

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA,

v.

BARRY BENNET RAMEY,

Defendant.

No. 22-cr-00184 (DLF)

PROPOSED JURY INSTRUCTIONS – SUBSTANTIVE INSTRUCTIONS

ELEMENTS OF THE CHARGED OFFENSES

Instruction No. 1: Count 1, Obstructing Officers During a Civil Disorder

(18 U.S.C. § 231(a)(3))

Count 1 of the indictment charges the defendant with committing or attempting to commit an act to obstruct, impede, or interfere with law enforcement officers lawfully carrying out their official duties incident to a civil disorder, which is a violation of federal law. The Court will first explain the elements of the substantive offense, along with its associated definitions. Then, the Court will explain how to determine whether the defendant attempted the offense.

Elements

In order to find the defendant guilty of obstructing officers during a civil disorder, you must find the following four elements beyond a reasonable doubt:

First, the defendant knowingly committed an act or attempted to commit an act.

Second, in committing or attempting to commit that act, the defendant intended to obstruct, impede, or interfere with one or more law enforcement officers.

Third, at the time of the defendant's actual or attempted act, the law enforcement officer or officers were engaged in the lawful performance of their official duties incident to and during a civil disorder.

Fourth, the civil disorder in any way or degree obstructed, delayed, or adversely affected either commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function.

Definitions

A person acts "knowingly" if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident. In deciding whether the

defendant acted knowingly, you may consider all of the evidence, including what the defendant did or said.

The term “civil disorder” means any public disturbance involving acts of violence by groups of three or more persons, which (a) causes an immediate danger of injury to another individual, (b) causes an immediate danger of damage to another individual’s property, (c) results in injury to another individual, or (d) results in damage to another individual’s property.

The term “commerce” means commerce or travel between one state, including the District of Columbia, and any other state, including the District of Columbia. It also means commerce wholly within the District of Columbia.

The term “federally protected function” means any function, operation, or action carried out, under the laws of the United States, by any department, agency, or instrumentality of the United States or by an officer or employee thereof.

The term “department” includes executive departments. The Department of Homeland Security, which includes the United States Secret Service, is an executive department.

The term “agency” includes any department, independent establishment, commission, administration, authority, board, or bureau of the United States.

The term “law enforcement officer” means any officer or employee of the United States or the District of Columbia while engaged in the enforcement or prosecution of any criminal laws of the United States or the District of Columbia.

Attempt

In Count 1, the defendant is also charged with attempt to commit the crime of obstructing officers during a civil disorder. An attempt to obstruct officers during a civil disorder is a federal

crime even if the defendant did not actually complete the crime of obstructing officers during a civil disorder.

In order to find the defendant guilty of attempt to commit the crime of obstructing officers during a civil disorder, you must find that the government proved beyond a reasonable doubt each of the following two elements:

First, that the defendant intended to commit the crime of obstructing officers during a civil disorder, as I have defined that offense above.

Second, that the defendant took a substantial step toward committing the crime of obstructing officers during a civil disorder, which strongly corroborates or confirms that the defendant intended to commit that crime.

With respect to the first element of attempt, you may not find the defendant guilty of attempt to commit obstruction during a civil disorder merely because he thought about it. You must find that the evidence proved beyond a reasonable doubt that the defendant's mental state passed beyond the stage of thinking about the crime to actually intending to commit it.

With respect to the substantial step element, you may not find the defendant guilty of attempt to commit obstruction during a civil disorder merely because he made some plans to or some preparation for committing that crime. Instead, you must find that the defendant took some firm, clear, undeniable action to accomplish his intent to commit obstruction during a civil disorder. However, the substantial step element does not require the government to prove that the defendant did everything except the last act necessary to complete the crime.

**Instruction No. 2: Counts 2 and 3, Assaulting, Resisting or Impeding Certain Officers
Using a Dangerous Weapon (18 U.S.C. § 111(a)(1), (b))**

Counts 2 and 3 each charge the defendant with forcibly assaulting, resisting, opposing, impeding, intimidating, or interfering with officer(s) of the United States who were engaged in the performance of official duties, while using a deadly or dangerous weapon, and while making physical contact with the person or acting with the intent to commit another felony, which is a violation of federal law.

In order to find the defendant guilty of Count 2, you must find that the government proved each of the following six elements beyond a reasonable doubt with respect to Officer D.R.; and in order to find the defendant guilty of Count 3, you must find that the government proved each of the six elements beyond a reasonable doubt with respect to Officer B.W.

First, the defendant assaulted, resisted, opposed, impeded, intimidated, or interfered with an officer of the United States.

Second, the defendant did such acts forcibly.

Third, the defendant did such acts voluntarily and intentionally.

Fourth, the officer was then engaged in the performance of official duties.

Fifth, the defendant made physical contact with an officer of the United States who was then engaged in the performance of official duties, or acted with the intent to commit another felony. For purposes of this element, “another felony” refers to the offense charged in Count 1 (civil disorder), or the greater offense charged in Count 4 (entering and remaining on a restricted building or grounds with a deadly or dangerous weapon), Count 5 (disorderly and disruptive conduct in a restricted building or grounds with a deadly or dangerous weapon), or Count 6

(engaging in physical violence in a restricted building or grounds with a deadly or dangerous weapon), all of which I will explain in a moment.

Sixth, in doing such acts, the defendant intentionally used a deadly or dangerous weapon.

Definitions

The term “forcibly” means that the defendant used force, attempted to use force, or threatened to use force against the officer. A threat to use force at some unspecified time in the future is not sufficient to establish that the defendant acted forcibly.

The term “assault” means any intentional attempt or threat to inflict injury upon someone else, when coupled with an apparent present ability to do so. A finding that one used force (or attempted or threatened to use it) isn’t the same as a finding that he attempted or threatened to inflict injury. In order to find that the defendant committed an “assault,” you must find beyond a reasonable doubt that the defendant acted forcibly and that the defendant intended to inflict or intended to threaten injury.

The terms “resist,” “oppose,” “impede,” “intimidate,” and “interfere with” carry their everyday, ordinary meanings.

The term “intentionally” means that the defendant knowingly, consciously, and voluntarily committed an act which the law makes a crime. This general intent may be inferred from the doing of the act. “Knowingly” has the same meaning I gave you previously. The government does not have to prove that the defendant knew that the victim was a federal officer.

It is not necessary to show that the defendant knew the person being forcibly assaulted, resisted, opposed, impeded, intimidated, or interfered with was, at that time, carrying out an official duty so long as it is established beyond a reasonable doubt that the person was, in fact,

carrying out an official duty and that the defendant intentionally forcibly assaulted, resisted, opposed, impeded, intimidated, or interfered with that officer.

An object is a “deadly or dangerous weapon” if it is capable of causing serious bodily injury or death to another person and the defendant used it in that manner. In determining whether the object is a “deadly or dangerous weapon,” you may consider both physical capabilities of the object used and the manner in which the object is used.

Instruction No. 2(a): Assaulting, Resisting or Impeding Certain Officers

(18 U.S.C. § 111(a)(1))

Elements

Counts 2(a) and 3(a) are lesser included offenses of Count 2 and 3 of the indictment, which charge the defendant with forcibly assaulting, resisting, opposing, impeding, intimidating, or interfering with officer(s) of the United States who were engaged in the performance of official duties, while making physical contact with the person or acting with the intent to commit another felony. You need not consider these charges if you find the defendant guilty of Counts 2 and 3.

In order to find the defendant guilty of Count 2(a), you must find that the government proved each of the following five elements beyond a reasonable doubt with respect to Officer D.R.; and in order to find the defendant guilty of Count 3(a), you must find that the government proved each of the five elements beyond a reasonable doubt with respect to Officer B.W.:

First, the defendant assaulted, resisted, opposed, impeded, intimidated, or interfered with an officer of the United States.

Second, the defendant did such acts forcibly.

Third, the defendant did such acts voluntarily and intentionally.

Fourth, the officer was then engaged in the performance of official duties.

Fifth, the defendant made physical contact with an officer of the United States who was then engaged in the performance of official duties, or acted with the intent to commit another felony. For purposes of this element, “another felony” refers to the offense charged in Count 1 (civil disorder), or the greater offense charged in Count 4 (entering and remaining on a restricted building or grounds with a deadly or dangerous weapon), Count 5 (disorderly and disruptive conduct in a restricted building or grounds with a deadly or dangerous weapon), or Count 6

(engaging in physical violence in a restricted building or grounds with a deadly or dangerous weapon), all of which I will explain in a moment.

Definitions

Each of the terms has the same meaning I gave you previously.

**Instruction No. 3: Count 4, Entering or Remaining in a Restricted Area or Grounds with a
Deadly or Dangerous Weapon (18 U.S.C. § 1752(a)(1), (b)(1)(A))**

Elements

Count 4 of the indictment charges the defendant with entering or remaining in a restricted building or grounds while using or carrying a deadly or dangerous weapon, which is a violation of federal law.

In order to find the defendant guilty of this offense, you must find that the government proved each of the following three elements beyond a reasonable doubt:

First, that the defendant entered or remained in a restricted building or grounds without lawful authority to do so.

Second, that the defendant knew that the building or grounds was restricted and he knew that he lacked the lawful authority to enter or remain there.

Third, that the defendant knowingly used or carried a deadly or dangerous weapon during and in relation to the offense.

On the verdict form, if you find the defendant not guilty of Count 4, then proceed to Count 4(a), which is a lesser included offense. If you find the defendant guilty of Count 4, then do not consider Count 4(a) and proceed to Count 5.

Definitions

The term “restricted building or grounds” means any posted, cordoned off, or otherwise restricted area of a building or grounds where a person protected by the Secret Service is temporarily visiting.

The term “person protected by the Secret Service” includes the Vice President and the immediate family of the Vice President.

The terms “knowingly” and “deadly or dangerous weapon” have the same meanings I gave you previously.

Instruction No. 3(a): Count 4(a), Entering or Remaining in a Restricted Area or Grounds

(18 U.S.C. § 1752(a)(1))

Elements

Count 4(a) is a lesser included offense of Count 4 of the indictment, which charges the defendant with entering or remaining in a restricted building or grounds. You need not consider this charge if you find the defendant guilty of Count 4.

In order to find the defendant guilty of this offense, you must find that the government proved each of the following two elements beyond a reasonable doubt:

First, that the defendant entered or remained in a restricted building or grounds without lawful authority to do so.

Second, that the defendant knew that the building or grounds was restricted and he knew that he lacked the lawful authority to enter or remain there.

Definitions

Each of the terms has the same meaning I gave you previously.

**Instruction No. 4: Count 5, Disorderly or Disruptive Conduct in a Restricted Area or
Grounds with a Deadly or Dangerous Weapon (18 U.S.C. § 1752(a)(2), (b)(1)(A))**

Elements

Count 5 of the indictment charges the defendant with engaging in disorderly or disruptive conduct in a restricted building or grounds while using or carrying a deadly or dangerous weapon, which is a violation of federal law.

In order to find the defendant guilty of this offense, you must find that the government proved each of the following four elements beyond a reasonable doubt:

First, that the defendant knowingly engaged in disorderly or disruptive conduct in, or in proximity to, any restricted building or grounds.

Second, that the defendant did so with the intent to impede or disrupt the orderly conduct of Government business or official functions.

Third, that the defendant's conduct in fact impeded or disrupted the orderly conduct of Government business or official functions.

Fourth, that the defendant knowingly used or carried a deadly or dangerous weapon during and in relation to the offense.

On the verdict form, if you find the defendant not guilty of Count 5, then proceed to Count 5(a), which is a lesser included offense. If you find the defendant guilty of Count 5, then do not consider Count 5(a) and proceed to Count 6.

Definitions

“Disorderly conduct” occurs when a person acts in such a manner as to cause another person to be in reasonable fear that a person or property in a person's immediate possession is likely to be harmed or taken, uses words likely to produce violence on the part of others, is

unreasonably loud and disruptive under the circumstances, or interferes with another person by jostling against or unnecessarily crowding that person.

“Disruptive conduct” is a disturbance that interrupts an event, activity, or the normal course of a process.

The terms “restricted building or grounds,” “knowingly,” and “deadly or dangerous weapon” have the same meaning I gave you previously.

**Instruction No. 4(a): Count 5(a), Disorderly or Disruptive Conduct in a Restricted Area or
Grounds (18 U.S.C. § 1752(a)(2))**

Elements

Count 5(a) is a lesser included offense of Count 5 of the indictment, which charges the defendant with disorderly or disruptive conduct in a restricted building or grounds. You need not consider this charge if you find the defendant guilty of Count 5.

In order to find the defendant guilty of this offense, you must find that the government proved each of the following three elements beyond a reasonable doubt:

First, that the defendant knowingly engaged in disorderly or disruptive conduct in, or in proximity to, any restricted building or grounds.

Second, that the defendant did so with the intent to impede or disrupt the orderly conduct of Government business or official functions.

Third, that the defendant's conduct in fact impeded or disrupted the orderly conduct of Government business or official functions.

Definitions

Each of the terms has the same meaning I gave you previously.

**Instruction No. 5: Count 6, Engaging in Physical Violence in a Restricted Building or
Grounds with a Deadly or Dangerous Weapon (18 U.S.C. § 1752(a)(4), (b)(1)(A))**

Elements

Count 6 of the indictment charges the defendant with engaging in physical violence against a person or property in a restricted building or grounds while using or carrying a deadly or dangerous weapon, which is a violation of federal law.

In order to find the defendant guilty of this offense, you must find that the government proved each of the following three elements beyond a reasonable doubt:

First, that the defendant engaged in physical violence against a person or property in, or in proximity to, a restricted building or grounds.

Second, that the defendant knew the building/grounds was restricted and that he lacked authority to remain there.

Third, that the defendant knowingly used or carried a deadly or dangerous weapon during and in relation to the offense.

On the verdict form, if you find the defendant not guilty of Count 6, then proceed to Count 6(a), which is a lesser included offense. If you find the defendant guilty of Count 6, then do not consider Count 6(a) and proceed to Count 7.

Definitions

The term “physical violence” means any act involving an assault or other infliction of death or bodily harm on an individual, or damage to, or destruction of, real or personal property.

The terms “knowingly,” “restricted building or grounds,” and “deadly or dangerous weapon” have the same meanings I gave you previously.

**Instruction No. 5(a): Count 6(a), Engaging in Physical Violence in a Restricted Building or
Grounds (18 U.S.C. § 1752(a)(4))**

Elements

Count 6(a) is a lesser included offense of Count 6 of the indictment, which charges the defendant with physical violence in a restricted building or grounds. You need not consider this charge if you find the defendant guilty of Count 6.

In order to find the defendant guilty of this offense, you must find that the government proved each of the following two elements beyond a reasonable doubt:

First, that the defendant engaged in physical violence against a person or property in, or in proximity to, a restricted building or grounds.

Second, that the defendant knew the building/grounds was restricted and that he lacked authority to remain there.

Definitions

Each of the terms has the same meaning I gave you previously.

**Instruction No. 6: Count 7, Engaging in Physical Violence in the Capitol Grounds or
Building (40 U.S.C. § 5104(e)(2)(F))**

Elements

Count 7 of the indictment charges the defendant with engaging in an act of physical violence in the United States Capitol Grounds or any of the Capitol Buildings, which is a violation of federal law.

In order to find the defendant guilty of this offense, you must find that the government proved each of the following two elements beyond a reasonable doubt:

First, that the defendant engaged in an act of physical violence in the United States Capitol Grounds.

Second, that the defendant acted willfully and knowingly.

Definitions

The term “act of physical violence” means any act involving an assault or other infliction or threat of infliction of death or bodily harm on an individual, or damage to, or destruction of, real or personal property.

The term “United States Capitol Grounds” includes the United States Capitol located at First Street, Southeast, in Washington, D.C.

A person acts “willfully” if he acts with the intent to do something that he law forbids, that is, to disobey or disregard the law. “Willfully” does not, however, require proof that the defendant be aware of the specific law or rule that his conduct may be violating.

The term “knowingly” has the same meaning I gave you previously.