

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CRIMINAL DIVISION**

**UNITED STATES**

:

v.

:

**Case No. 2021 CMD 000454**

:

**MICKI LARSON-OLSON**

:

:

**FINAL JURY INSTRUCTIONS**

Now that all of the evidence is in, I will give you final instructions on the law.

**FURNISHING THE JURY WITH A COPY OF INSTRUCTIONS (2.100)**

During your deliberations, you will have a written copy of these instructions. One reason I give you a written copy is so that you do not have to take notes about specific instructions as I read them, but you can take notes if you wish.

You may choose to refer in your deliberations only to a particular portion of the instructions, but you must consider each instruction in the context of the instructions as a whole. You may not follow some and ignore others. If you have any questions about the instructions, you should feel free to send me a note.

It will take me about 30 minutes to read these instructions. They are standard instructions, and judges and lawyers have worked hard to make each word of the instructions accurate and fair. I read them word for word to make sure I give them correctly to you.

First, I will talk about some general rules of law, including reminders of a few points that I covered in my initial instructions. Then I will talk about the law concerning the specific charge against Micki Larson-Olson. To let you know when I begin a new instruction, I will give you the title of the instruction before I start reading it.

### **FUNCTION OF THE COURT (2.101)**

As I explained at the beginning of the trial, my function is to conduct this trial in a fair and efficient manner and to instruct you on the law that applies in this case.

To ensure that everyone is treated the same in every case, juries in every case must accept the law as the judge explains it. You may not ignore or refuse to follow any of these instructions.

### **FUNCTION OF THE JURY (2.102)**

Your function, as the jury, is to determine the facts in this case. You are the sole judges of the facts. It is my responsibility to decide what is admitted as evidence during the trial, but you alone decide what weight, if any, to give to that evidence. You alone decide the credibility or believability of each witness.

All people deserve fair treatment in our system of justice regardless of any personal characteristic, such as race, national or ethnic origin, religion, age, disability, sex, gender identity or expression, sexual orientation, education, or income level. You should determine the facts without prejudice, fear, sympathy, favoritism or consideration of public opinion. You should not be improperly influenced by anyone's race, ethnic origin, or gender. Decide the case solely from a fair consideration of the evidence.

You should not take anything I may have said or done as indicating how I think you should decide this case. The verdict in this case is your sole and exclusive responsibility.

### **PRESUMPTION OF INNOCENCE – BURDEN OF PROOF (2.107)**

Every defendant in a criminal case is presumed to be innocent. This presumption of innocence remains with Micki Larson-Olson throughout the trial unless and until the government has proven she is guilty beyond a reasonable doubt. This burden never shifts throughout the trial. The law does not require Ms. Larson-Olson to prove her innocence or to produce any evidence at

all. If you find that the government has proven beyond a reasonable doubt every element of the offense with which Ms. Larson-Olson is charged, it is your duty to find her guilty of that offense. On the other hand, if you find the government has failed to prove any element of a particular offense beyond a reasonable doubt, it is your duty to find Ms. Larson-Olson not guilty of that offense.

**REASONABLE DOUBT (2.108)**

The government has the burden of proving Micki Larson-Olson guilty beyond a reasonable doubt. In civil cases, it is necessary to prove only that a fact is more likely true than not, or, in some cases, that its truth is highly probable. In criminal cases such as this one, the government's proof must be more powerful than that. It must be beyond a reasonable doubt. Reasonable doubt, as the name implies, is a doubt based on reason – a doubt for which you have a reason based upon the evidence or lack of evidence in the case. If, after careful, honest, and impartial consideration of all the evidence, you cannot say that you are firmly convinced of Ms. Larson-Olson's guilt, then you have a reasonable doubt.

Reasonable doubt is the kind of doubt that would cause a reasonable person, after careful and thoughtful reflection, to hesitate to act in the graver or more important matters in life. However, it is not an imaginary doubt, nor a doubt based on speculation or guesswork; it is a doubt based on reason. The government is not required to prove guilt beyond all doubt, or to a mathematical or scientific certainty. Its burden is to prove guilt beyond a reasonable doubt.

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I will now give you instructions concerning evidence in this case.

### **EVIDENCE IN THE CASE (2.104)**

During your deliberations, you may consider only the evidence properly admitted in this trial. The evidence in this case consists of the sworn testimony of the witnesses and the exhibits that were admitted into evidence.

During the trial, you were told that the parties had stipulated or agreed about certain facts. You should consider any stipulation of fact to be undisputed evidence.

When you consider the evidence, you are permitted to draw from the facts that you find have been proven, such reasonable inferences as you feel are justified in the light of your experience.

### **STATEMENTS OF COUNSEL (2.105)**

The statements and arguments of the lawyers are not evidence. They are intended only to assist you in understanding the evidence.

### **JURY'S RECOLLECTION CONTROLS (2.103 & 1.105)**

If any lawyer or I describe the evidence you have heard differently from the way you remember it, it is your memory that should control during your deliberations.

As I mentioned at the beginning of trial, although a court reporter has been transcribing the trial, the court reporter cannot prepare a transcript for you to review during your deliberations. You must rely on your own recollection of the testimony and on any notes you may have taken during the trial.

Those of you who took notes during the trial may use them during your deliberations if you wish. Your notes are only an aid to your memory. Those jurors who have not taken notes should rely on their own memory of the testimony of witnesses.

## **INFORMATION IS NOT EVIDENCE**

As I told you at the beginning of the trial, an information is simply the formal way of charging a person with a crime. You may not consider the information as any evidence of Micki Larson-Olson's guilt or draw any inference of guilt from it.

### **DIRECT AND CIRCUMSTANTIAL EVIDENCE (2.109)**

There are two types of evidence from which you may determine the facts in this case – direct evidence and circumstantial evidence. When a witness, such as an eyewitness, asserts actual knowledge of a fact, that witness's testimony is direct evidence. On the other hand, evidence of facts and circumstances from which reasonable inferences may be drawn is circumstantial evidence.

Let me give you an example of what I'm talking about. Assume a person looked out a window and saw that snow was falling. If she later testified in court about what she had seen, her testimony would be direct evidence that snow was falling at the time she saw it happen. Assume, however, that she looked out a window and saw no snow on the ground, and then went to sleep and saw snow on the ground after she woke up. Her testimony about she saw would be circumstantial evidence that it had snowed while she was asleep.

The law says that both direct and circumstantial evidence are acceptable as a means of proving a fact. The law does not favor one form of evidence over the other. It is for you to decide how much weight to give to any particular evidence, whether it is direct or circumstantial. You are permitted to give equal weight to both. Circumstantial evidence does not require a greater degree of certainty than direct evidence. In reaching a verdict in this case, you should consider all of the evidence presented, both direct and circumstantial.

### **NUMBER OF WITNESSES (2.111)**

The weight of the evidence is not necessarily determined by the number of witnesses testifying for each side. Rather, you should consider all the facts and circumstances in evidence to determine which of the witnesses you believe.

### **INADMISSIBLE AND STRICKEN EVIDENCE (2.112)**

There were times during the trial when you saw one lawyer make an objection to a question asked by another lawyer, or to an answer given by a witness. You must not hold such objections against the lawyer who made them or against the party she or he represents. It is the lawyer's responsibility to object to evidence that they believe is not admissible.

If, during the course of the trial, I sustained an objection to a lawyer's question, you should ignore the question, and you must not speculate as to what the answer would have been. If, after a witness answered a question, I ruled that the answer should be stricken, you should ignore both the question and the answer and they should play no part in your deliberations.

### **CREDIBILITY OF WITNESSES (2.200)**

In determining whether the government has proved the charges against Micki Larson-Olson beyond a reasonable doubt, you must consider and weigh the testimony of all the witnesses who have testified.

You are the sole judges of the credibility of the witnesses. In other words, you alone are to determine whether to believe any witness and the extent to which any witness should be believed. Judging a witness's credibility means evaluating whether the witness has testified truthfully and also whether the witness accurately observed, recalled, and described the matters about which the witness testified.

You may consider anything that in your judgment affects the credibility of any witness.

You may consider, for example:

1. the witness' behavior and demeanor on the witness stand;
2. the witness's manner of testifying;
3. the extent of the witness' opportunity to observe the matters about which he testifies;
4. whether the witness impresses you as having an accurate memory and recollection;
5. whether the witness impresses you as a truthful person;
6. whether the witness has any reason or motive for not telling the truth; or
7. whether the witness has any interest in the outcome of this case, or friendship or hostility toward people concerned with this case.
8. Whether the witness stands to gain anything by testifying

You may consider whether there are any inconsistencies in a witness's testimony or between the witness's testimony and any previous statements made by the witness. You may also consider any consistencies or inconsistencies between the witness's testimony and any other evidence that you credit. You may consider whether any inconsistencies are the result of lapses in memory, mistake, misunderstanding, intentional falsehood, or differences in perception.

You may consider the reasonableness or unreasonableness, the probability or improbability, of the testimony of a witness in determining whether to accept it as true and accurate. You may consider whether the witness has been contradicted or supported by other credible evidence.

If you believe that any witness has shown himself to be biased or prejudiced, for or against either side in this trial, or motivated by self-interest, you may consider whether such bias or prejudice has colored the testimony of the witness so as to affect the desire and capability of that witness to tell the truth.

You should give the testimony of each witness such weight as in your judgment it is fairly entitled to receive.

**POLICE OFFICER'S TESTIMONY (2.207)**

A police officer's testimony should be evaluated by you just as any other evidence in the case. In evaluating the officer's credibility, you should use the same guidelines that you apply to the testimony of any witness. In no event should you give either greater or lesser weight to the testimony of any witness merely because they are a police officer.

**DEFENDANT AS WITNESS (2.209)**

A defendant has a right to become a witness in her own behalf. Her testimony should not be disbelieved merely because she is the defendant. In evaluating her testimony, however, you may consider the fact that the defendant has an interest in the outcome of this trial. As with the testimony of any other witness, you should give the defendant's testimony as much weight as in your judgment it deserves.

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I will now talk with you about the specific offense charged in this case.

**NATURE OF CHARGES NOT TO BE CONSIDERED (2.110)**

You must not allow the nature of the charges themselves to affect your verdicts. You must consider only the evidence that has been presented in this case in reaching a fair and impartial verdict.

**FIRST CHARGE**

**UNLAWFUL ENTRY (5.401)**

There are two ways the government can prove that Micki Larson-Olson committed this offense.



### **A. Entry Without Authority**

The elements of this offense, each of which the government must prove beyond a reasonable doubt, are that:

1. Micki Larson-Olson entered or attempted to enter the U.S. Capitol Building grounds;
2. Ms. Larson-Olson entered, or attempted to enter the U.S. Capitol Building grounds voluntarily, on purpose, and not by mistake or accident;
3. She did so without lawful authority;
4. The entry or attempt to enter was against the will of the person lawfully in charge of the premises;
5. Ms. Larson-Olson knew or should have known that she was entering against that person's will; and
6. The U.S. Capitol Building grounds was public.

You have heard evidence that Micki Larson-Olson believed she had a right to enter or be present in the area in question. One who enters a restricted area with a good faith belief that she is entering with lawful authority is not guilty of unlawful entry. Thus, you cannot find Micki Larson-Olson guilty of unlawful entry unless you are convinced beyond a reasonable doubt that she did not have a good faith belief of her lawful authority to enter the area.

### **B. Remaining on Premises Without Authority**

The elements of this offense, each of which the government must prove beyond a reasonable doubt, are that:

1. Micki Larson-Olson was present on the U.S. Capitol Building grounds;
2. Ms. Larson-Olson was directed to leave the U.S. Capitol Building grounds by U.S. Capitol Police or the Metropolitan Police Department;
3. The U.S. Capitol Police or the Metropolitan Police Department was the lawful occupant or person lawfully in charge of the U.S. Capitol Building grounds;
4. At the time Ms. Larson-Olson was directed to leave the U.S. Capitol Building grounds, she did not have lawful authority to remain there;
5. She knew or should have known that she was remaining on the U.S. Capitol Building grounds against the will of the person lawfully in charge of the premises;
6. Upon being directed to leave the U.S. Capitol Building grounds, she refused to leave; and
7. The U.S. Capitol Building grounds was public.

A person may be lawfully in charge of the property even though there are other persons who could, if they chose to do so, cancel or override that authority. There may be more than one person who has the authority to order a person to leave the property.

You have heard evidence that Micki Larson-Olson believed that she had a right to remain in the area in question. One who remains in a restricted area with a good faith belief of her legal authority to remain there is not guilty of unlawful entry. Thus, you cannot find Micki Larson-Olson guilty of unlawful entry unless you are convinced beyond a reasonable doubt that she did not have a good faith belief in his legal authority to remain in the area after being directed to leave.

## UNANIMITY

The defendant, Micki Larson-Olson has been charged with one count of Unlawful Entry (Public Property). You have heard evidence of more than one act or incident related to this count. The Government has alleged both that the defendant entered a restricted part of the U.S. Capitol Building grounds without authority and that the defendant remained on a restricted part of the U.S. Capitol Building grounds without authority. You may find the defendant, Micki Larson-Olson guilty on this count if the Government proves beyond a reasonable doubt that the defendant, Micki Larson-Olson committed either of these acts/incidents. However, in order to return a guilty verdict on this count, you must all agree that the defendant, Micki Larson-Olson committed an entry without authority or you must all agree that the defendant, Micki Larson-Olson committed a remaining on premises without authority.

[CLOSING ARGUMENTS]

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Before I excuse you to deliberate, I want to discuss a few final matters with you.

### **SELECTION OF FOREPERSON (2.502)**

When you return to the jury room, you should first select a foreperson to preside over your deliberations and to be your spokesperson here in court. There are no specific rules regarding how you should select a foreperson. That is up to you. However, as you go about the task, be mindful of your mission -- to reach a fair and just verdict based on the evidence. Consider selecting a foreperson who will be able to facilitate your discussions, who can help you organize the evidence, who will encourage civility and mutual respect among all of you, who will invite each juror to speak up regarding his or her views about the evidence, and who will promote a full and fair consideration of that evidence.

### **BEGINNING OF DELIBERATIONS (2.510)**

The attitude and conduct of jurors at the beginning of their deliberations are matters of considerable importance.

It may not be useful for a juror, at the start of deliberations, to announce a determination to stand for a particular verdict. When a juror announces a firm position at the outset, the juror may hesitate to back away after discussion with other jurors.

Furthermore, many juries find it useful to avoid a vote at the beginning of deliberations. Calmly reviewing and discussing the case is often a more useful way to begin. Remember that you are not partisans or advocates, but judges of the facts.

### **UNANIMITY (2.405)**

A verdict must represent the considered judgment of each juror. In order to return a verdict, each juror must agree on the verdict. In other words, your verdict on each count must be unanimous.

### **EXHIBITS DURING DELIBERATIONS (2.501)**

I will be sending into the jury room with you the exhibits that have been admitted into evidence. You may examine any or all of them as you consider your verdict. Please keep in mind that exhibits that were only marked for identification but were not admitted into evidence will not be given to you to examine or consider in reaching your verdict.

### **COMMUNICATION AND RESEARCH (2.508)**

As you retire to the jury room to deliberate, I also remind you of an instruction I gave you at the beginning of the trial. During deliberations, you may not communicate with anyone except your fellow jurors about this case. This includes any electronic communication such as emailing or texting or blogging about the case. In addition, you may not conduct any independent

investigation during deliberations – including research over the Internet. You must decide this case solely on the evidence presented in this courtroom.

**POSSIBLE PUNISHMENT NOT RELEVANT (2.505)**

The question of possible punishment of Micki Larson-Olson in the event of a conviction is not a concern of yours and should not enter into or influence your deliberations in any way. The duty of imposing sentence in the event of a conviction rests exclusively with me. Your verdict should be based solely on the evidence in this case, and you should not consider the matter of punishment at all.

**COMMUNICATIONS BETWEEN COURT AND JURY (2.509)**

If it becomes necessary during your deliberations to communicate with me, you may send a note, signed by your foreperson or by one or more members of the jury. If you have a note, the foreperson should knock on the courtroom door, and the clerk will get the note and give it to me. No member of the jury should try to communicate with me except by such a signed note. I will never communicate with any member of the jury on any matter concerning the merits of this case, except in writing or orally here in open court.

**Bear in mind also that you are never, under any circumstances, to reveal to any person –not the clerk or me or anyone else – how jurors are voting until after you have reached a unanimous verdict.** This means that you should never tell me, in writing or in open court, how the jury is divided– for example, 6-6 or 7-5 or 11-1, or in any other fashion. You should not reveal the division whether the vote is for conviction or acquittal or on any other issue in the case.

## **VERDICT FORM EXPLANATION (2.407)**

You will be provided with a verdict form to use when you have concluded your deliberations. This form is not evidence in the case, and nothing in it should be taken to suggest or convey any opinion by me as to what the verdict should be. Nothing in this form replaces the instructions of law I have already given you, and nothing in it replaces or modifies the instructions about the elements that the government must prove beyond a reasonable doubt. The form is meant only to assist you in recording your verdict.

## **DELIVERING THE VERDICT**

When you have reached your verdict, send me a note – signed by the foreperson – telling me you have reached your verdict. **Do not tell me in the note what your verdict is.** I will provide you with a verdict form with these instructions. This form is meant only to assist you in recording your verdict. The foreperson should fill out and sign the verdict form. I will then call you into the courtroom, retrieve the verdict form from you so that I can review it, and then I will return the verdict form to the foreperson and ask the foreperson to announce your verdicts.

## **EXCUSING ALTERNATE JURORS (2.511)**

The last thing I must do before you begin your deliberations is to excuse the alternate jurors. As I told you before, the selection of alternates was a completely random process; it's nothing personal if you are now being excused. We selected two seats to be the alternate seats before any of you entered the courtroom. Since the rest of you have remained healthy and attentive, I can now excuse the juror in Seats 7 and 10.

Before you leave, I am going to ask you to tear out a page from your notebook, and to write down your name and daytime phone number and hand this to the clerk. I do this because it is

possible, although not likely, that we will need to summon you back to rejoin the jury in case something happens to a regular juror. Since that possibility exists, I also am going to instruct you not to discuss the case with anyone until we call you to tell you that we need your service or that a verdict has been returned.

My earlier instruction on use of the Internet still applies – do not research this case or communicate about it on the Internet. In all likelihood, we will be calling you to tell you that there has been a verdict and that you are now free to talk about the case, but there is a small chance that we will need to bring you back to serve on the jury, which is why the instruction on use of the Internet is so important.

Thank you very much for your service, and please report back to the jury office to turn in your badge before you head out.

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I will now excuse you to begin your deliberations. Thank you.