, and have the foreperson sign the designated line of the verdict form.

After considering all the evidence, if you decide the prosecution has failed to meet this burden, you should mark "No" in the appropriate place, and have the foreperson sign the designated line of the verdict form.



INSTRUCTION NO. 17

A crime is committed when the defendant has committed a voluntary act prohibited by law, together with a culpable state of mind.

“Voluntary act” means an act performed consciously as a result of effort or determination.

Proof of the voluntary act alone is insufficient to prove that the defendant had the required state of mind.

The culpable state of mind is as much an element of the crime as the act itself and must be proven beyond a reasonable doubt, either by direct or circumstantial evidence.

In this case, the applicable states of mind are explained below:

A person acts “knowingly” or “willfully” with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of such nature or that such a circumstance exists. A person acts “knowingly” or “willfully”, with respect to a result of his conduct, when he is aware that his conduct is practically certain to cause the result.

A person acts “recklessly” when he consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

A person acts with “criminal negligence” when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.

INSTRUCTION NO. 18

In this case, certain words and phrases have particular meanings.

Accordingly, you are to use the following definitions where these words and phrases appear in instructions that define crimes, defenses, special rules, and verdict questions.

“Child” means a person under the age of sixteen years.

“Health” as used in the Instructions 14-615 means both physical and mental well-being.

“Injury” as used in the Instructions 14-615 means “bodily injury,” which is physical pain, illness, or any impairment of physical or mental condition.

INSTRUCTION NO. 19

The Court necessarily interacts with the parties during trial and rules on legal issues during the trial. You may not draw any negative inferences or conclusions about the accused's guilt from the differences, if any, that you perceive in the Court's treatment of the lawyers for the defense and the prosecution. You must not let yourselves be negatively influenced against the accused in any way by the substance of the judge's rulings, or the demeanor and manner in which he makes his rulings. The Court has no opinions about the evidence or the accused's guilt that are relevant to your job as jurors. If you perceive that the judge has formed any opinions about the accused, the parties, or the evidence presented in the case, you must not allow it to affect your perception of the accused, the parties, or the evidence in the case.

INSTRUCTION NO. 20

If there has been or is any news coverage of this case, you must completely disregard it. Your decision in this case must be made solely on the evidence presented at the trial.

INSTRUCTION NO. 21

Mr. Redwine has a right to a public jury trial. Many different people sat in the gallery and observed Mr. Redwine's trial. The jury is instructed that they cannot consider reactions or statements made by any person in the gallery as evidence. It does not prove anything and must not be considered for any purpose.

INSTRUCTION NO. 22

During this trial you were permitted to submit written questions to witnesses. If a particular question was not asked, do not guess why the question was not asked or what the answer might have been. My decision not to ask a question submitted by a juror is not a reflection on the person asking it, and you should not attach any significance to the failure to ask a question. By making legal rulings on the admissibility of questions, I did not intend to suggest or express any opinion about the question. My decision whether or not to allow a question is based on the applicable rules of evidence and other rules of law, and not on the facts of this particular case. It is my responsibility to assure that all parties receive a fair trial according to the law and the rules of evidence.

The fact that certain questions were not asked must not affect your consideration of the evidence in any way. Do not give greater weight to questions, or answers to questions, that are submitted by yourself or your fellow jurors. In making your decision, you must consider all of the evidence that has been presented.

INSTRUCTION NO. 23

Members of the jury, you may discuss this case only when you are all present and you may only deliberate in the jury room. No juror should attempt to discuss this case with other jurors or anyone else at any other time except when all jurors are in the jury room.

INSTRUCTION NO. 24

If you are uncertain about any term used during the trial or in these instructions, do not consult a dictionary or conduct any outside research. Any juror who needs to have any term defined should send out a note and, if possible, a definition will be provided.



INSTRUCTION NO 25

Once you begin your deliberations, if you have a question, your foreperson should write it on a piece of paper, sign it and give it to the bailiff, who will bring it to me.

The Court will then determine the appropriate way to answer the question.

However, there may be some questions that, under the law, the Court is not permitted to answer. Please do not speculate about what the answer to your question might have been or why the Court is not able to answer a particular question.

Finally, please be sure to keep the original question and response. Do not destroy them as they are part of the official record in this case and must be returned to me when you return the instructions and verdict forms at the end of the case.

INSTRUCTION NO. 26

The bailiff will now escort you to the jury room, where you will select one of your members to be your foreperson. Your foreperson will preside over your deliberations and shall sign any verdict form that you may agree on, according to the rules that I am about to explain.

The verdict for each charge must represent the considered judgment of each juror, and it must be unanimous. In other words, all of you must agree to all parts of it. This requirement also applies to any determination that you make in response to verdict questions which you conclude should be answered.

Only one verdict shall be returned signed for each count. The verdict forms and these instructions shall remain in the possession of your foreperson until I ask for them in open court. Upon reaching a verdict and, if required by your verdicts, answering any verdict questions, you will inform the bailiff, who in turn will notify me, and you will remain in the jury room until I call you into the courtroom.

You will be provided with 2 verdict forms.

When you have unanimously agreed upon your verdicts you will select the option on each form which reflects your verdict and the foreperson will sign the verdict forms as I have stated. Similarly, if you conclude that the verdict questions should be answered, you will select the option on each verdict question which reflects your unanimous decision, and the foreperson will sign each verdict question form as I have stated.

I will now read to you the verdict forms. You must not draw any inferences based on the order in which I read them.

The verdict forms you will receive read as follows: