

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

UNITED STATES OF AMERICA)
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) NO: 2:06-CR-116
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)
ANTHONY DUPREE EDWARDS)

COURT'S FINAL JURY INSTRUCTIONS

Dated: June 27, 2007

s/ Philip P. Simon
PHILIP P. SIMON, JUDGE
UNITED STATES DISTRICT COURT

COURT'S INSTRUCTION NO. 1

Members of the jury, you have seen and heard all the evidence and the arguments of the attorneys. Now I will instruct you on the law.

You have two duties as a jury. Your first duty is to decide the facts from the evidence in the case. This is your job, and yours alone.

Your second duty is to apply the law that I give you to the facts. You must follow these instructions, even if you disagree with them. Each of the instructions is important, and you must follow all of them.

Perform these duties fairly and impartially. Do not allow sympathy, prejudice, fear, or public opinion to influence you. You should not be influenced by any person's race, color, religion, national ancestry, or sex.

Nothing I say now, and nothing I said or did during the trial, is meant to indicate any opinion on my part about what the facts are or about what your verdict should be.

COURT'S INSTRUCTION NO. 2

The evidence consists of the testimony of the witnesses and the exhibits admitted in evidence.

COURT'S INSTRUCTION NO. 3

You are to decide whether the testimony of each of the witnesses is truthful and accurate, in part, in whole, or not at all, as well as what weight, if any, you give to the testimony of each witness.

In evaluating the testimony of any witness, you may consider, among other things:

- the witness's intelligence;
- the ability and opportunity the witness had to see, hear, or know the things that the witness testified about;
- the witness's memory;
- any interest, bias, or prejudice the witness may have;
- the manner of the witness while testifying; and
- the reasonableness of the witness's testimony in light of all the evidence in the case.

You should judge the defendant's testimony in the same way that you judge the testimony of any other witness.

COURT'S INSTRUCTION NO. 4

You should use common sense in weighing the evidence and consider the evidence in light of your own observations in life.

In our lives, we often look at one fact and conclude from it that another fact exists. In law we call this "inference." A jury is allowed to make reasonable inferences. Any inferences you make must be reasonable and must be based on the evidence in the case.

COURT'S INSTRUCTION NO. 5

Some of you have heard the phrases “circumstantial evidence” and “direct evidence.” Direct evidence is the testimony of someone who claims to have personal knowledge of the commission of the crime which has been charged, such as an eyewitness. Circumstantial evidence is the proof of a series of facts which tend to show whether the defendant is guilty or not guilty. The law makes no distinction between the weight to be given either direct or circumstantial evidence. You should decide how much weight to give to any evidence. All the evidence in the case, including the circumstantial evidence, should be considered by you in reaching your verdict.

COURT'S INSTRUCTION NO. 6

Certain things are not evidence. I will list them for you:

First, anything that you may have seen or heard outside the courtroom is not evidence and must be entirely disregarded. This includes any press, radio, or television reports you may have seen or heard. Such reports are not evidence and your verdict must not be influenced in any way by such publicity.

Second, questions and objections by the lawyers are not evidence. Attorneys have a duty to object when they believe a question is improper. You should not be influenced by any objection or by my ruling on it.

Third, the lawyers' statements to you are not evidence. The purpose of these statements is to discuss the issues and the evidence. If the evidence as you remember it differs from what the lawyers said, your memory is what counts.

COURT'S INSTRUCTION NO. 7

You may find the testimony of one witness or a few witnesses more persuasive than the testimony of a larger number. You need not accept the testimony of the larger number of witnesses.

COURT'S INSTRUCTION NO. 8

The indictment in this case is the formal method of accusing the defendant of an offense and placing the defendant on trial. It is not evidence against the defendant and does not create any inference of guilt.

The defendant is charged in the indictment with the offense of knowingly and intentionally possessing with the intent to distribute five (5) grams or more of a mixture or substance containing a detectable amount of cocaine base that constitutes crack cocaine. The defendant has pleaded not guilty to this charge.

COURT'S INSTRUCTION NO. 9

The defendant is presumed to be innocent of the charge. This presumption continues during every stage of the trial and your deliberations on the verdict. It is not overcome unless from all the evidence in the case you are convinced beyond a reasonable doubt that the defendant is guilty as charged. The government has the burden of proving the guilt of the defendant beyond a reasonable doubt.

This burden of proof stays with the government throughout the case. The defendant is never required to prove his innocence or to produce any evidence at all.

COURT'S INSTRUCTION NO. 10

You have received evidence of statements said to be made by the defendant to law enforcement officers. You must decide whether the defendant did in fact make the statements. If you find that the defendant did make the statements, then you must decide what weight, if any, you feel the statements deserve. In making this decision, you should consider all matters in evidence having to do with the statements, including those concerning the defendant himself and the circumstances under which the statements were made.

COURT'S INSTRUCTION NO. 11

You have heard witnesses give opinions about matters requiring special knowledge or skill. You should judge this testimony in the same way that you judge the testimony of any other witness. The fact that such a person has given an opinion does not mean that you are required to accept it. Give the testimony whatever weight you think it deserves, considering the reasons given for the opinion, the witness' qualifications, and all of the other evidence in the case.

COURT'S INSTRUCTION NO. 12

You have heard testimony of an identification of a person. Identification testimony is an expression of belief or impression by the witness. You should consider whether, or to what extent, the witness had the ability and the opportunity to observe the person and to make a reliable identification later. You should also consider the circumstances under which the witness later made the identification.

The government has the burden of proving beyond a reasonable doubt that the defendant was the person who committed the crime charged.

COURT'S INSTRUCTION NO. 13

An alleged statement made by a defendant before trial that is inconsistent with the defendant's testimony here in court may be used by you as evidence of the truth of the matters contained in it, and also in deciding the truthfulness and accuracy of that defendant's testimony in this trial.

COURT'S INSTRUCTION NO. 14

You have heard evidence of acts of the defendant other than those charged in the indictment. You may consider this evidence only to understand the relationship between the defendant and the witness David Beagle. You should consider this evidence only for this limited purpose.

COURT'S INSTRUCTION NO. 15

You have heard evidence that David Beagle has been convicted of a crime. You may consider this evidence only in deciding whether Beagle's testimony is truthful in whole, in part, or not at all. You may not consider this evidence for any other purpose.

COURT'S INSTRUCTION NO. 16

You have heard testimony from David Beagle who:

(a) received immunity; that is, a promise from the government that any testimony or other information he provided would not be used against him in a criminal case; and

(b) received benefits from the government in connection with this case, namely a written plea agreement in which the government promised Beagle to ask the judge who sentences him to reduce Beagle's sentence as a result of his cooperation and testimony in this case.

You may give his testimony such weight as you feel it deserves, keeping in mind that it must be considered with caution and great care.

COURT'S INSTRUCTION NO. 17

Certain summaries are in evidence. They truly and accurately summarize the contents of voluminous records, and should be considered together with and in the same way as all other evidence in the case.

COURT'S INSTRUCTION NO. 18

The indictment charges that the offense was committed "on or about" July 13, 2006. The government must prove that the alleged offense happened reasonably close to that date but is not required to prove that the alleged offense happened on that exact date.

COURT'S INSTRUCTION NO. 19

The indictment charges the defendant with violating Title 21, United States Code, Section 841(a)(1), which states, in part, as follows:

It shall be unlawful for any person knowingly or intentionally –

(1) to possess with intent to manufacture, distribute or dispense a controlled substance.

COURT'S INSTRUCTION NO. 20

To sustain the charge in the indictment of possession with intent to distribute five (5) grams or more of a mixture or substance containing a detectable amount of cocaine base that constitutes crack cocaine, the government must prove the following propositions:

First, the defendant knowingly or intentionally possessed cocaine base;

Second, the defendant possessed cocaine base with the intent to deliver it to another person.

It does not matter whether the defendant knew the substance was cocaine base. It is sufficient that the defendant knew that it was some kind of prohibited drug.

If you find from your consideration of all the evidence that each of these propositions has been proved beyond a reasonable doubt, then you should find the defendant guilty of this charge.

If, on the other hand, you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, then you should find the defendant not guilty of this charge.

COURT'S INSTRUCTION NO. 21

Possession of an object is the ability to control it. Possession may exist even when a person is not in physical contact with the object, but knowingly has the power and intention to exercise direction and control over it, either directly or through others.

COURT'S INSTRUCTION NO. 22

Distribution is the transfer or attempted transfer of possession from one person to another.

COURT'S INSTRUCTION NO. 23

When the word “knowingly” is used in these instructions, it means that the defendant realized what he was doing and was aware of the nature of his conduct, and did not act through ignorance, mistake or accident. Knowledge may be proved by the defendant's conduct, and by all the facts and circumstances surrounding the case.

COURT'S INSTRUCTION NO. 24

You are instructed that cocaine base is a controlled substance.

COURT'S INSTRUCTION NO. 25

Upon retiring to the jury room, select one of your number as your foreperson. The foreperson will preside over your deliberations and will be your representative here in court.

Forms of verdict have been prepared for you.

Take these forms to the jury room, and when you have reached unanimous agreement on the verdict, your foreperson will fill in and date the appropriate form, and each of you will sign it.

COURT'S INSTRUCTION NO. 26

I do not anticipate that you will need to communicate with me. If you do, however, the only proper way is in writing, signed by the foreperson, or if he or she is unwilling to do so, by some other juror, and given to the marshal.

COURT'S INSTRUCTION NO. 27

The verdict must represent the considered judgment of each juror. Your verdict, whether it be guilty or not guilty, must be unanimous.

You should make every reasonable effort to reach a verdict. In doing so, you should consult with one another, express your own views, and listen to the opinions of your fellow jurors. Discuss your differences with an open mind. Do not hesitate to re-examine your own views and change your opinion if you come to believe it is wrong. But you should not surrender your honest beliefs about the weight or effect of evidence solely because of the opinions of your fellow jurors or for the purpose of returning a unanimous verdict.

The twelve of you should give fair and equal consideration to all the evidence and deliberate with the goal of reaching an agreement which is consistent with the individual judgment of each juror.

You are impartial judges of the facts. Your sole interest is to determine whether the government has proved its case beyond a reasonable doubt.