

Jury charge regarding first case tried in Alabama fir the felony of “Offering a False Instrument for Recording against a Public Servant”.

For the State:  
Keith Blackwood, Esq.

For the Defense:  
William Lucy, pro se

IN THE CIRCUIT COURT FOR THE 13<sup>TH</sup> JUDICIAL CIRCUIT

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STATE OF ALABAMA.

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CC 13-5332

v.

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WILLIAM LUCY.

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Defendant

Ladies and gentlemen of the jury, it is now my responsibility to charge you as to the law applicable to this case. The indictment in this case charges that the Defendant, WILLIAM LUCY did:

(read indictment)...Against the Peace and Dignity of the State of Alabama

The last line is interesting. Crime in Europe was not always the concern of the public, but usually of the family or the town. If a resident of the next town came to your and killed a young man, your town leaders might fo to

that town and demand 20 head of cattle as a fine. Eventually the English Kings found they could make money adjudicating Public Crimes. Thus certain crimes were an offense against the public order or “Against the King’s Peace”. The phrase Against the Peace and Dignity of the State of Alabama has to be found in every indictment or it is void.

The indictment in this case is not evidence against the Defendant. It is merely the formal method under our Constitution by which a Defendant is accused of a crime and placed on trial. It provides no proof, no presumption, nor inference that the Defendant is guilty of the offense charged therein.

To the complaint the Defendant has plead not guilty. That places the burden upon the State to prove the allegations of the indictments beyond a reasonable doubt. The Defendant is not required to prove his innocence.

In coming before you, a jury of his peers, the Defendant is presumed innocent of the charge against him. This presumption apparently stems from the Latin legal principle: ***ei incumbit probatio qui dicit, non qui negat*** which means that the burden of proof rests on the one who asserts the offense, not one who denies it.

This presumption remains with them throughout every stage of the trial and during your deliberation on the verdict, and is not overcome unless from all the evidence in this case you are convinced beyond a reasonable doubt the defendants are guilty. The presumption of innocence with which the defendant enters into the trial is a fact in this case which must be considered by you with all the evidence and is not to be disregarded by you. The presumption of innocence attends a defendant as a matter of evidence and is sufficient to acquit the defendant unless you are satisfied beyond a reasonable doubt of the defendant's guilt.

The Defendant is charged with the crime of offering a false instrument for recording against a public servant.

A person commits the crime of offering a false instrument for recording against a public servant if the person offers, for recording, a written instrument which relates to or affects the real or personal property, or an interest therein, or a contractual relationship of a public servant, knowing that the written instrument contains a materially false statement or materially false information, with the intent to defraud, intimidate, or harass the public servant, or to impede the public servant in the performance of his or her duties.

To convict, the State must prove beyond a reasonable doubt each of the following elements of offering a false instrument for recording against a public servant:

The defendant offered written instrument for recording in a public office against a public servant.

The written instrument relates to or affects the real or personal property, or an interest therein, or a contractual relationship of a public servant.

The defendant filed the instrument knowing it contained a materially false statement or materially false information.

The defendant did so with the intent to defraud, intimidate, or harass the public servant, or to impede the public servant in the performance of her duties.

The defendant acted intentionally.

A public servant is any officer or employee of government, including legislators and judges and any person or agency participating as an adviser, consultant, or otherwise in performing a governmental function.

A person acts intentionally with respect to a result or to conduct when his or her purpose is to cause that result or to engage in that conduct.

If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of the offense of offering a false instrument for recording against a public servant, as charged in the indictment, then you shall find the defendant guilty of **offering a false instrument for recording against a public servant.**

If you find that the state has failed to prove any one or more elements of the offense of **offering a false instrument for recording against a public servant** as charged in the indictment, you cannot find the Defendant guilty. It would be your duty to find him not guilty.

I have used the word "INTENT" in my charge and I charge you that a person acts intentionally with respect to a result or conduct described by statute defining an offense when his purpose is to cause that result or to engage in that conduct. Intent is a state of mind. Intent can be formed in an instant. There is no requirement in the law that the intent to commit a crime be formed well in advance of committing the crime or be premeditated. There is generally no way to prove intent by positive evidence. So, a jury has a right to take into consideration all the evidence of all the surrounding facts in determining what that persons' intent was at a given time.

In my instructions to you, I have used the phrase REASONABLE DOUBT. A reasonable doubt is a doubt for which you have a reason. A reasonable doubt is not a mere guess or surmise and is not a forced or capricious doubt. If after considering all the evidence in this case, you have an abiding conviction of the truth of the charge, then you are convinced beyond a reasonable doubt. It would then be your duty to convict the defendant. The reasonable doubt which entitles an accused to an acquittal is not a mere fanciful, vague, conjectural, or speculative doubt; but a reasonable doubt arising from the evidence and remaining after a careful consideration of the testimony, such as reasonable fair-minded and conscientious men would entertain under the circumstances. Now, you will observe that the State is not required to convince you of the defendant's guilt beyond all doubt, but simply beyond all reasonable doubt. If after comparing and considering all of the evidence in this case your minds are left in such a condition you cannot say you have an abiding conviction of the defendant's guilt, then you are not convinced beyond a reasonable doubt, and the defendant would be entitled to be acquitted. If the jury has a reasonable doubt of the defendant's guilt growing out of the evidence -- any part of it or lack of evidence -- the defendant must be acquitted.

Proof beyond a reasonable doubt does not require absolute proof or proof beyond all doubt or proof to a mathematical certainty. A reasonable doubt which would justify an acquittal of the defendant must be an actual doubt, not a mere guess or supposition. A reasonable doubt must not be vague, conjectural or speculative doubt. It must be a doubt based upon reason and common sense which remains in your minds after a careful consideration of all the evidence. A reasonable doubt may arise from a lack of evidence, a conflict in evidence, a contradiction in the testimony of witnesses, or any combination of those factors. A reasonable doubt is not a mere possible doubt, because everything that occurs and requires us to make decisions in our daily lives is open to some imaginary or possible doubt. Proof beyond a reasonable doubt must, therefore, be proof of such a character that a reasonable person would not hesitate to rely and act upon it in the most

important of his or her everyday affairs. *Cage v. Louisiana*, 498 U.S. 39, 111 S.Ct. 328, 112 L.Ed.2d 339 (1990).

In determining what the true facts are in this case, you are limited to the evidence as presented from the witness stand and the exhibits which we have marked into evidence. What the lawyers have said in this case is not evidence and should not be considered by you as such. It occupies a special category and that category is like the indictment. It is not evidence. They have a right and a duty at the appropriate time throughout the trial to argue the evidence as they remember it coming from the witness stand. However, the final arbiter and decision as to what the evidence is to be, is what you remember it to be, not what the lawyers say they remember it to be.

The defendant has chosen to testify in this case and the State has introduced evidence of prior felony convictions for impeachment purposes. You must not consider these prior felony convictions as evidence of the guilt or innocence of the defendant in this case. Evidence of prior felony convictions may only be used in weighing the credibility of the defendant and for no other purpose.

I have a unique position in this proceeding. I instruct you as to what the law of the State of Alabama is. I have no opinion as to the facts. It would be improper for me to have an opinion regarding the facts. Do not let any ruling I have made or anything I have said give you the impression that I think one way or another about the facts. Your duty is to determine the facts, take the testimony of the witnesses together with all proper and reasonable inferences therefrom, apply your common sense and in an impartial and honest way determine what you believe to be the truth.

There are certain principles of law which may help you in arriving at a verdict. It is your duty to try to reconcile all the testimony so that each witness will have spoken the truth. In the event that it is not possible to reconcile the testimony, then you may determine for yourselves wherein the truth lies, and in so doing, you may accept or reject any part of the testimony of any witness in this case and consider only the testimony that you consider to be worthy of belief.

In determining what the true facts are, you may take into consideration any natural interest or bias that a witness has as a result of any connection with the case. You may take into consideration the demeanor of the witness on the witness stand as to whether the witness testified frankly or evasively. You may, in short, use your good common sense in trying to arrive at the truth and find out what the true facts are.

In the event the jury determines that any witness, after being sworn, has intentionally testified falsely to any material fact, then you in your discretion may disregard that witness' entire testimony. This principle of law is based on the theory that if a witness has intentionally testified falsely as to one material fact while under oath he or she may well testify falsely to other material facts. However, that is a willful testifying falsely. That does not apply in cases where a witness is confused or his or her memory might be a little vague because of a lapse of time, but only where you feel that under oath he or she has testified willfully falsely, under oath, to a fact which is material.

If you find a conflict in the evidence, you may look to the opportunity and means of knowledge of the witnesses. You may look to the opportunities of the witnesses for observing and knowing the facts testified to in determining wherein the truth lies.

You are the sole judges of the evidence and of the credibility of the witnesses. You may accept or reject any part of the testimony of any witness and you should accept only the testimony you consider worthy of belief. In determining the weight to be accorded the testimony of any witness, you may consider the demeanor of the witness while on the witness stand; his apparent candor or evasion or the existence or non-existence of any bias or interest.

Lay witnesses have testified in this case and have been permitted to express an opinion and/or draw a conclusion. In passing upon the facts you are not required to accept the conclusions or expressed opinions of *these* witnesses, but must determine for yourselves the weight to be accorded to such testimony and evidence when considered in connection with all the other evidence material to the issue.

The defendant brought up certain procedural rulings by the court before the trial. I may have allowed some of argument to be made. However, pre-trial rulings are not to relevant and not to be considered by you in considering your verdict. These rules are not relevant to the charges against him.

When a defendant choose to represent himself he is known as a pro se defendant. The defendant has the absolute right to represent himself. You are not to drawn any negative inference from the fact that the defendant is representing himself. Neither are you allowed to show sympathy for the defendant because he is representing himself. He is required to abide by and conform to the same rules of law and court that a lawyer has. If I seem to have shown any impatience with the defendant please disregard it as I have no opinion as to the facts of the case or what.



Your verdict must be unanimous. That means it must be the verdict of each and every one of you, and it must be based on the evidence. Unanimous mean 12 to 0 either to find the Defendant guilty or to find him not guilty. A handful of state allow non-unanimous jury verdict in criminal cases. Basically the U.S. Supreme court was held that the ratio must be 9 to 3 in those cases. In civil cases a majority of states now have non-unanimous jury verdicts. But you don't need to try to understand all that because ours is a lot simpler, 12-0 to find guilty 12-0 to find guilty

As I have said, your verdict must be based upon the evidence and the just and reasonable inferences from the evidence. Furthermore, you must not permit sympathy, prejudice, or emotion to influence you, and you must not let your verdict be influenced by speculation or conjecture. Your verdict must be unanimous. It must be the independent verdict of each and every juror.

In a minute I am going to turn the case over to you but first you all seem pretty smart and have figured out that there are not 12 of you there are 14. That's because 2 of you are alternate jurors. We do this because the law requires a 12 person jury and if one of you should have a family emergency or get ill I want to be able to let you go. If we didn't have alternates then I would have to declare a mistrial and retry the case in a couple of months. You don't realize how much stress everyone is under so if it possible for you all to bring back a verdict we want you too. At least I have this area covered. Is everyone feeling alright? Nobody is ill or have a family member that is ill that would require you attention say for the rest of today and perhaps into tomorrow. Alright, I am going to call out the names of the two alternates. If you would pick up anything you have out of the jury room and go with Theresa, Let me tell you this right nw. In this case as in every other

case I issue an order that prohibits either side or anyone working on their behalf from contacting you in any way. Here is a copy of the order . If anyone does call this office and we will stop it by putting somebody in Metro Jail. But of court this does not apply to the media, your neighbor or just a private citizen as they are not parties to this case.

Mr.\_\_\_\_\_ and Mrs.\_\_\_\_\_ you are our alternates, please go with Theresa. The rest of you go into the jury room, elect a foreperson but don't do anything else. I may have left something out that the lawyers thought I was going to give and now is the time to correct it.

