

DELIBERATIONS

I will now give you some information on the final part of these instructions on conducting your deliberations.

There is nothing different in the way a jury is to consider the proof in a criminal case from that in which all reasonable persons treat any questions depending upon evidence presented to them. You are expected to use your own good common sense; consider the evidence for only those purposes for which it has been admitted and give it a reasonable and fair construction in the light of your knowledge of how people behave. It is the quality of the evidence, not simply the number of witnesses that control.

As I said before, any exhibit that has not been marked into evidence cannot be given to you in the jury room even though it may have been marked for identification. Only those items marked in evidence can be given to you.

Very shortly you will go into the jury room to start your deliberations. I remind you that, during deliberations, and, in fact, any time that you are in the jury deliberation room, you must keep any cell phone, pager or other communication device you may possess turned off.

You are to apply the law as I have instructed you to the facts as you find them to be, for the purpose of arriving at a fair and correct verdict. The verdict must represent the considered judgment of each juror and must be unanimous as to each charge. This means all of you must agree if the defendant is guilty or not guilty on each charge.

It is your duty, as jurors, to consult with one another and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to re-examine your own views and change your opinion if convinced it is erroneous but do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict. You are not partisans. You are judges--judges of the facts.

UNANIMOUS VERDICT

You may return on each crime charged a verdict of either not guilty or guilty. Your verdict, whatever it may be as to each crime charged, must be unanimous. Each of the twelve

CRIMINAL FINAL CHARGE

Part 4 (Deliberations to Jury Questions)

members of the deliberating jury must agree as to the verdict.¹

INSTRUCTIONS AS TO VERDICT FORM

To assist you in reporting a verdict I have prepared a verdict sheet for you. You will have this with you in the jury room. This verdict form is not evidence. This form is only to be used to report your verdict.

[Go Over Form With Jury]

JURY QUESTIONS

If, during your deliberations, you have a question or feel that you need further assistance or instructions from me, or wish to have certain testimony read or played back (or video or audio exhibit played back), write your question or request on a sheet of paper and give it to the sheriff's officer who will be standing at the jury room door who, in turn, will give it to me. That court officer will be sworn to perform certain duties, such as keeping the jury together in a private place for purposes of deliberations, and ensuring that no one speaks with you except by order of the court.

You are not to discuss with or ask the officer about trial matters or procedures. Please be aware that the officer is also instructed not to initiate communications with you, or to enter the deliberation room without your consent, except to communicate on my behalf regarding administrative matters, such as information about breaks or meals, or otherwise to ensure your comfort. If the officer must enter the deliberation room, the officer will knock first and complete the officer's responsibilities without delay. When the officer enters the room, please stop your deliberations and do not resume until the officer has left and closed the door.

Once I receive your question or request, I will go over it with the lawyers and will try to answer it as quickly as possible. Please be patient. If you do send out a question do not disclose where you stand on your deliberations. Do not tell us, as an example, that you are 10 to 2 or 8 to 4 on a given charge. If you have reached a unanimous verdict on each charge, knock on the door and let the officer know that and we will bring you into court as soon as possible to receive your verdict.

¹ See State v. Milton, 178 N.J. 421 (2004), setting forth the process to be used in determining the unanimity of the verdict. In some cases, a specific unanimity instruction is appropriate. See State v. Parker, 124 N.J. 628 (1991) and State v. Frisby, 174 N.J. 583 (2002). In those cases, a judge should instruct a jury that it must be unanimous as to a particular theory of a case or as to a particular set of facts. The Judge must also provide the jury a special verdict form in such cases.

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I have come to the end of my charge.

[Do sidebar to give counsel opportunity to note objections on the record or excuse jury for that purpose]

[Recharge if Necessary]