

DISTRICT COURT, CITY AND COUNTY OF  
DENVER, COLORADO

Court Address: 520 West Colfax Ave  
Denver, Colorado 80204

**Plaintiff:**

THE PEOPLE OF THE STATE OF COLORADO

v.

**Defendant:**

[INSERT NAME]

▲ COURT USE ONLY ▲

Case Number: ##CR#####

Ctrm: \_\_\_\_\_

**JURY INSTRUCTIONS**

INSTRUCTION NO. \_\_\_\_\_

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.

*(Only for Sexual Assault)* [You should not allow bias or any kind of prejudice based upon gender to influence your decision.]

You must also not be biased for or against the defendant, any witness, or any other party based on any identifying characteristic such as race, religion, age, gender, gender identity, gender

expression, sexual orientation, ethnicity, national origin, disability, socioeconomic status, or any other such characteristic. You must not allow bias to influence your verdict. Remember that you must also guard against unconscious bias (also called implicit bias). Unconscious biases are stereotypes, perceptions, attitudes, or preferences that people may hold without being aware of them. Such biases can affect how we evaluate information and make decisions. You must not allow unconscious bias to influence your verdict.

[One way to guard against unconscious bias is to ask yourself, during your deliberations, whether your views and conclusions would be different if the defendant or the witnesses were of a different race, religion, age, gender, gender identity, gender expression, sexual orientation, ethnicity, national origin, disability, socioeconomic status, or any other such characteristic. If the answer is yes, then you should reconsider your views and conclusions along with the other jurors, and make sure that your decision is based on the evidence and not on any such stereotypes, perceptions, attitudes, or preferences.]

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.

If 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. \_\_\_\_\_

The charges against the Defendant are not evidence. The charges against the Defendant are 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 crime(s) of \_\_\_\_\_, in \_\_\_\_\_ County, Colorado, on or about \_\_\_\_\_. The Defendant has pleaded not guilty.

INSTRUCTION NO. \_\_\_\_\_

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.

**(2023 VERSION):** A reasonable doubt can be based on the evidence presented or the lack of evidence presented.

The burden of proof in this case is upon the prosecution. The prosecution must prove to the satisfaction of the jury beyond a reasonable doubt the existence of each and every element necessary to constitute the crime charged. This burden requires more than proof that something is highly probable, but it does not require proof with absolute certainty.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. If you are firmly convinced of the defendant's guilt, then the prosecution has proven the crime charged beyond a reasonable doubt. But if you think there is a real possibility that the defendant is not guilty, then the prosecution has failed to prove the crime charged beyond a reasonable doubt.

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

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

**(PRIOR STOCK VERSION):**

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. \_\_\_\_\_

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.

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.

INSTRUCTION NO. \_\_\_\_\_

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.



INSTRUCTION NO. \_\_\_\_\_

The parties have agreed as to the existence of certain facts. You may regard those facts as proven.

[Specifically, the parties have stipulated to the following facts:]

INSTRUCTION NO. \_\_\_\_\_

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

INSTRUCTION NO. \_\_\_\_\_

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. \_\_\_\_\_

The credibility of a witness may be challenged by showing that the witness has been convicted of a felony. A previous felony conviction is one factor you may consider in determining the credibility of a witness. It is up to you to determine what weight, if any, is to be given to such a conviction.

[The credibility of statements made by a person who did not testify in court may be challenged by showing that the person has been convicted of a felony. A previous conviction is one factor that you may consider in determining the credibility of that person. You must determine the weight to be given to any prior conviction when considering the credibility of that person's statement.]

[The Defendant is to be tried for the crime charged in this case, and no other. You may consider testimony of a previous conviction only in determining the credibility of the Defendant as a witness, and for no other purpose. When the Defendant testifies, their credibility is to be determined in the same manner as any other witness.]

INSTRUCTION NO. \_\_\_\_\_

The credibility of a witness may be discredited or supported by testimony about their reputation for truthfulness or by the opinion of another witness. It is entirely your decision to determine what weight shall be given such testimony.

INSTRUCTION NO. \_\_\_\_\_

You are not bound by the testimony of a witness who has testified as an expert; 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. \_\_\_\_\_

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. \_\_\_\_\_

## Defendant's Theory of the Case



INSTRUCTION NO. \_\_\_\_\_

In this case a separate offense is charged against the Defendant in each count of the information. 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. \_\_\_\_\_

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. \_\_\_\_\_

# Elementals

INSTRUCTION NO. \_\_\_\_\_

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:

[DELETE INAPPLICABLE MENTAL STATES]

[The term “after deliberation” means not only intentionally, but also that the decision to commit the act has been made after the exercise of reflection and judgment concerning the act. An act committed after deliberation is never one which has been committed in a hasty or impulsive manner.]

[A person acts “intentionally” or “with intent” when their conscious objective is to cause the specific result prescribed by the statute defining the offense. It is immaterial whether or not the result actually occurred.]

[A person acts “knowingly” or “willfully” with respect to conduct or to a circumstance described by a statute defining an offense when they are aware that their conduct is of such nature or that such a circumstance exists. A person acts “knowingly” or “willfully”, with

respect to a result of their conduct, when they are aware that their conduct is practically certain to cause the result.]

[A person acts “recklessly” when they consciously disregard 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, they fail to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.]

INSTRUCTION NO. \_\_\_\_\_

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.

[Insert all definitions, arranged alphabetically.]

INSTRUCTION NO. \_\_\_\_\_

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. \_\_\_\_

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. \_\_\_\_\_

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(s) [and any verdict question(s)] 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 determinations that you make in response to [a] verdict question(s)] which you conclude should be answered.

Only one verdict shall be returned signed for each count for the Defendant. The verdict form(s) [and any answer to a verdict question] and these instructions shall remain in the possession of your Foreperson until I ask for them in open court. Upon reaching your verdict [and, if required by your verdict(s), answering any verdict question(s),] 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 \_\_\_\_\_ verdict form(s). [You also will be provided with [insert number] verdict question form(s) with directions that explain under what circumstances you should complete [that] [those] form(s).]

When you have unanimously agreed upon your verdict(s) you will select the option on [the] [each] form which reflects your verdict, and the Foreperson will sign [the] [each] verdict form(s) as I have stated. [Similarly, if you conclude that [the] [any] verdict question(s) should be answered, you will select the option on [the] [each] verdict question form which reflects your unanimous decision, and the Foreperson will sign [the] [each] verdict question form as I have stated.]

DATED: \_\_\_\_\_

BY THE COURT:

\_\_\_\_\_  
KANDACE C. GERDES  
District Court Judge

# Frequently Used Stack Instructions

## (Case-Specific)

INSTRUCTION NO. \_\_\_\_\_

A permissible inference allows, but does not require, you to find a fact from proof of another fact or facts, if that conclusion is justified by the evidence as a whole. It is entirely your decision to determine what weight shall be given the evidence.

You must bear in mind that the prosecution always has the burden of proving each element of the offense beyond a reasonable doubt, and that a permissible inference does not shift that burden to the Defendant.

INSTRUCTION NO. \_\_\_\_\_

In order to convict the Defendant of \_\_\_\_\_, you must either unanimously agree that the Defendant committed the same act or acts, or that the Defendant committed all of the acts alleged.

INSTRUCTION NO. \_\_\_\_\_

If you are not satisfied beyond a reasonable doubt that the Defendant is guilty of the offense charged, they 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 their guilt of the lesser offense beyond a reasonable doubt.

The offense of \_\_\_\_\_, as charged in the information in this case necessarily includes the lesser offense(s) of \_\_\_\_\_, and \_\_\_\_\_.

[Using the appropriate elemental instruction for each lesser-included offense as a guide, insert a definition of each such offense here, leaving out the last two paragraphs of the inserted instruction (i.e., the paragraphs that begin with the words: “After considering all the evidence”). List the lesser-included offenses from highest to lowest degree if submitting more than one lesser-included offense.]

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 the Defendant guilty of the offense proven, and you should so state in your verdict.

After considering all the evidence, if you decide that the prosecution has failed to prove one or more elements of the crime charged and one or more elements of the lesser-included offenses, you should find the Defendant not guilty of these offenses, and you should so state in your verdict.

While you may find the defendant not guilty of the crimes charged and the lesser-included offense(s), you may not find the defendant guilty of more than one of the following offenses:

[Insert the charged offense and all lesser-included offenses.]

INSTRUCTION NO. \_\_\_\_\_

The prosecution has presented a witness who claims to have been a participant with the Defendant in the crime charged. There is no evidence other than the testimony of this witness which tends to establish the participation of the Defendant in the crime.

While you may convict upon this testimony alone, you should act upon it with great caution. Give it careful examination in the light of other evidence in the case. You are not to convict upon this testimony alone, unless you are convinced beyond a reasonable doubt that it is true.



INSTRUCTION NO. \_\_\_\_\_

The crime of \_\_\_\_\_ is a “strict liability” offense that is established by proof beyond a reasonable doubt of conduct which includes a voluntary act or the omission to perform an act which the person is physically capable of performing.

INSTRUCTION NO. \_\_\_\_\_

The elements of the crime of attempt to commit \_\_\_\_\_ are:

1. That the Defendant,
2. in the State of Colorado, at or about the date and place charged,
3. [insert the culpable mental state for the offense attempted],
4. engaged in conduct constituting a substantial step toward the commission of \_\_\_\_\_ . [and,]
- [5. that the Defendant's conduct was not legally authorized by the affirmative defense(s) in Instruction(s) \_\_\_\_ .]

A "substantial step" is any conduct, whether act, omission, or possession, which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense.

After considering the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the Defendant guilty of criminal attempt to commit \_\_\_\_\_ .

After considering 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 criminal attempt to commit \_\_\_\_\_ .

INSTRUCTION NO. \_\_\_\_\_

A person who engages in conduct intending to aid another to commit an offense commits criminal attempt if their conduct would establish their complicity were the offense committed by the other person, even if the other person is not guilty of committing or attempting the offense.

INSTRUCTION NO. \_\_\_\_\_

Factual or legal impossibility is not a defense to criminal attempt if the underlying offense could have been committed if the facts were as the Defendant believed them to be.

INSTRUCTION NO. \_\_\_\_\_

It is no defense to the charge of criminal attempt that the crime attempted was actually completed by the Defendant.

INSTRUCTION NO. \_\_\_\_\_

The elements of the crime of conspiracy are:

1. That the Defendant,
2. in the State of Colorado, at or about the date and place charged,
3. with the intent to promote or facilitate the commission of the crime of \_\_\_\_\_,
- [4. agreed with another person or persons that they, or one or more of them, would engage in conduct which constituted the crime of \_\_\_\_\_ or an attempt to commit the crime of \_\_\_\_\_, and]
- [4. agreed to aid another person or persons in the planning or commission of the crime of \_\_\_\_\_ or an attempt to commit the crime of \_\_\_\_\_, and]
5. the Defendant, or a co-conspirator, performed an overt act to pursue the conspiracy.
- [6. and that the Defendant's conduct was not legally authorized by the affirmative defense(s) in Instruction(s) \_\_\_\_.]

“Overt act” means any act knowingly committed by one of the conspirators, in an effort to accomplish some object or purpose of the conspiracy. The overt act need not be criminal in nature. It must, however, be an act that tends toward accomplishment of a plan or scheme, knowingly done in furtherance of some object or purpose of the charged conspiracy.

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 conspiracy.

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 conspiracy.



INSTRUCTION NO. \_\_\_\_\_

If the Defendant knows that one with whom they conspire to commit a crime has conspired with another person or persons to commit the same crime, they are guilty with such other person or persons, whether or not they know their identity.



INSTRUCTION NO. \_\_\_\_\_

It is no defense to a charge of conspiracy that the Defendant or the person with whom they conspire did not occupy a particular position or have a particular characteristic which is an element of the crime, if the Defendant believes that one of them did.

INSTRUCTION NO. \_\_\_\_\_

It is no defense to a charge of conspiracy that the person with whom the Defendant conspires [is not legally responsible] [has immunity to prosecution or conviction] for the commission of the crime.