

INSTRUCTION NO. 1

You must determine whether the defendant is guilty or not guilty from the evidence and the law in these instructions.

You must consider all the instructions together. No one instruction includes all of the applicable law.

INSTRUCTION NO. 2

The Trial Information is the document that formally charges the defendant with a crime and is merely the method by which the defendant is brought into court for trial. It is not evidence.

INSTRUCTION NO. 3

The defendant is presumed innocent and not guilty. This presumption of innocence requires you to put aside all suspicion which might arise from the arrest, charge, or the present situation of the defendant. The presumption of innocence remains with the defendant throughout the trial unless the evidence establishes guilt beyond a reasonable doubt.

INSTRUCTION NO. 4

These Instructions define certain words, terms, or phrases. The definitions are to be used by you. For any word, term, or phrase which is not specifically defined, you are to use the ordinary common English language usage definition.

INSTRUCTION NO. 5

The defendant has entered a plea of not guilty. The plea of not guilty is a complete denial of the charge and places the burden on the State to prove guilt beyond a reasonable doubt. Whenever I instruct you the State must prove something, it must be by evidence beyond a reasonable doubt. If the State does not prove the defendant guilty beyond a reasonable doubt, your verdict must be not guilty.

INSTRUCTION NO. 6

You shall base your verdict only upon the evidence and these instructions:

Evidence is:

1. Testimony in person or by deposition.
2. Exhibits received by the Court. You may examine the exhibits closely, but be careful not to alter or destroy them.

3. Stipulations, which are agreements between the attorneys.

Facts may be proved by direct evidence, circumstantial evidence, or a combination of both.

Sometimes during a trial, references are made to pre-trial statements and reports, witnesses' depositions, or other miscellaneous items. Only those things formally offered and received by the Court are available to you during your deliberations. Documents or items read from or referred to, which were not offered and received into evidence, are not available to you.

The following are not evidence:

1. Statements, arguments, questions and comments by the lawyers.
2. Objections and rulings on objections.
3. Testimony I told you to disregard.
4. Anything you saw or heard about this case outside the courtroom.

INSTRUCTION NO. 7

In considering the evidence, make deductions and reach conclusions according to reason and common sense. Facts may be proved by direct evidence, circumstantial evidence, or both. Direct evidence is evidence from a witness who claims actual knowledge of a fact, such as an eyewitness. Circumstantial evidence is evidence about a chain of facts which shows a defendant is either guilty or not guilty. The law makes no distinction between direct evidence or circumstantial evidence. Give all the evidence the weight and value you think it is entitled to receive.

INSTRUCTION NO. 8

Exhibits have been admitted into evidence and are to be considered along with all of the other evidence to assist you in reaching your verdict. You are not to tamper with the exhibits or their contents and each exhibit should be returned into open court, along with your verdict, in the same condition as it was when received by you. Some exhibits may have had material excised from them. Do not speculate as to these deletions.

INSTRUCTION NO. 9

Decide the facts from the evidence. Consider the evidence using your observations, common sense and experience. Try to reconcile any conflicts in the evidence; but if you cannot, accept the evidence you find more believable.

In determining the facts, you may have to decide what testimony you believe. You may believe all, part, or none of any witness's testimony.

There are many factors which you may consider in deciding what testimony to believe, for example:

1. Whether the testimony is reasonable and consistent with other evidence you believe.
2. Whether a witness has made inconsistent statements.
3. The witness's appearance, conduct, age, intelligence, memory and knowledge of the facts.
4. The witness's interest in the trial, their motive, candor, bias and prejudice.

INSTRUCTION NO. 12

The burden is on the State to prove Keith Edwin Meyer guilty beyond a reasonable doubt.

A reasonable doubt is one that fairly and naturally arises from the evidence in the case, or from the lack or failure of evidence produced by the State.

A reasonable doubt is a doubt based upon reason and common sense, and not the mere possibility of innocence. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

If, after a full and fair consideration of all the evidence, you are firmly convinced of the defendant's guilt, then you have no reasonable doubt and you should find the defendant guilty.

But if, after a full and fair consideration of all the evidence in the case, or from the lack or failure of evidence produced by the State, you are not firmly convinced of the defendant's guilt, then you have a reasonable doubt and you should find the defendant not guilty.

INSTRUCTION NO. 11

To commit a crime a person must intend to do an act which is against the law. While it is not necessary that a person knows the act is against the law, it is necessary that the person was aware they were doing the act, and they did it voluntarily, not by mistake or accident. You may, but are not required to, conclude a person intends the natural results of their acts.

INSTRUCTION NO. 12

The State must prove all of the following elements of Assault While Displaying a Weapon:

1. On or about the 11th day of November 2012, the defendant displayed in a threatening manner a dangerous weapon toward John Fahs.

If the State has proved this element, then you must consider the defense of justification as explained in Instruction Nos. 14 through 20. If after considering this defense you find the defendant did not act with justification, the defendant is guilty of Assault While Displaying a Weapon.

If the State has failed to prove this element or the defendant acted with justification, then the defendant is not guilty. If the State has failed to prove Element No. 1, you will then consider the charge of Simple Assault as defined in Instruction No.

21.

INSTRUCTION NO. 13

A "dangerous weapon" is any device or instrument designed primarily for use in inflicting death or injury upon a human being or animal, and which is capable of inflicting death upon a human being when used in the manner for which it was designed, and when used in its designed. It is also any sort of instrument or device actually used in such a way as to indicate the user intended to inflict death or serious injury, and when so used is capable of inflicting death.

Dangerous weapons include, but are not limited to any pistol, revolver, or firearm.

INSTRUCTION NO. 24

The defendant claims he acted with justification.

A person may use reasonable force to prevent injury to a person, including the defendant. The use of this force is known as justification.

Reasonable force is only the amount of force a reasonable person would find necessary to use under the circumstances to prevent death, injury.

A person can use deadly force against another if it is reasonable to believe that such force is necessary to avoid injury or risk to one's life or safety or the life or safety of another, or it is reasonable to believe that such force is necessary to resist a like force or threat.

The State must prove the defendant was not acting with justification.

INSTRUCTION NO. 05

A person is justified in using reasonable force if he reasonably believes the force is necessary to defend himself from any imminent use of unlawful force.

If the State has proved any one of the following elements, the defendant was not justified:

1. The defendant started or continued the incident which resulted in injury, death.
2. An alternative course of action was available to the defendant.
3. The defendant did not believe he was in imminent danger of death or injury and the use of force was not necessary to save him.
4. The defendant did not have reasonable grounds for the belief.
5. The force used by the defendant was unreasonable.

INSTRUCTION NO. 14

The defendant was not required to act with perfect judgment. However, he was required to act with the care and caution a reasonable person would have used under the circumstances which existed at that time.

If in the defendant's mind the danger was actual, real, imminent, or unavoidable, even though it did not exist, that is sufficient if a reasonable person would have seen it in the same light.

INSTRUCTION NO. 17

A person is not justified when he provokes or causes force to be used against him, intending to use it as an excuse to injure another.

If you find the State has proved the defendant provoked the use of force intending to use it as an excuse to injure victim, he was not justified.

INSTRUCTION NO. 19

Though a person who provokes the use of force against himself is not justified, there is an exception.

If the defendant provoked the use of force, but John Fahs used force greatly disproportionate to the provocation and it was so great that the defendant reasonably believed he was in imminent danger of death or injury, he is not considered to have provoked the incident and his acts would be justified.

INSTRUCTION NO. 19

No matter how insulting the words used by John Fahs were, they will not in and of themselves justify the use of force by the defendant.

However, words of a provocative and insulting nature may be considered, together with all of the other evidence, to determine who started the incident and whether the apparent danger was reasonable.

INSTRUCTION NO. 20

If a defendant is confronted with the use of unlawful force against him, he is required to avoid the confrontation by seeking an alternative course of action before he is justified in repelling the force used against him. However, there is an exception.

If the alternative course of action involved a risk to his, another's life or safety, and he reasonably believed that, then he was not required to take or use the alternative course of action to avoid the confrontation, and he could repel the force with reasonable force including deadly force.

INSTRUCTION NO. 21

Under the lesser-included charge, the State must prove both of the following elements of the crime of Assault:

1. On or about the 11th day of November 2012, the defendant did an act which was intended to cause pain or injury or did an act which was intended to place another in fear of immediate physical contact which will be painful, injurious, insulting or offensive.
2. The defendant had the apparent ability to do the act.

If the State has proved both of the elements, the defendant is guilty of Assault. If the State has failed to prove either of the elements, the defendant is not guilty.

INSTRUCTION NO. 22

Nothing I have said or done during the trial was intended to give any opinion as to the facts, proof, or what your verdict should be.

INSTRUCTION NO. 13

The duty of the jury is to determine if the defendant is guilty or not guilty.

In the event of a guilty verdict, you have nothing to do with the punishment.

INSTRUCTION NO. 24

During the trial, you have been allowed to take notes. You may take these with you to the jury room to use in your deliberations. Remember, these are notes and not evidence. Generally, they reflect the recollection or impressions of the evidence as viewed by the person taking them, and may be inaccurate or incomplete.

Upon reaching a verdict, leave the notes in the jury room and they will be destroyed.

INSTRUCTION NO. 25

During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as a telephone or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, MySpace, LinkedIn, YouTube, or Twitter, to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict.

If the length of deliberations causes you to need to make a call regarding personal arrangements such as child care or other scheduling issues, you may make such calls when the jury takes a break and temporarily stops deliberations, but you must not discuss the case until after you have reached your verdict and I have released you from jury duty.

INSTRUCTION NO. 14

When you begin your deliberations, you should select a foreman or forewoman. He or she shall see that your deliberations are carried on in an orderly manner, that the issues are fully and freely discussed, and that every juror is given an opportunity to express his or her views.

In order to return a verdict, each juror must agree to it. Your verdict must be unanimous.

It is your duty to consult with one another and reach an agreement, if you can do so, without compromising individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with the other jurors.

During your deliberations, do not hesitate to re-examine your view and change your opinion if convinced it is wrong. But do not change your opinion as to the weight or effect of the evidence just because it is the opinion of the other jurors, or for the mere purpose of returning a verdict.

Remember, you are the judges of the facts. Your sole duty is to find the truth and do justice.

INSTRUCTION NO. 27

I am giving you three verdict forms. You will use only one of them.

When you have agreed upon the verdicts and all twelve of you have signed the verdict forms, place it in the envelope provided, seal the envelope and please notify the Court Attendant. Remember, the verdicts are to be kept confidential until it is declared in open court.

Dated this ____ day of February 2013.

Cheryl Traum, Judge

IN THE IOWA DISTRICT COURT FOR SCOTT COUNTY

STATE OF IOWA,)	
)	
Plaintiff,)	CRIMINAL NO. AGCR349990
)	
vs.)	
)	VERDICT
KEITH EDWIN MEYER,)	
)	
Defendant.)	

VERDICT FORM NO. 1

We, the Jury, find the defendant, Keith Edwin Meyer, guilty of Assault While Displaying a Weapon.

	_____	FOREPERSON
_____	JUROR	_____
		JUROR
_____	JUROR	_____
		JUROR
_____	JUROR	_____
		JUROR
_____	JUROR	_____
		JUROR
_____	JUROR	

