

PROPOSED CRIMINAL JURY INSTRUCTIONS

Preliminary Instructions:

Members of the jury: This is a criminal case brought by the State of Indiana against Barbara Townsley. She is charged with attempted murder and assault for shooting her husband. She has pleaded not guilty to the charge. The fact that she has been charged is not evidence of guilt. The State must prove beyond a reasonable doubt each element of the offenses charged. Until then, the defendant is presumed to be innocent of the charges against her.

The trial will proceed in the following order: First, the attorneys will make their opening statements, in which they explain to you the evidence they will introduce and the issues they will address.

Second, the state will present its evidence through witnesses and exhibits. During this stage, the law requires the State to introduce enough evidence to convince you beyond a reasonable doubt that the defendant is guilty of the crimes charged. When the State has finished, the defense has the opportunity to present evidence of innocence. The defendant may offer evidence or may not. She has no obligation to prove her innocence. She is presumed innocent, and the burden of proof is on the state to prove otherwise. During the evidence phase, the witnesses are first examined by the lawyer who calls them and may then be cross-examined by the lawyer for the other side. There may be objections, and you must not consider any evidence that is stricken or that you are told to disregard.

At the end of the trial, the attorneys will present their closing arguments, in which they summarize evidence and discuss the case. What the lawyers say is not evidence, however. After closing arguments, I will give you some further instructions about the law and you will retire o deliberate.

It is your duty throughout the trial to be fair and impartial, and keep an open mind. You should not form or express an opinion during the trial and should reach no conclusion in this case until you have heard all of the evidence, the arguments of counsel, and the final instructions as to the law.

There will be occasional recesses during the trial. During these recesses you must not discuss the case with anyone, not even your friends. Nor may you look things up on the Internet. Please keep your cell phones turned off.

Concluding Instructions:

Members of the jury. You have now heard the evidence and the arguments of counsel. It is my duty to instruct you on the law, which you are obliged to follow.

It is your duty to determine the facts and decide what happened. The only evidence you may consider is the evidence that was properly admitted at trial. You may not consider any matter that was rejected or stricken by the Court. You may not consider anything you read in the paper or hear from your friends about this case, nor may you do your own investigation or look anything up on the Internet.

You are the sole judges of the weight of the evidence and of the credibility of witnesses. In determining the credibility of any witness and the weight to be given to the testimony of any witness, you may take into account any interest the witness has in the result, and any bias or prejudices the witness disclosed. You may consider the opportunity or lack of opportunity of the witness to observe the events, and the reasonableness of the testimony in light of all the evidence in the case. You are not required to set aside your common knowledge, but may consider the evidence in light of your own experiences in the affairs of life.

Do not let bias, prejudice, or sympathy play any part in your deliberations.

The State must prove beyond a reasonable doubt each element of the offenses charged. There is a presumption of the defendant's innocence in a criminal case. That presumption of innocence should continue and prevail in your minds unless you are convinced of her guilt beyond a reasonable doubt.

Reasonable doubt is not a mere possible doubt, it is a doubt that arises from your consideration of the evidence and one that would cause a careful person to pause and hesitate in the graver transactions of life.

Barbara Townsley is charged with attempted murder. This charge includes the lesser offense of attempted manslaughter. You may find the defendant guilty of one of these offenses or not guilty of either, but you may not convict her of both.

The defendant also is charged with aggravated assault. This is a separate offense, and you should convict or acquit the defendant of assault independently of your decision concerning her guilt of attempted murder.

The first charge is attempted murder. To sustain this charge, the State must prove beyond a reasonable doubt that Barbara Townsley purposely committed an act constituting a substantial step in a course of conduct whose purpose was to cause the death of Nicholas Townsley. A person acts purposely when she has the conscious object to cause death and she formed that intention before acting.

If you have a reasonable doubt of the defendant's guilt on the charge of attempted murder, you should consider whether she is guilty of attempted manslaughter. To sustain this charge, the State must prove beyond a reasonable doubt that Barbara Townsley attempted to cause the death of Nicholas Townsley under circumstances that would be murder except that she acted under the influence of extreme emotional disturbance for which there was a reasonable excuse. You should determine the reasonableness of the excuse from the viewpoint of a person in her situation under the circumstances as she believed them to be.

The second charge is aggravated assault. To sustain this charge, the State must prove beyond a reasonable doubt that Barbara Townsley, with the purpose of causing bodily injury to Nicholas Townsley, caused bodily injury to him by means of a deadly weapon.

The defendant asserts the affirmative defense of self-defense to all charges. To establish this defense, she must prove that she reasonably believed Nicholas Townsley was using or about to use unlawful physical force upon her and that she used only such force which she reasonably believed to be necessary. This is neither a subjective nor an objective standard, but asks you to look at the encounter from the standpoint of a reasonable person in defendant's position.

A defendant may use deadly force in self defense only if three additional circumstances are met: One, the defendant must have perceived that the attack was placing her in imminent threat of serious bodily injury or death; Two, the defendant must have had no reasonable means and opportunity to safely retreat without resorting to deadly force, and Three, the defendant must have given her attacker warning by word or deed if a warning were feasible.

The defendant has the burden of proving self-defense by a preponderance of the evidence. "Preponderance of the evidence" means the greater weight of evidence. If she proves self-defense to you, it is a complete defense to both charges.

Your verdict must be unanimous.

State of Indiana)
 Plaintiff)
)
 vs.)
)
Barbara W. Townsley)
 Defendant)

08608

VERDICT

We the jurors of Monroe County find the defendant:

A. As to Count I of the indictment:

- Not guilty of either Attempted Murder or Attempted Manslaughter.
- Not guilty of Attempted Murder but guilty of Attempted Manslaughter.
- Guilty of Attempted Murder.

B. As to Count II of the indictment:

- Not guilty of Aggravated Assault.
- Guilty of Aggravated Assault.

Jury Foreperson