FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
2025 JUN -6 PM 4:41
OFFICE OF THE CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLIFFORD WRIGHT III,

Defendant.

8:22CR253

JURY INSTRUCTIONS

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
2025 JUN -6 PM 4:41
OFFICE OF THE CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CLIFFORD WRIGHT III,

Defendant.

8:22CR253

JURY INSTRUCTIONS

INSTRUCTION NO. 1

A. INTRODUCTION

Members of the jury: I will take a few moments to give you some instructions about this case and about your duties as jurors. At the end of the trial, I will give you more instructions. I may also give you instructions during the trial. All instructions—those I give you now and those I give you later, whether they are in writing or given to you orally—are equally important and you must follow them all.

B. SERVING AS A JUROR ON A CRIMINAL CASE

This is a criminal case brought against the defendant, Clifford Wright, III, by the United States government. The defendant is charged with one count of possessing with intent to distribute 40 grams or more of a mixture or substance containing fentanyl, one count of possessing a firearm in furtherance of a drug-trafficking crime, and one count of being a felon in possession of a firearm. Those charges are set forth in what is called a Third Superseding Indictment, which I will ask the government attorney to read for you now. You should understand that an indictment is simply an accusation. It is not evidence of anything. The defendant has pleaded not guilty and is presumed to be innocent unless and until proven guilty beyond a reasonable doubt.

C. TESTIMONY AND EVIDENCE

It will be your duty to decide from the evidence whether the defendant is guilty or not guilty of the crimes charged. From the evidence, you will decide what the facts are. You are entitled to consider the evidence in light of your own observations and experiences in life. You may use reason and common sense to draw deductions or conclusions from facts which have been established by the evidence. You will then apply those facts to the law which I give you in my instructions, and in that way reach your verdicts. You are the sole judges of the facts, but you must follow my instructions, whether you agree with them or not. You have taken an oath to do so.

Furthermore, a particular item of evidence is sometimes received for a limited purpose only. That is, it can be used by you only for one particular purpose, and not for any other purpose. I will tell you when that occurs and instruct you on the purposes for which the item can and cannot be used.

Finally, some of you may have heard the terms "direct evidence" and "circumstantial evidence." You are instructed that you should not be concerned with those terms. The law makes no distinction between direct and circumstantial evidence. You should give all evidence the weight and value you believe it is entitled to receive.

E. SELF-REPRESENTATION

The defendant has decided to represent himself in this trial and not to use the services of a lawyer. He has a constitutional right to do that. This decision must not affect your consideration and your decision as to whether he is guilty or not guilty. Because the defendant has decided to act as his own lawyer, you will hear him speak at various times during the trial. He may make an opening statement and closing argument. He may ask questions of witnesses, make objections, and argue legal issues to the court. I want to remind you that when the defendant speaks in these parts of the trial, he is acting as a lawyer in the case, and his words are not evidence. Unless I say otherwise, the only evidence in this case comes from witnesses who testify under oath on the witness stand and from exhibits that are admitted.

Although the defendant has chosen to represent himself, the Court has appointed Stuart Dornan to assist him as stand-by counsel. This is a standard procedure. Mr. Dornan may confer with the defendant and occasionally assist him during trial. Just as when the defendant speaks in parts of the trial, when Mr. Dornan speaks in his capacity as stand-by counsel, his words are not evidence.

F. CREDIBILITY OF WITNESSES

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, only part of it, or none of it.

In deciding what testimony of any witness to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with other evidence that you believe.

You must avoid bias, conscious or unconscious, based on a witness's race, color, ethnicity, national origin, religion, gender, gender identity, sexual orientation, disability, or economic circumstances in making determinations of credibility.

G. NO TRANSCRIPT IS AVAILABLE BUT NOTE TAKING IS ALLOWED

At the end of the trial, you must make your decision based on what you recall of the evidence. You will not have a written transcript to consult. You must pay close attention to the testimony as it is given.

If you wish, however, you may take notes to help you remember what witnesses said. My Courtroom Deputy will provide each of you with a pad of paper and a pen or pencil.

If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. And do not let note-taking distract you so that you do not hear other answers by the witness. Remember, it is your own individual responsibility to listen carefully to the evidence.

At each recess, leave your notes in the jury room. When you leave at night, they will be secured and will not be read by anyone.

H. QUESTIONS BY JURORS

I do not allow jurors to ask or present written questions to any witnesses. In other words, I do not allow jurors to question witnesses either directly or indirectly.

I. BENCH CONFERENCES AND RECESSES

During the trial, it may be necessary for me to talk with the parties out of the hearing of the jury, either by having a bench conference here while the jury is present in the courtroom or by calling a recess. Please understand that while you are waiting, we are working. The purpose of these conferences is to decide how certain evidence is to be treated under the rules of evidence and to avoid confusion and error. We will, of course, do what we can to keep the number and length of these conferences to a minimum.

J. CONDUCT OF THE JURY

To ensure fairness, you as jurors must obey the following rules:

First, do not talk or communicate among yourselves about this case, or about anyone involved with it, until the end of the case when you go to the jury room to decide on your verdicts.

Second, do not talk with anyone else about this case, or about anyone involved with it, until the trial has ended, and you have been discharged as jurors. You must leave your phone, tablet, computer, or any other wireless communication device in the jury room during the trial and may only use them during breaks. You will have to turn those devices "off" in the jury room during your deliberations.

Third, when you are outside the courtroom do not let anyone tell you anything about the case, or about anyone involved with it until the trial has ended and I have accepted your

Eighth, you should perform your duties without prejudice or fear and solely from a fair and impartial consideration of the whole case. Resist any urge to make immediate conclusions about parties, witnesses, and evidence. A quick response, even though not always the result of conscious thought, may influence how we judge people or even how we remember or evaluate evidence. Instead, take the time to reflect carefully and consciously about the evidence. You must not decide this case based on personal likes or dislikes, sympathy, prejudice, fear, public opinion, or biases, including unconscious biases such as stereotypes, attitudes, or preferences that people may consciously reject but may express without conscious awareness, control, or intention.

Ninth, do not make up your mind during the trial about what the verdicts should be. Keep an open mind until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence.

K. OUTLINE OF TRIAL

The trial will proceed in the following manner:

First, the government will make an opening statement. Next, the defendant may, but does not have to, make an opening statement. An opening statement is not evidence but is simply a summary of what the party expects the evidence to be.

The government will then present its evidence and the defendant may cross-examine. Following the government's case, the defendant may, but does not have to, present evidence, testify, or call other witnesses. If the defendant calls witnesses, the government may cross-examine them.

After the presentation of evidence is completed, the parties will make their closing arguments to summarize and interpret the evidence for you. As with opening statements, closing arguments are not evidence. I will instruct you further on the law. After that, you will retire to deliberate on your verdicts.

INSTRUCTION NO. 2

Members of the jury, the instructions I gave you at the beginning of the trial and during the trial remain in effect. I now give you some additional instructions.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because *all* are important. This is true even though some of those I gave you during trial are not repeated here.

The instructions I am about to give you now as well as those I gave you at the beginning of the trial are in writing and will be available to you in the jury room. Other instructions I may have given will not be in writing and will not be available. I emphasize, however, that this does not mean they are more important than my earlier instructions. Again, *all* instructions, whenever given and whether in writing or not, must be followed.

INSTRUCTION NO. 3

It is your duty to find from the evidence what the facts are. You will then apply the law, as I give it to you, to those facts. You must follow my instructions on the law, even if you thought the law was different or should be different.

You must not be influenced by any personal likes or dislikes, opinions, prejudices, sympathy, or biases, including unconscious bias. The law demands of you just verdicts, unaffected by anything except the evidence, your common sense, and the law as I give it to you.

INSTRUCTION NO. 4

I have mentioned the word "evidence." The "evidence" in this case consists of the testimony of witnesses, the documents and other things received as exhibits, and the facts that have been stipulated—that is, formally agreed to by the parties.

You may use reason and common sense to draw deductions or conclusions from facts that have been established by the evidence in the case.

Certain things are not evidence. I will list those things again for you now:

1. Statements, arguments, questions, and comments made during the trial by the attorneys and the defendant while acting as his own lawyer are not evidence.

2. Objections are not evidence. The parties have a right to object when they believe something is improper. You should not be influenced by the objection. If I sustained an objection to a question, you must ignore the question and must not try to guess what the answer might have been.

3. Testimony that I struck from the record, or told you to disregard, is not evidence and must not be considered.

4. Anything you have seen or heard about this case outside the courtroom is not evidence unless I specifically told you otherwise during the trial.

Finally, if you were instructed that some evidence was received for a limited purpose only, you must follow that instruction.

INSTRUCTION NO. 5

Some of you may have taken notes during the trial; others of you may have chosen not to take notes. If you did take notes, remember that your notes are not themselves evidence, but are instead merely memory aids. You must reach your verdicts based upon your independent recollection of the evidence presented during the trial, not upon your notes or another juror's notes. Notes are not entitled to any greater weight than the recollection or impression of each juror as to what the testimony may have been.

INSTRUCTION NO. 6

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it.

In deciding what testimony to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe.

In deciding whether or not to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You need to consider therefore whether a contradiction is an innocent misrecollection or lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or only a small detail.

You have heard testimony about certain witnesses' character and reputation for truthfulness. You may consider this evidence in deciding whether to believe the testimony of the witnesses and how much weight to give to it.

You may not consider the fact that a witness invoked their constitutional right against self-incrimination in deciding what testimony to believe. You must not draw any inferences from a witness's decision to exercise this right nor from their decision not to answer certain questions. You should not speculate about those questions or what the witness's answers may be.

INSTRUCTION NO. 7

The defendant decided to represent himself in this trial and not to use the services of a lawyer. He has a constitutional right to do that. This decision must not affect your consideration and your decision whether or not he is guilty or not guilty. Because Mr. Wright decided to act as his own lawyer, you heard him speak at various times during the trial. He made an opening statement, asked questions of witnesses, made objections, and argued legal issues to the court. I want to remind you that when Mr. Wright spoke in these parts of the trial, he was acting as a lawyer in the case, and his words are not evidence. The only evidence in this case comes from witnesses who testify under oath on the witness stand, exhibits that are admitted, and stipulations entered into by the parties.

Although the defendant chose to represent himself, the Court appointed Stuart Dornan to assist Mr. Wright as stand-by counsel. This is a standard procedure. During the trial, Mr. Dornan spoke at times and made closing arguments. Just as with Mr. Wright and the other attorneys in this case, nothing Mr. Dornan said in his capacity as stand-by counsel is evidence.

INSTRUCTION NO. 8

You have heard testimony from persons described as experts. Persons who, by knowledge, skill, training, education, or experience, have become an expert in some field may state their opinions on matters in that field and may also state the reasons for their opinion.

Expert testimony should be considered just like any other testimony. You may accept 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, the acceptability of the methods used, and all the other evidence in the case.

INSTRUCTION NO. 9

You have heard evidence that Kelly Rynkol hopes to receive a reduced sentence in return for her cooperation with the government in this case. If the prosecutor handling this witness's case believes she provided substantial assistance, that prosecutor can file a motion to reduce the witness's sentence in the court in which her sentence was imposed. A judge has no power to reduce a sentence for substantial assistance unless the government, acting through the United States Attorney, files a such a motion. If the government files such a motion for reduction of sentence for substantial assistance, then it is up to the judge assigned to the witness's case to decide whether to reduce her sentence at all and, if so, how much to reduce it.

You have also heard evidence that Kelly Rynkol had an arrangement with the government under which she got paid for providing information to the Omaha Police Department.

Her testimony was received in evidence and may be considered by you. You may give the testimony of this witness such weight as you think it deserves. Whether or not testimony of a witness may have been influenced by her hope of receiving a reduced sentence or by her receipt of payments from the government is for you to decide.

INSTRUCTION NO. 10

You have heard recordings of conversations. These conversations were legally recorded. You may consider the recordings just like any other evidence.

INSTRUCTION NO. 11

During the trial, you were able to review transcripts of the recordings you heard. Those transcripts also undertook to identify the speakers engaged in the recorded conversations.

The transcripts served the limited purpose of helping you follow the conversations and keep track of the speakers as you listened to the recordings. Differences in meaning between what you heard in the recordings and read in the transcripts may be caused by such things as the inflection in a speaker's voice. It is what you heard, however, and not what you read, that is the evidence.

Whether the transcripts correctly or incorrectly reflected the conversations or the identities of the speakers is entirely for you to decide based upon what you heard on the recordings and about the preparation of the transcript, and upon your own examination of the transcripts in relation to what you heard on the recordings. If you decide that the transcripts were, in any respect, incorrect or unreliable, you should disregard them to that extent.

INSTRUCTION NO. 12

Certain charts, summaries, and presentations have been shown to you in order to help explain the facts disclosed by the records, exhibits, and other underlying evidence in this case. They are not themselves evidence or proof of any facts. If they did not correctly reflect the facts shown by the evidence in the case, you should disregard them and determine the facts from the records, exhibits, and other underlying evidence.

INSTRUCTION NO. 13

You will remember that a summary compilation of data extracted from a cell phone was admitted in evidence. You may use this summary as evidence. It is for you to decide how much weight, if any, you will give to it. In making that decision, you should consider all of the testimony you heard about the way in which the data compilation was prepared.

INSTRUCTION NO. 14

You have heard evidence that the defendant previously possessed firearms and participated in drug transactions. You may consider this evidence only if you find it is more likely true than not true that the defendant committed those acts. This is a lower standard than proof beyond a reasonable doubt. You decide that by considering all of the evidence relating to the alleged acts, then deciding what evidence is more believable.

If you find this evidence has not been proved, you must disregard it. If you find this evidence has been proved, then you may consider it only for the limited purposes of deciding whether the defendant had the knowledge, state of mind, or intent necessary to commit the crimes charged in the Third Superseding Indictment, or whether he committed the acts he is on trial for by accident or mistake. You should give it the weight and value you believe it is entitled to receive.

Remember, even if you find that the defendant may have committed similar acts in the past, this is not evidence that he committed such an act in this case. You may not convict a person simply because you believe he may have committed similar acts in the past. The defendant is on trial only for the crimes charged, and you may consider the evidence of prior acts only on the limited issues stated above.

INSTRUCTION NO. 15

The Third Superseding Indictment in this case charges the defendant with three different crimes. Count I charges that the defendant committed the crime of possessing with intent to distribute 40 grams or more of a mixture or substance containing fentanyl. Count II charges that the defendant committed the crime of possessing a firearm in furtherance of the drug-trafficking crime charged in Count I. Count III charges that the defendant committed the crime of being a felon in possession of a firearm. The defendant has pleaded not guilty to each of those charges.

The Third Superseding Indictment is simply the document that formally charges the defendant with the crimes for which he is on trial. It is not evidence. At the beginning of the trial, I instructed you that you must presume the defendant to be innocent. Thus, the defendant began the trial with a clean slate, with no evidence against him.

The presumption of innocence alone is sufficient to find the defendant not guilty and can be overcome only if the government proved during the trial, beyond a reasonable doubt, each element of a crime charged.

There is no burden upon a defendant to prove that he is innocent. Instead, the burden of proof remains on the government throughout the trial. The fact that the defendant did not testify must not be considered by you in any way, or even discussed, in arriving at your verdicts.

Keep in mind that each count charges a separate crime. You must consider each count separately and return a separate verdict for each count.

INSTRUCTION NO. 16

The crime of possessing with intent to distribute 40 grams or more of a mixture or substance containing fentanyl, as charged in Count I of the Indictment, has four elements:

One, that on or about October 31, 2022, to November 2, 2022, the defendant possessed a mixture or substance containing fentanyl;

Two, the defendant knew that he possessed a mixture or substance containing fentanyl or some other controlled substance;

Three, the defendant intended to distribute the mixture or substance containing fentanyl to another person; and

Four, the amount of the mixture or substance containing fentanyl that the defendant possessed with intent to distribute was 40 grams or more.

If you unanimously find these four elements have been proved beyond a reasonable doubt, then you must find the defendant guilty of the crime of possessing with intent to distribute 40 grams or more of a mixture or substance containing fentanyl, as charged in Count I of the Third Superseding Indictment. Otherwise, you must find the defendant not guilty of this crime under Count I. Record your determination on the Verdict Form which will be submitted to you with these instructions.

INSTRUCTION NO. 17

The crime of possessing a firearm in furtherance of a drug-trafficking crime, as charged in Count II of the Third Superseding Indictment, has two elements:

One, the defendant committed the crime of possessing some amount of a mixture or substance containing fentanyl with intent to distribute, as charged in Count I of the Third Superseding Indictment; and

Two, that on or about October 31, 2022, to November 2, 2022, the defendant knowingly possessed a firearm in furtherance of that crime, that is a Beretta Model 92 9mm handgun, a Ruger LCP .380 handgun, or a Ruger 5.7x28 handgun.

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

The phrase "in furtherance of" means furthering, advancing, or helping forward. This means the government must prove that the defendant possessed the firearm with the intent that it advance, assist, or help commit the crime, but the government need not prove that the firearm actually did so.

If these elements have been proved beyond a reasonable doubt as to the defendant, then you must find the defendant guilty of the crime charged under Count II. Otherwise, you must find the defendant not guilty of this crime under Count II. Record your determination on the Verdict Form.

INSTRUCTION NO. 18

It is a crime for a felon to possess a firearm, as charged in Count III of the Third Superseding Indictment. This crime has four elements:

One, the defendant had been convicted of a crime punishable by imprisonment for more than one year;

Two, after that, on or about October 31, 2022, to November 2, 2022, the defendant knowingly possessed a firearm, that is a Beretta Model 92 9mm handgun, a Ruger LCP .380 handgun, or a Ruger 5.7x28 handgun;

Three, at the time the defendant knowingly possessed the firearm, he knew he had been convicted of a crime punishable by imprisonment for more than one year; and

Four, the firearm was transported across a state line at some time during or before the defendant's possession of it.

If you have found beyond a reasonable doubt that the firearm in question was manufactured in a state other than Nebraska and that the defendant possessed that firearm in the State of Nebraska, then you may, but are not required to, find that it was transported across a state line.

If these elements have been proved beyond a reasonable doubt as to the defendant, then you must find the defendant guilty of the crime charged under Count III. Otherwise, you must find the defendant not guilty of this crime under Count III. Record your determination on the Verdict Form.

INSTRUCTION NO. 19

The government and the defendant have stipulated—that is, they have agreed—that certain facts are as follows: prior to October 31, 2022, defendant Clifford Wright III had been convicted of a felony offense, that is, a crime punishable by imprisonment for a term exceeding one year, and did have knowledge of the same. You must treat those facts as having been proved.

You may only consider the parties' stipulation as evidence of the first and third element of Count III of the Third Superseding Indictment. You must not consider the stipulated facts for any other purpose. For example, you may not consider this stipulation as evidence of the other elements of Count III or that the defendant committed the other charged offenses. Nor should you speculate as to the nature of the prior conviction.

INSTRUCTION NO. 20

The law recognizes several kinds of possession. A person may have actual possession or constructive possession. A person may have sole or joint possession.

A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it.

A person who, although not in actual possession, has both the power and the intention at a given time to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it.

If one person alone has actual or constructive possession of a thing, possession is sole. If two or more persons share actual or constructive possession of a thing, possession is joint.

Whenever the word "possession" has been used in these instructions it includes actual as well as constructive possession and also sole as well as joint possession.

INSTRUCTION NO. 21

Intent or knowledge may be proved like anything else. You may consider any statements made and acts done by the defendant and all of the facts and circumstances in evidence which may aid in a determination of the defendant's knowledge or intent.

You may, but are not required to, infer that a person intends the natural and probable consequences of acts knowingly done or knowingly omitted.

INSTRUCTION NO. 22

Reasonable doubt is doubt based upon reason and common sense, and not doubt based on speculation. A reasonable doubt may arise from careful and impartial consideration of all the evidence, or from a lack of evidence. Proof beyond a reasonable doubt is proof of such a convincing character that a reasonable person, after careful consideration, would not hesitate to rely and act upon that proof in life's most important decisions. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. Proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NO. 23

The Third Superseding Indictment charges that the offenses alleged in Count I, Count II, and Count III, were each committed "on or about October 31, 2022, to November 2, 2022." The government must prove that the alleged offenses happened reasonably close to that period of time but is not required to prove that they happened on those exact dates.

INSTRUCTION NO. 24

In conducting your deliberations and returning your verdicts, there are certain rules you must follow. I will list those rules for you now.

First, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

Second, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach agreement if you can do so without violence to individual judgment, because each verdict—whether guilty or not guilty—must be unanimous.

Each of you must make your own conscientious decision, but only after you have considered all the evidence, discussed it fully with your fellow jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinions if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right, or simply to reach a verdict.

Third, if the defendant is found guilty, the sentence to be imposed is my responsibility. You may not consider punishment in any way in deciding whether the government has proved its case beyond a reasonable doubt.

Fourth, if you need to communicate with me during your deliberations, you may send a note to me through the Courtroom Deputy, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Remember that you should not tell anyone—including me—how your votes stand numerically.

Fifth, your verdicts must be based solely on the evidence and on the law which I have given to you in my instructions. The verdicts, whether guilty or not guilty, must be

unanimous. Nothing I have said or done is intended to suggest what your verdicts should be—that is entirely for you to decide.

Finally, the Verdict Form is simply the written notice of the decision that you reach in this case. You will take this form to the jury room, and when each of you has agreed on the verdicts, your foreperson will fill in the form, sign, and date it, and advise my chambers staff by picking up the telephone in the jury deliberation room (which rings directly to chambers) or by calling (402) 661-7310, that you are ready to return to the courtroom.

Submitted:
June 5, 2025
@ 4:17 pm