

JURY INSTRUCTION NO.: C-1

Members of the jury, you have heard all of the testimony and received the evidence and will hear the arguments of counsel shortly. I will now instruct you as to the rules of law which you will apply to this evidence in reaching your verdict.

When you took your places in the jury box, you made an oath that you would follow and apply these rules to the evidence in reaching your verdict in this case. It is, therefore, your duty as jurors to follow the law which I shall now state to you.

You are not to be concerned with the wisdom of any rule of law. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your sworn duty to base your verdict upon any other view of law than that given in these instructions by the Court.

It is your exclusive province to determine the facts in this case and to consider and weigh the evidence for that purpose. The authority thus vested in you is not an arbitrary power, but must be exercised with sincere judgment, sound discretion and in accordance with the rules of law.

Both the State of Mississippi and the defendant have a right to expect that you will conscientiously consider and weigh the evidence and apply the law of the case. It is your duty to determine the facts and to determine them from the evidence produced in open court. You are to apply the law to the facts and in this way decide the case. You should not be influenced by bias, sympathy or prejudice. Your verdict should be based on the evidence and not upon speculation, guesswork or conjecture.

You are instructed that it is as much your sworn duty to acquit the innocent, as it is to convict the guilty. Under the law of the State of Mississippi, all persons are presumed innocent until proven guilty beyond a reasonable doubt.

The evidence which you are to consider consists of the testimony and statement of the witnesses and the exhibit(s) offered and received. You are also permitted to draw such reasonable inferences from the evidence as seem justified in light of your own experience. Arguments, statements and remarks of counsel are intended to help you understand the evidence and apply the law, but are not evidence. If any argument, statement or remark has no basis in the evidence, then you should disregard that argument, statement or remark.

The production of evidence in court is governed by rules of law. From time to time during the trial it has been my duty as judge to rule on the admissibility of evidence. You must not concern yourselves with the reasons for my rulings since they are controlled and governed by the rules of law. You should not infer from my rulings on these motions or objections to the evidence that I have any opinion on the merits favoring one side or the other. You should not speculate as to possible answers to questions which I did not require to be answered. Further, you should not draw any inference from the content of these questions.

You are to disregard all evidence which I excluded from consideration during the course of the trial.

The verdict of the jury must represent the considered judgment of each juror. In other words, all twelve jurors must agree in order to return a verdict in this case. It is your duty as jurors to consult with one another and to deliberate in view of reaching an agreement, if you can do so without violence to your own 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 reexamine your own views and change your opinion if convinced it is erroneous, but

do not surrender your honest convictions as to the weight or effect of the evidence only because of the opinion of your fellow jurors or for the mere purpose of returning a verdict.

In stating the law to you, if I repeat any rule, direction, or idea, or if I state the same in varying ways, no emphasis is intended and you must not draw any inference therefrom. You are not to single out any certain witness, or individual point, or instruction and ignore the others. The order in which these instructions are given has no significance as to their relative importance.

Counsel for both sides will have an opportunity to address you and make their closing or final arguments. Counsel for the State of Mississippi will have the opening argument. Counsel for the defendant will then have the opportunity for argument. Then, in conclusion, counsel for the State of Mississippi will have the opportunity to reply to the argument of counsel for the defendant.

Arguments, statements and remarks of counsel are intended to help you understand the evidence and apply the law, but are not evidence. If any argument, statement or remark has no basis in the evidence, then you should disregard the argument, statement or remark.

The attorneys, in making their arguments to you, will be commenting upon the testimony that you have heard and the evidence that has been presented in this case. They, as you, will be recalling the evidence that has been presented. They will not intentionally try to mislead you. However, if their recollection of the evidence differs from what your recollection is, you must follow your own recollection.