

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ISSAM GEORGE HAMAMA,

Defendant.

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No. 08-20314

Hon. Nancy G. Edmunds

**JURY INSTRUCTIONS**

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

## **Introduction**

(1) Members of the jury, now it is time for me to instruct you about the law that you must follow in deciding this case.

(2) I will start by explaining your duties and the general rules that apply in every criminal case.

(3) Then I will explain the elements, or parts, of the crime that the defendant is accused of committing.

(4) Then I will explain some rules that you must use in evaluating particular testimony and evidence.

(5) And last, I will explain the rules that you must follow during your deliberations in the jury room, and the possible verdicts that you may return.

(6) Please listen very carefully to everything I say.

Sixth Circuit Pattern Criminal Jury Instruction 1.01

## **Copy of Instructions**

I will give you a copy of these instructions for your use while deliberating. It is available to each of you. If you have questions about the law or your duties as jurors, you should consult the copy of the instructions as given to you.

## **Jurors' Duties**

(1) You have two main duties as jurors. The first one is to decide what the facts are from the evidence that you saw and heard here in court. Deciding what the facts are is your job, not mine, and nothing that I have said or done during this trial was meant to influence your decision about the facts in any way.

(2) Your second duty is to take the law that I give you, apply it to the facts, and decide if the government has proved the defendant guilty beyond a reasonable doubt. It is my job to instruct you about the law, and you are bound by the oath that you took at the beginning of the trial to follow the instructions that I give you, even if you personally disagree with them. This includes the instructions that I gave you before and during the trial, and these instructions. All the instructions are important, and you should consider them together as a whole.

(3) The lawyers have talked about the law during their arguments. But if what they said is different from what I say, you must follow what I say. What I say about the law controls.

(4) Perform these duties fairly. Do not let any bias, sympathy or prejudice that you may feel toward one side or the other influence your decision in any way.

Sixth Circuit Pattern Criminal Jury Instruction 1.02

## **Presumption of Innocence, Burden of Proof, Reasonable Doubt**

(1) As you know, the defendant has pleaded not guilty to the crime charged in the indictment. The indictment is not any evidence at all of guilt. It is just the formal way that the government tells the defendant what crime he is accused of committing. It does not even raise any suspicion of guilt.

(2) Instead, the defendant starts the trial with a clean slate, with no evidence at all against him, and the law presumes that he is innocent. This presumption of innocence stays with him unless the government presents evidence here in court that overcomes the presumption, and convinces you beyond a reasonable doubt that he is guilty.

(3) This means that the defendant has no obligation to present any evidence at all, or to prove to you in any way that he is innocent. It is up to the government to prove that he is guilty, and this burden stays on the government from start to finish. You must find the defendant not guilty unless the government convinces you beyond a reasonable doubt that he is guilty.

(4) The government must prove every element of the crime charged beyond a reasonable doubt. 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 doubt based on reason and common

sense. It may arise from the evidence, the lack of evidence, or the nature of the evidence.

(5) Proof beyond a reasonable doubt means proof which 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 government 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.

Sixth Circuit Pattern Criminal Jury Instruction 1.03

## **Evidence Defined**

(1) You must make your decision based only on the evidence that you saw and heard here in court. Do not let rumors, suspicions, or anything else that you may have seen or heard outside of court influence your decision in any way.

(2) The evidence in this case includes only what the witnesses said while they were testifying under oath; the exhibits that I allowed into evidence; the stipulations that the lawyers agreed to; and the facts that I have judicially noticed.

(3) Nothing else is evidence. The lawyers' statements and arguments are not evidence. Their questions and objections are not evidence. My legal rulings are not evidence. And my comments and questions are not evidence.

(4) During the trial I did not let you hear the answers to some of the questions that the lawyers asked. I also ruled that you could not see some of the exhibits that the lawyers wanted you to see. And sometimes I ordered you to disregard things that you saw or heard, or I struck things from the record. You must completely ignore all of these things. Do not even think about them. Do not speculate about what a witness might have said or what an exhibit might have shown. These things are not evidence, and you are bound by your oath not to let them influence your decision in any way.

(5) Make your decision based only on the evidence, as I have defined it here, and nothing else.

Sixth Circuit Pattern Criminal Jury Instruction 1.04

## **Evidence Introduced for a Limited Purpose**

Whenever evidence was received for a limited purpose, you must not consider it for any other purpose.

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## **Consideration of Evidence**

You should use your common sense in weighing the evidence. Consider it in light of your everyday experience with people and events, and give it whatever weight you believe it deserves. If your experience tells you that certain evidence reasonably leads to a conclusion, you are free to reach that conclusion.

Sixth Circuit Pattern Criminal Jury Instruction 1.05

## Direct and Circumstantial Evidence

(1) Now, some of you may have heard the terms "direct evidence" and "circumstantial evidence."

(2) Direct evidence is simply evidence like the testimony of an eyewitness which, if you believe it, directly proves a fact. If a witness testified that he saw it raining outside, and you believed him, that would be direct evidence that it was raining.

(3) Circumstantial evidence is simply a chain of circumstances that indirectly proves a fact. If someone walked into the courtroom wearing a raincoat covered with drops of water and carrying a wet umbrella, that would be circumstantial evidence from which you could conclude that it was raining.

(4) It is your job to decide how much weight to give the direct and circumstantial evidence. The law makes no distinction between the weight that you should give to either one, or say that one is any better evidence than the other. You should consider all the evidence, both direct and circumstantial, and give it whatever weight you believe it deserves.

Sixth Circuit Pattern Criminal Jury Instruction 1.06

## **Credibility of Witnesses**

(1) Another part of your job as jurors is to decide how credible or believable each witness was. This is your job, not mine. It is up to you to decide if a witness's testimony was believable, and how much weight you think it deserves. You are free to believe everything that a witness said, or only part of it, or none of it at all. But you should act reasonably and carefully in making these decisions.

(2) Let me suggest some things for you to consider in evaluating each witness's testimony.

(A) Ask yourself if the witness was able to clearly see or hear the events. Sometimes even an honest witness may not have been able to see or hear what was happening, and may make a mistake.

(B) Ask yourself how good the witness's memory seemed to be. Did the witness seem able to accurately remember what happened?

(C) Ask yourself if there was anything else that may have interfered with the witness's ability to perceive or remember the events.

(D) Ask yourself how the witness acted while testifying. Did the witness appear honest? Or did the witness appear to be lying?

(E) Ask yourself if the witness had any relationship to the government or the defendant, or anything to gain or lose from the case, that might influence the witness's testimony. Ask yourself if the witness had any bias, or prejudice, or reason

for testifying that might cause the witness to lie or to slant the testimony in favor of one side or the other.

(F) Ask yourself if the witness testified inconsistently while on the witness stand, or if the witness said or did something at any other time that is inconsistent with what the witness said while testifying. If you believe that the witness was inconsistent, ask yourself if this makes the witness's testimony less believable. Sometimes it may; other times it may not. Consider whether the inconsistency was about something important, or about some unimportant detail. Ask yourself if it seemed like an innocent mistake, or if it seemed deliberate.

(G) And ask yourself how believable the witness's testimony was in light of all the other evidence. Was the witness's testimony supported or contradicted by other evidence that you found believable? If you believe that a witness's testimony was contradicted by other evidence, remember that people sometimes forget things, and that even two honest people who witness the same event may not describe it exactly the same way.

(3) These are only some of the things that you may consider in deciding how believable each witness was. You may also consider other things that you think shed some light on the witness's believability. Use your common sense and your everyday experience in dealing with other people. And then decide what testimony you believe, and how much weight you think it deserves.

Sixth Circuit Pattern Criminal Jury Instruction 1.07

## **Number of Witnesses**

(1) One more point about the witnesses. Sometimes jurors wonder if the number of witnesses who testified makes any difference.

(2) 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. Concentrate on that, not the numbers.

Sixth Circuit Pattern Criminal Jury Instruction 1.08

## **Lawyers' Objections**

(1) There is one more general subject that I want to talk to you about before I begin explaining the elements of the crime charged.

(2) 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.

(3) And 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. Remember that your decision must be based only on the evidence that you saw and heard here in court.

Sixth Circuit Pattern Criminal Jury Instruction 1.09

## **Introduction**

(1) That concludes the part of my instructions explaining your duties and the general rules that apply in every criminal case. In a moment, I will explain the elements of the crime that the defendant is accused of committing.

(2) But before I do that, I want to emphasize that the defendant is only on trial for the particular crimes charged in the indictment. Your job is limited to deciding whether the government has proved the crimes charged.

Sixth Circuit Pattern Criminal Jury Instruction 2.01

## **Separate Consideration--**

### **Single Defendant Charged With Multiple Crimes**

(1) The defendant has been charged with several crimes. The number of charges is no evidence of guilt, and this should not influence your decision in any way. It is your duty to separately consider the evidence that relates to each charge, and to return a separate verdict for each one. For each charge, you must decide whether the government has presented proof beyond a reasonable doubt that the defendant is guilty of that particular charge.

(2) Your decision on one charge, whether it is guilty or not guilty, should not influence your decision on any of the other charges.

Sixth Circuit Pattern Criminal Jury Instruction 2.01A



## **Unindicted, Unnamed or Separately Tried Co-Conspirators**

(1) Now, some of the people who may have been involved in these events are not on trial. This does not matter. There is no requirement that all members of a conspiracy be charged and prosecuted, or tried together in one proceeding.

(2) Nor is there any requirement that the names of the other conspirators be known. An indictment can charge a defendant with a conspiracy involving people whose names are not known, as long as the government can prove that the defendant conspired with one or more of them. Whether they are named or not does not matter.

Sixth Circuit Pattern Criminal Jury Instruction 3.06

## **Count One – Conspiracy to Act as an Agent of a Foreign Government**

Count One of the indictment accuses the defendant of violating Title 18, United States Code, Section 371, by joining a conspiracy to act in the United States as an agent of a foreign government, namely, the government of Iraq.

## **The Statute – Conspiracy**

Title 18, United States Code, Section 371 provides, in part, that an offense against the United States has been committed when:

two or more persons conspire . . . to commit any offense against the United States, and . . . any one or more of such persons do any act to effect the object of the conspiracy . . . .

18 U.S. C. § 371

## **The Statute – Acting as an Agent of a Foreign Government**

Title 18, United States Code, Section 951(a) provides, in part, that an offense against the United States has been committed when:

Whoever . . . acts in the United States as an agent of a foreign government, without prior notification to the Attorney General . . . .

18 U.S.C. § 951(a)

## **Agent of a Foreign Government**

The term “agent of a foreign government” means an individual who agrees to operate within the United States subject to the direction or control of a foreign government or official.

18 U.S.C. § 951(d)

## **Notification to the Attorney General**

The government does not have to prove that the defendant knew that he was required to notify the Attorney General of the United States of his activities. Rather, the government need only prove that the defendant did not give any prior notification of his activities to the Attorney General of the United States. The parties have stipulated that the defendant did not give any prior notification of his activities to the Attorney General of the United States.

*United States v. Duran*, 586 F.3d 1283, 1292 (11th Cir. 2010); *United States v. Campa*, 529 F.3d 980, 999 (11th Cir. 2008); *United States v. Dumeisi*, 424 F.3d 566, 581 (7th Cir. 2005).

## **Elements of the Offense**

It is a crime for two or more persons to conspire, or agree, to commit a criminal act, even if they never actually achieve their goal.

A conspiracy is a kind of criminal partnership. For you to find the defendant guilty of the conspiracy charge, the government must prove each of the following elements beyond a reasonable doubt:

- (1) First, that two or more persons conspired, or agreed, for the defendant to act in the United States as an agent of a foreign government;
- (2) Second, that the defendant knowingly and voluntarily joined the conspiracy;
- (3) And third, that a member of the conspiracy did one of the overt acts described in the indictment for the purpose of advancing or helping the conspiracy.

You must be convinced that the government has proved all of these elements beyond a reasonable doubt in order to find the defendant guilty of the conspiracy charge.

Sixth Circuit Pattern Jury Instructions, Instruction 3.01A.

## **Agreement**

With regard to the first element – a criminal agreement – the government must prove that two or more persons conspired, or agreed, that the defendant would act in the United States as an agent of a foreign government, as described previously.

This does not require proof of any formal agreement, written or spoken. Nor does this require proof that everyone involved agreed on all the details. But proof that people simply met together from time to time and talked about common interests, or engaged in similar conduct, is not enough, standing alone, to establish a criminal agreement. These are things that you may consider in deciding whether the government has proved an agreement. But without more they are not enough.

What the government must prove is that there was a mutual understanding, either spoken or unspoken, between two or more people, that the defendant would act in the United States as an agent of a foreign government. This is essential.

An agreement can be proved indirectly, by facts and circumstances which lead to a conclusion that an agreement existed. But it is up to the government to convince you that such facts and circumstances existed in this particular case.



Sixth Circuit Pattern Jury Instructions, Instruction 3.02.

## **Defendant's Connection to the Conspiracy**

If you are convinced that there was a criminal agreement, then you must decide whether the government has proved that the defendant knowingly and voluntarily joined that agreement. To convict the defendant, the government must prove that the defendant knew the conspiracy's main purpose, and that he voluntarily joined it intending to help advance or achieve its goals.

This does not require proof that a defendant knew everything about the conspiracy, or everyone else involved, or that he was a member of it from the very beginning. Nor does it require proof that a defendant played a major role in the conspiracy, or that his connection to it was substantial. A slight role or connection may be enough.

But proof that a defendant simply knew about a conspiracy, or was present at times, or associated with members of the group, is not enough, even if he approved of what was happening or did not object to it. Similarly, just because a defendant may have done something that happened to help a conspiracy does not necessarily make him a conspirator. These are all things that you may consider in deciding whether the government has proved that a defendant joined a conspiracy. But without more they are not enough.

What the government must prove is that a defendant knew the conspiracy's main purpose, and that he voluntarily joined it intending to help advance or achieve its goals. This is essential.

A defendant's knowledge can be proved indirectly by facts and circumstances which lead to a conclusion that he knew the conspiracy's main purpose. But it is up to the government to convince you that such facts and circumstances existed in this particular case.

Sixth Circuit Pattern Jury Instructions, Instruction 3.03.

## **Overt Acts**

The third element that the government must prove is that a member of the conspiracy did one of the overt acts described in the indictment for the purpose of advancing or helping the conspiracy.

The indictment lists overt acts. The government does not have to prove that all these acts were committed, or that any of these acts were themselves illegal.

But the government must prove that at least one of these acts was committed by a member of the conspiracy, and that it was committed for the purpose of advancing or helping the conspiracy. This is essential.

Sixth Circuit Pattern Jury Instructions, Instruction 3.04.

### **Counts Two, Three, Four, and Five -- False Statements**

Counts Two, Three, Four, and Five of the indictment accuse the defendant with the offense of making a false statement in a matter within the jurisdiction of the United States government.

### **False Statement – The Statute**

Title 18, United States Code, Section 1001(a)(2) provides, in part, that:

Whoever, in any matter within the jurisdiction of the executive . . . branch of the Government of the United States, knowingly and willfully . . . makes any materially false, fictitious, or fraudulent statement or representation . . . .

is guilty of an offense against the United States.

### **Elements of the Offense - Counts Two, Three and Five**

For you to find the defendant guilty of the offenses in Counts Two, Three or Five, you must find that the government has proved each and every one of the following elements beyond a reasonable doubt:

- (1) For Count Two and Three, that the defendant made the statement that he had never had any contact with a foreign government, its establishments (embassies or consulates), or its representatives, whether inside or outside the U.S.;

For Count Five, that the defendant made the statement that he did not have any foreign property, business connections or financial interests;

- (2) That the statement was false;
- (3) That the statement was material;
- (4) That the defendant acted knowingly and willfully; and
- (5) That the statement pertained to a matter within the jurisdiction of the Office of Personnel Management, an agency of the executive branch of the United States government.

Sixth Circuit Pattern Jury Instructions, Instruction 13.02.

### **Elements of the Offense - Count Four**

For you to find the defendant guilty of the offense of false statements charged in Count Four, you must find that the government has proved each and every one of the following elements beyond a reasonable doubt:

- (1) That the defendant made the statement 1) that he did not have a source relationship with the Iraqi Intelligence Service; and/or 2) that he did not receive compensation from the Iraqi government;
- (2) That the statement was false;
- (3) That the statement was material;
- (4) That the defendant acted knowingly and willfully; and
- (5) That the statement pertained to a matter within the jurisdiction of the Federal Bureau of Investigation, an agency of the executive branch of the United States government.

Sixth Circuit Pattern Jury Instructions, Instruction 13.02.



## **Definition of Terms**

A statement is “false” if it was untrue when it was made, and the defendant knew it was untrue at that time.

A “material” statement is one that has the natural tendency to influence or is capable of influencing a decision of the Office of Personnel Management or Federal Bureau of Investigation, both agencies of the executive branch of the United States government. However, the agency need not have actually been misled.

An act is done “knowingly and willfully” if it is done voluntarily and intentionally, and not because of mistake or some other innocent reason.

A matter is “within the jurisdiction of the executive branch of the United States government” if, for Counts Two, Three and Five, the Office of Personnel Management, and for Count Four, the Federal Bureau of Investigation, had the power to exercise authority in that matter.

It is not necessary that the government prove that the defendant knew the matter was within the jurisdiction of the United States government, the Office of Personnel Management, or the Federal Bureau of Investigation.

Sixth Circuit Pattern Jury Instructions, Instruction 13.02

## **Inferring Required Mental State**

Next, I want to explain something about proving a defendant's state of mind. Ordinarily, there is no way that a defendant's state of mind can be proved directly, because no one can read another person's mind and tell what that person is thinking.

But a defendant's state of mind can be proved indirectly from the surrounding circumstances. This includes things like what a defendant said, what a defendant did, how a defendant acted, and any other facts or circumstances in evidence that show what was in a defendant's mind.

You may also consider the natural and probable results of any acts that a defendant knowingly did or did not do, and whether it is reasonable to conclude that a defendant intended those results. This, of course, is all for you to decide.

Sixth Circuit Pattern Criminal Jury Instructions, Instruction 2.08.

## **On or About**

(1) Next, I want to say a word about the dates mentioned in the indictment.

(2) The indictment charges that the crimes happened “on or about’ or “in or about” various dates. The government does not have to prove that the crimes happened on those exact dates. But the government must prove that the crimes happened reasonably close to those dates.

Sixth Circuit Pattern Criminal Jury Instructions, Instruction 2.04.

## **Introduction**

That concludes the part of my instructions explaining the elements of the crime. Next I will explain some rules that you must use in considering some of the testimony and evidence.

Sixth Circuit Pattern Criminal Jury Instruction 7.01

## **Defendant's Election Not to Testify or Present Evidence**

(1) A defendant has an absolute right not to testify [or present evidence].

The fact that he did not testify [or present any evidence] cannot be considered by you in any way. Do not even discuss it in your deliberations.

(2) Remember that it is up to the government to prove the defendant guilty beyond a reasonable doubt. It is not up to the defendant to prove that he is innocent.

Sixth Circuit Pattern Criminal Jury Instruction 7.02A

## **Defendant's Testimony**

(1) You have heard the defendant testify. Earlier, I talked to you about the "credibility" or the "believability" of the witnesses. And I suggested some things for you to consider in evaluating each witness's testimony.

(2) You should consider those same things in evaluating the defendant's testimony.

Sixth Circuit Pattern Criminal Jury Instruction 7.02B

### **Opinion Testimony**

(1) You have heard the testimony of D. Robert Smego and Michael Rochford, who testified as opinion witnesses.

(2) You do not have to accept the opinion of D. Robert Smego or Michael Rochford. In deciding how much weight to give the opinion, you should consider the witness's qualifications and how he reached his conclusions. Also consider the other factors discussed in these instructions for weighing the credibility of witnesses.

(3) Remember that you alone decide how much of a witness's testimony to believe, and how much weight it deserves.

Sixth Circuit Pattern Criminal Jury Instruction 7.03

## **Testimony of a Paid Informant**

(1) You have heard the testimony of a former Iraqi Intelligence Service official. You have also heard that he received money from the government in exchange for providing information.

(2) The use of paid informants is common and permissible. But you should consider the former IIS official's testimony with more caution than the testimony of other witnesses. Consider whether his testimony may have been influenced by what the government gave him.

(3) Do not convict the defendant based on the unsupported testimony of such a witness, standing alone, unless you believe his testimony beyond a reasonable doubt.

Sixth Circuit Pattern Criminal Jury Instruction 7.06A



## **Summaries and Other Materials Not Admitted in Evidence**

During the trial you have seen counsel use diagrams and charts which were offered to assist in the presentation and understanding of the evidence. This material is not itself evidence and must not be considered as proof of any facts.

Sixth Circuit Pattern Criminal Jury Instruction 7.12

### **Other Acts of Defendant**

(1) You have heard testimony that the defendant committed crimes or wrongs other than the ones charged in the indictment. If you find the defendant did those crimes or wrongs, you can consider the evidence only as it relates to the government's claim on the defendant's intent, knowledge, absence of mistake, or absence of accident. You must not consider it for any other purpose.

(2) Remember that the defendant is on trial here only for , not for the other acts. Do not return a guilty verdict unless the government proves the crime charged in the indictment beyond a reasonable doubt.

Sixth Circuit Pattern Criminal Jury Instruction 7.13

### **Flight, Concealment of Evidence, False Exculpatory Statements**

(1) You have heard testimony that after the crime was supposed to have been committed, the defendant made false statements to an Agent of the Federal Bureau of Investigation.

(2) If you believe that the defendant made false statements, then you may consider this conduct, along with all the other evidence, in deciding whether the government has proved beyond a reasonable doubt that he committed the crimes charged. This conduct may indicate that he thought he was guilty and was trying to avoid punishment. On the other hand, sometimes an innocent person may make false statements for some other reason.

Sixth Circuit Pattern Criminal Jury Instruction 7.14

## Introduction

(1) That concludes the part of my instructions explaining the rules for considering some of the testimony and evidence. Now let me finish up by explaining some things about your deliberations in the jury room, and your possible verdicts.

(2) The first thing that you should do in the jury room is choose someone to be your foreperson. This person will help to guide your discussions, and will speak for you here in court.

(3) Once you start deliberating, do not talk to the jury officer, or to me, or to anyone else except each other about the case. If you have any questions or messages, you must write them down on a piece of paper, sign them, and then give them to the jury officer. The officer will give them to me, and I will respond as soon as I can. I may have to talk to the lawyers about what you have asked, so it may take me some time to get back to you. Any questions or messages normally should be sent to me through your foreperson.

(4) If you want to see any of the exhibits that were admitted in evidence, you may send me a message, and those exhibits will be provided to you.

(5) One more thing about messages. Do not ever write down or tell anyone how you stand on your votes. For example, do not write down or tell

anyone that you are split 6-6, or 8-4, or whatever your vote happens to be. That should stay secret until you are finished.

Sixth Circuit Pattern Criminal Jury Instruction 8.01

## **Experiments, Research and Investigation**

(1) Remember that you must make your decision based only on the evidence that you saw and heard here in court. Do not try to gather any information about the case on your own while you are deliberating.

(2) For example, do not conduct any experiments inside or outside the jury room; do not bring any books, like a dictionary, or anything else with you to help you with your deliberations; do not conduct any independent research, reading or investigation about the case; and do not visit any of the places that were mentioned during the trial.

(3) Make your decision based only on the evidence that you saw and heard here in court.

Sixth Circuit Pattern Criminal Jury Instruction 8.02

## **Unanimous Verdict**

- (1) Your verdict, whether it is guilty or not guilty, must be unanimous.
- (2) 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.
- (3) To find him not guilty, every one of you must agree that the government has failed to convince you beyond a reasonable doubt.
- (4) Either way, guilty or not guilty, your verdict must be unanimous.

Sixth Circuit Pattern Criminal Jury Instruction 8.03

### **Unanimity Regarding Count Four**

(1) One more point about the requirement that your verdict must be unanimous. Count Four of the indictment accuses the defendant of committing the crime of making false statements to an agent of the Federal Bureau of Investigation in more than one possible way. The first is that the defendant stated that he did not have a source relationship with the Iraqi Intelligence Service. The second is that the defendant stated that he did not receive compensation from the Iraqi government.

(2) For you to find the defendant guilty of Count Four you must be unanimous that the government has proved each element of the offense as to the same statement, or you must be unanimous that the government has proved each element of the offense as to both statements.

Sixth Circuit Pattern Criminal Jury Instruction 8.03B



## **Duty to Deliberate**

(1) Now that all the evidence is in and the arguments are completed, you are free to talk about the case in the jury room. In fact, it is your duty to talk with each other about the evidence, and to make every reasonable effort you can to reach unanimous agreement. 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. Try your best to work out your differences. Do not hesitate to change your mind if you are convinced that other jurors are right and that your original position was wrong.

(2) But do not ever change your mind just because other jurors see things differently, or just to get the case over with. In the end, your vote must be exactly that--your own vote. It is important for you to reach unanimous agreement, but only if you can do so honestly and in good conscience.

(3) 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.

(4) Listen carefully to what the other jurors have to say, and then decide for yourself if the government has proved the defendant guilty beyond a reasonable doubt.

Sixth Circuit Pattern Criminal Jury Instruction 8.04

## **Punishment**

(1) 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.

(2) Deciding what the punishment should be is my job, not yours. It would violate your oaths as jurors to even consider the possible punishment in deciding your verdict.

(3) Your job is to look at the evidence and decide if the government has proved the defendant guilty beyond a reasonable doubt.

Sixth Circuit Pattern Criminal Jury Instruction 8.05

## Verdict Form

(1) I have prepared a verdict form that you should use to record your verdict. The form reads as follows: \_\_\_\_\_.

(2) If you decide that the government has proved the charge against the defendant beyond a reasonable doubt, say so by having your foreperson mark the appropriate place on the form. If you decide that the government has not proved the charge against him beyond a reasonable doubt, say so by having your foreperson mark the appropriate place on the form. Your foreperson [Each of you] should then sign the form, put the date on it, and return it to me.

Sixth Circuit Pattern Criminal Jury Instruction 8.06

## **Verdict Limited to Charges Against This Defendant**

(1) Remember that the defendant is only on trial for the particular crimes charged in the indictment. Your job is limited to deciding whether the government has proved the crimes charged.

Sixth Circuit Pattern Criminal Jury Instruction 8.08

## **Court Has No Opinion**

Let me finish up by repeating something that I said to you earlier. Nothing that I have said or done during this trial was meant to influence your decision in any way. You decide for yourselves if the government has proved the defendant guilty beyond a reasonable doubt.

Sixth Circuit Pattern Criminal Jury Instruction 8.09