

1 Case No. 19-CR-XXXX1

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6 IN THE JUSTICE COURT OF THE _____ TOWNSHIP

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7 COUNTY OF LYON, STATE OF NEVADA

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9 THE STATE OF NEVADA,
10 COUNTY OF LYON,

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11 Plaintiff,

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12 vs.

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13 JOSEPH KENT,

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14 Defendant.

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15 **INSTRUCTION NO. 1**

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16 LADIES AND GENTLEMEN OF THE JURY:

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17 It is my duty to instruct you in the law that applies to this case and you must follow the law
18 as I state it to you.

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20 As jurors it is your exclusive duty to decide all questions of fact submitted to you for the
21 purpose of determining the effect and value of the evidence. In performing this duty you must not
22 be influenced by pity for the Defendant or by passion or prejudice against him. You must not be
23 biased against the Defendant because he has been arrested for these offenses, or because charges
24 have been filed against him or because he has been brought to trial. None of these facts is evidence
25 of his guilt and you must not infer or speculate from any or all of them that he is more likely to be
26 guilty than innocent.

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28 In determining whether the Defendant is guilty or not guilty, you must be governed solely

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1 by the evidence received in this trial and the law as stated to you by the Court. You must not be
2 governed by mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public
3 feeling. Both the State and the Defendant have a right to expect that you will conscientiously
4 consider and weigh the evidence and apply the law of the case, and that you will reach a just verdict
5 regardless of what the consequences of such verdict may be.
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INSTRUCTION NO. _____

If, in these instructions, any rule, direction or idea is repeated or stated in different ways, no emphasis thereon is intended by me and none must be inferred by you. For that reason, you are not to single out any certain sentence or any individual point or instruction and ignore the others; but you are to consider all the instructions as a whole and regard each in light of all the others.

The order in which the instructions are given has no significance as to their relative importance.

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INSTRUCTION NO. ____

The Defendant is presumed to be innocent until the contrary is proved. This presumption places upon the State the burden of proving by competent evidence beyond a reasonable doubt every material element of the crimes charged and that the Defendant is the person who committed the offenses.

A reasonable doubt is one based on reason. It is not mere possible doubt but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such a condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation.

If you have a reasonable doubt as to the guilt of the Defendant, he is entitled to a verdict of not guilty.

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INSTRUCTION NO. ____

A Criminal Complaint is but a formal method of accusing a person of a crime and is not of itself any evidence of his guilt.

In this case, it is charged in a Criminal Complaint, that on or about November 12, 2019, the Defendant committed one offense of BATTERY WHICH CONSTITUTES DOMESTIC VIOLENCE.

It is the duty of the jury to apply the rules of law contained in these instructions to the facts of the case and determine whether or not the Defendant is guilty of the offenses charged beyond a reasonable doubt.

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INSTRUCTION NO. ____

The Defendant in this case, JOSEPH KENT, is being tried upon an Information filed in the
----JUSTICE COURT charging the Defendant with the following:

**Count I: BATTERY WHICH CONSTITUTES DOMESTIC VIOLENCE, a violation of
NRS 200.485, in the manner following:**

“That on or about October 31, 2019, in the City of Yerington,
County of Lyon, State of Nevada, Defendant did willfully and
unlawfully hit/batter a person with whom the Defendant has a
domestic relationship with, to wit: Defendant did batter his
girlfriend, Lydia Miller, all of which occurred at or near 75
Sunrise Court Apt 10, Yerington, Nevada.”

The Defendant, JOSEPH KENT, entered his plea of "NOT GUILTY" to the charges.

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INSTRUCTION NO. _____

In every crime or public offense there must exist a union, or joint operation of act and intention.

Intention is manifested by the circumstances connected with the perpetration of the offense, and the sound mind and discretion of the person accused.

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INSTRUCTION NO. ____

In order to prove the commission of the crime of Battery which Constitutes Domestic Violence, the State must prove the following elements beyond a reasonable doubt:

1. The Defendant, JOSEPH KENT;
2. Did willfully and unlawfully;
3. Use force or violence,
4. Against or upon the Defendant's spouse or former spouse, any other person to whom the Defendant is related by blood or marriage, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person's minor child or any other person who has been appointed the custodian or legal guardian for the person's minor child.

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INSTRUCTION NO. ____

The word “willful” when used in this criminal statute with respect to conduct relates to an act which is done intentionally, deliberately or designedly, as distinguished from an act done accidentally, inadvertently or innocently.

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INSTRUCTION NO. _____

During the course of this trial you heard evidence of other alleged misconduct not charged in this case, but closely related to the charged offenses. Although you may consider the evidence in conjunction with all the other evidence presented during the course of the trial in determining the guilt or innocence of the Defendant, this evidence shall not be considered by you to show that the Defendant has a bad character or to show that he acted in conformity with this type of character in relation to the crimes charged.

1 **INSTRUCTION NO. _____**

2 The use of self-defense is justified and not unlawful when the person who defends
3 himself actually and reasonably believes:

4 1. That there is imminent danger that the assailant will either kill him or cause him great
5 bodily injury; and
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7 2. That it is absolutely necessary under the circumstances for him to use in self-defense
8 force or means that might cause the death of the other person, for the purpose of avoiding death or
9 great bodily injury to himself.

10 A bare fear of death or great bodily injury is not sufficient. To justify self-defense,
11 the circumstances must be sufficient to excite the fears of a reasonable person placed in a similar
12 situation. The person must act under the influence of those fears alone and not in revenge.

13 An honest but unreasonable belief in the necessity for self-defense does not negate
14 intent.
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16 The right of self-defense is not available to an original aggressor, that is a person
17 who has sought a quarrel with the design to force a deadly issue and thus through his fraud,
18 contrivance or fault, to create a real or apparent necessity for making a felonious assault.

19 However, where a person, without voluntarily seeking, provoking, inviting, or
20 willingly engaging in a difficulty of his own free will, is attacked by an assailant, he has the right
21 to stand his ground and need not retreat when faced with the threat of deadly force.
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23 Actual danger is not necessary to justify self-defense. A person has a right to
24 defend from apparent danger to the same extent as he would from actual danger. The person is
25 justified if:

26 1. He is confronted by the appearance of imminent danger which arouses in his mind an
27 honest belief and fear that he is about to be killed or suffer great bodily injury; and
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2. He acts solely upon these appearances and his fear and actual beliefs; and
3. A reasonable person in a similar situation would believe himself to be in like danger.

If evidence of self-defense is present, the State must prove beyond a reasonable doubt that the defendant did not act in self-defense. If you find that the State has failed to prove beyond a reasonable doubt that the defendant did not act in self-defense, you must find the defendant not guilty.

INSTRUCTION NO. _____

The evidence which you are to consider in this case consists of the testimony of the witnesses, the exhibits, and any facts admitted or agreed to by counsel.

Statements, arguments and opinions of counsel are not evidence in the case. However, if the attorneys stipulate or agree as to the existence of a fact, you must accept the stipulation as evidence, and regard that fact as proved.

You must not speculate to be true any insinuations suggested by a question asked a witness. A question is not evidence and may be considered only as it supplies meaning to the answer.

Any evidence as to which an objection was sustained by the Court, and any evidence ordered stricken by the Court, must be entirely disregarded by you in reaching your verdict.

Anything you may have seen or heard outside the courtroom is not evidence, and must also be disregarded by you in reaching your verdict.

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INSTRUCTION NO. ____

The law recognizes two classes of evidence; one is direct evidence, and the other is circumstantial evidence.

Direct evidence consists of the testimony of every witness who, with any of their own physical senses, perceived an act or occurrence, and who relates what was perceived.

All evidence that is not direct evidence is circumstantial evidence and, insofar as it shows any act or occurrence or any circumstance or fact tending to prove or disprove by reasonable inference one side or the other of an issue, it may be considered by you in arriving at a verdict.

The law makes no distinction between direct and circumstantial evidence, but respects each for such convincing force as it may carry and accepts each as a reasonable method of proof.

INSTRUCTION NO. _____

The degree of credit due a witness should be determined by his or her manner upon the stand, his or her fears, motives, interest, or feelings, his or her opportunity to have observed the matter to which he or she testified, the reasonableness or unreasonableness of the statements he or she makes, and the strength or weakness of his or her recollections.

If you believe that a witness has lied about any material fact in the case, you may disregard the entire testimony of that witness, or any portion of his or her testimony which is not proved by other evidence.

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INSTRUCTION NO. _____

A witness who has special knowledge, skill, experience, training or education in a particular science, profession or occupation is an expert witness. An expert witness may give his opinion as to any matter in which he is skilled.

You should consider such expert opinion and weigh the reasons, if any, given for it. You are not bound, however, by such an opinion. Give it the weight to which you deem it entitled, whether that be great or slight, and you may reject it, if in your judgment the reasons given for it are unsound.

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INSTRUCTION NO. ____

Neither side is required to call as witnesses all persons who may have been present at any of the events disclosed by the evidence or who may appear to have some knowledge of these events, or to produce all objects or documents mentioned or suggested by the evidence.

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INSTRUCTION NO. _____

The law does not compel a Defendant in a criminal case to testify. No presumption of guilt may be raised, and no inference of any kind may be drawn, from the fact that the Defendant did not testify.

The presumption of innocence is enough, in and of itself, to base a finding of not guilty.

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INSTRUCTION NO. ____

At times throughout the trial, the Court has been called upon to pass on the question whether or not certain offered evidence might properly be admitted. You are not to be concerned with the reasons for such rulings and are not to draw any inferences from them. Whether offered evidence is admissible is purely a question of law. In admitting evidence to which an objection is made, the Court does not determine what weight should be given such evidence; nor does it pass on the credibility of the witness. As to any offer of evidence that has been rejected by the Court, you, of course, must not consider the same; as to any question to which an objection was sustained, you must not conjecture as to what the answer might have been or as to the reason for the objection.

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INSTRUCTION NO. _____

If during this trial I have said or done anything which has suggested to you that I am inclined to favor the claims or position of either party, you will not suffer yourself to be influenced by any such suggestion.

I have not expressed, nor intended to express, nor have I intended to intimate, any opinion as to which witnesses are, or are not, worthy of belief; what facts are, or are not, established; or what inferences should be drawn from the evidence. If any expression of mine has seemed to indicate an opinion relating to any of these matters, I instruct you to disregard it.

1 **INSTRUCTION NO. _____**

2 Although you are to consider only the evidence in the case in reaching a verdict, you must
3 bring to the consideration of the evidence your everyday common sense and judgment as reasonable
4 men and women. Thus, you are not limited solely to what you see and hear as the witnesses testify.
5 You may draw reasonable inferences which you feel are justified by the evidence, keeping in mind
6 that such inferences should not be based on speculation or guess.
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8 A verdict may never be influenced by sympathy, prejudice or public opinion. Your decision
9 should be the product of sincere judgment and sound discretion in accordance with these rules of
10 law.
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INSTRUCTION NO. _____

When you retire to consider your verdict, you must select one of your numbers to act as foreperson, who will preside over your deliberation and will be your spokesman here in court.

During your deliberation you will have all the exhibits which were admitted into evidence, these written instructions and forms of verdict which have been prepared for your convenience.

The forms which have been prepared are for both guilty and not guilty verdicts and only one must be signed for each Count.

Your verdict must be unanimous. As soon as you have agreed upon a verdict, have it signed and dated by your foreman and then return with it to this room.

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INSTRUCTION NO. _____

If, during your deliberation, you should desire to be further informed on any point of law or hear again portions of the testimony, you must reduce your request to writing signed by the foreperson. The officer will then return you to the court where the information sought will be given you in the presence of, and after notice to, the district attorney and the Defendant and his counsel.

Readbacks of testimony are time-consuming and are not encouraged unless you deem it a necessity. Should you require a readback, you must carefully describe the testimony to be read back so that the court reporter can arrange her notes. Remember, the court is not at liberty to supplement the evidence.

INSTRUCTION NO. _____

The Court instructs you as follows:

1. That, in order to return a verdict, each juror must agree thereto.
2. That jurors have a duty to consult with one another and to deliberate with a view to reaching an agreement, if it can be done without violence to individual judgment.
3. That each juror must decide the case for him or herself, but only after an impartial consideration of the evidence with his fellow jurors.
4. That, in the course of deliberations, a juror should not hesitate to re-examine his or her own views and change his or her opinion, if convinced it is erroneous.
5. That no juror should surrender his or her honest conviction as to the weight or effect of the evidence solely because of the opinion of his or her fellow jurors, or for the mere purpose of returning a verdict.

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INSTRUCTION NO. _____

Now you will listen to the arguments of counsel, who will endeavor to aid you to reach a proper verdict by refreshing in your minds the evidence, and by showing the application thereof to the law; but, whatever counsel may say, you will bear in mind that it is your duty to be governed in your deliberation by the evidence as you understand it and remember it to be, and by the law as given you in these instructions, with the sole, fixed and steadfast purpose of doing equal and exact justice between the Defendant and the State of Nevada.

DATED: This _____ day of MONTH, 2019.

Given,

JUSTICE OF THE PEACE