

**STIPULATED JURY INSTRUCTIONS**  
*State v. Manny Rayfield*  
*Curr County Circuit Court Case No. 09-3031*  
*State of New Maine*

<b>Instruction Number</b>	<b>Instruction Description</b>
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2.	Functions of the Court and Jury
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4.	Definition of Direct and Circumstantial Evidence
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**INSTRUCTION No. 1**  
**PRELIMINARY INSTRUCTIONS**

*(Note: Instruction No. 1 was given by the Court to the members of the jury prior to taking testimony)*

*Introductory Paragraphs*

Ladies and gentlemen: You are now the jury in this case, and I want to take a few minutes to tell you something about your duties as jurors and to give you some instructions.

At the end of the trial, I will give you more detailed instructions. Those instructions will control your deliberations.

One of my duties is to decide all questions of law and procedure. From time to time during the trial and at the end of the trial, I will instruct you on the rules of law that you must follow in making your decision. You should not take anything I may say or do during the trial as indicating what I think of the evidence or what your verdict should be.

*Order of Trial*

The trial will proceed in the following manner:

First, the State's attorney may make an opening statement. Next, Defendant's attorney may make an opening statement. An opening statement is not evidence but is simply a summary of what the attorney expects the evidence to be.

After the opening statements, the State will call witnesses and present evidence. Then, the Defendant will have an opportunity to call witnesses and present evidence. After the parties' main cases are completed, the State may be permitted to present rebuttal evidence. After the evidence has been presented, I will instruct you on the law that applies to the case and the attorneys will make closing arguments. After that, you will go to the jury room to deliberate on your verdict.

*Charges and Defenses*

The positions of the parties can be summarized as follows:

This case involves criminal charges by the State of New Maine against the Defendant, Manny Rayfield. The Defendant has been charged with animal fighting (Count I of the Indictment) and the unlicensed practice of veterinary medicine (Counts II and III of the Indictment).

Defendant has pleaded not guilty to each of these three charges.

### *Evidence in the Case*

The evidence consists of the testimony of the witnesses, the exhibits admitted in evidence, and any facts that I may instruct you to find or that the parties may agree or stipulate to. A stipulation is an agreement between both sides that certain facts are true.

### *Credibility of Witnesses*

You will have to decide whether the testimony of each of the witnesses is truthful and accurate, in part, in whole, or not at all. You also have to decide what weight, if any, you give to the testimony of each witness.

### *Inferences*

You should use common sense in weighing the evidence and consider the evidence in light of your own observations in life.

In our lives, we often look at one fact and conclude from it that another fact exists. In law we call this “inference.” A jury is allowed to make reasonable inferences. Any inference you make must be reasonable and must be based on the evidence in the case.

### *What is Not Evidence; Evidence for Limited Purpose*

The following things are not evidence, and you must not consider them as evidence in deciding the facts of this case: the attorneys’ statements, arguments, questions, and objections of the attorneys; any testimony that I instruct you to disregard; and anything you may see or hear when the court is not in session even if what you see or hear is done or said by one of the parties or by one of the witnesses.

### *Rulings on Objections*

From time to time during the trial I may be called upon to make rulings of law on objections or motions made by the lawyers. You should not infer or conclude from any ruling or other comment I may make that I have any opinions about how you should decide this case. And if I should sustain an objection to a question that goes unanswered by a witness, you should not guess or speculate what the answer might have been, and you should not draw any inferences or conclusions from the question itself.

### *Objections of Counsel*

The lawyers for the parties in this trial have a duty to object to what they feel are improper questions asked of the witnesses. You should not draw any conclusion for

either side from the fact that an objection was made to any question and that the witness may not have been permitted to answer it.

### *Jury Conduct*

All jurors must follow certain rules of conduct, and you must follow them, too.

First, you must not discuss this case with anyone, including your fellow jurors, members of your family, people involved in the trial, or anyone else. You must not let others discuss the case with you. If anyone tries to talk to you about the case please let me know about it immediately.

Second, you must not read any news stories or articles or listen to any radio or television reports about the case or about anyone who has anything to do with it.

Third, you must not do any research, such as consulting dictionaries, searching the Internet or using other reference materials, and do not make any investigation about the case on your own.

Fourth, you must not make up your mind about what the verdict should be until after you have gone to the jury room to decide this case and you and your fellow jurors have discussed the evidence. Keep an open mind until then.

## **INSTRUCTION No. 2 FUNCTIONS OF THE COURT AND THE JURY**

Members of the jury, you have seen and heard all the evidence and arguments of the attorneys. Now I will instruct you on the law.

You have two duties as a jury. Your first duty is to decide the facts from the evidence in the case. This is your job, and yours alone.

Your second duty is to apply the law that I give you to the facts. You must follow these instructions, even if you disagree with them. Each of the instructions is important, and you must follow all of them.

Perform these duties fairly and impartially.

Nothing I say now, and nothing I said or did during the trial, is meant to indicate any opinion on my part about what the facts are or about what your verdict should be.

**INSTRUCTION No. 3**  
**PRESUMPTION OF INNOCENCE OF DEFENDANT**  
**AND PROOF BEYOND A REASONABLE DOUBT**

The defendant is presumed innocent unless and until the defendant is proven guilty beyond a reasonable doubt. The burden is on the State to prove the guilt of the defendant beyond a reasonable doubt.

Reasonable doubt is doubt based on common sense and reason. Reasonable doubt means an honest uncertainty as to the guilt of the defendant. Reasonable doubt exists when, after careful and impartial consideration of all the evidence in the case, you are not convinced to a moral certainty that the defendant is guilty. The Defendant is never required to prove his innocence or to produce any evidence at all.

**INSTRUCTION No. 4**  
**DEFINITION OF “DIRECT” AND “CIRCUMSTANTIAL” EVIDENCE**

You may have heard the phrases “direct evidence” and “circumstantial evidence.”

Direct evidence is proof that does not require an inference, such as the testimony of someone who claims to have personal knowledge of a fact. Circumstantial evidence is proof of a fact, or a series of facts, that tends to show that some other fact is true.

As an example, direct evidence that it is raining is testimony from a witness who says, “I was outside a minute ago and I saw it raining.” Circumstantial evidence that it is raining is the observation of someone entering a room carrying a wet umbrella.

The law makes no distinction between the weight to be given to either direct or circumstantial evidence. You should decide how much weight to give to any evidence. In reaching your verdict, you should consider all the evidence in the case, including the circumstantial evidence.

**INSTRUCTION No. 5**  
**TESTIMONY OF WITNESSES (DECIDING WHAT TO BELIEVE)**

You must decide whether the testimony of each of the witnesses is truthful and accurate, in part, in whole, or not at all. You also must decide what weight, if any, you give to the testimony of each witness.

In evaluating the testimony of any witness, including any party to the case, you may consider, among other things:

- the ability and opportunity the witness had to see, hear, or know the things that the witness testified about;
- the witness's memory;
- any interest, bias, or prejudice the witness may have;
- the witness's intelligence;
- the manner of the witness while testifying; and
- the reasonableness of the witness's testimony in light of all the evidence in the case.

**INSTRUCTION No. 6  
DEFENDANT'S STATEMENTS**

When a witness testifies about statements made by the defendant, you should consider such testimony with caution.

In reviewing such testimony, you should consider, among other things, the following:

- (1) Did the defendant make the statement, and, if so, did the defendant clearly express what [he / she] intended to say?
- (2) Did the witness correctly hear and understand what the defendant said?
- (3) Did the witness correctly remember and relate what the defendant said?
- (4) Did the witness intentionally or mistakenly alter some of the words used by the defendant, thereby changing the meaning of what was actually said?

If, after weighing such factors, you conclude that the defendant said what [he / she] intended to say and that the witness to the statement correctly understood, remembered, and related to you what the defendant said, then you are authorized to consider such statements for what you deem them to be worth.

**INSTRUCTION No. 7  
WITNESS FALSE IN PART**

A witness who lies under oath in some part of his or her testimony is likely to lie in other parts of his or her testimony. Therefore, if you find that a witness has lied in some part of his or her testimony, then you may distrust the rest of that witness's testimony.

Sometimes witnesses who are not lying may give incorrect testimony. They may forget matters or may contradict themselves. Also, different witnesses may observe or remember an event differently.

You have the sole responsibility to determine what testimony, or portions of testimony, you will or will not rely on in reaching your verdict.

**INSTRUCTION No. 8**

## **WITNESS'S PRIOR CONVICTION**

If you find that a witness has been convicted of a crime, you may consider this conviction only for its bearing, if any, on the believability of the witness's testimony.

## **INSTRUCTION No. 9 ABSENCE OF EVIDENCE**

The law does not require any party to call as a witness every person who might have knowledge of the facts related to this trial. Similarly, the law does not require any party to present as exhibits all papers and things mentioned during this trial.

## **INSTRUCTION No. 10 EXPERT WITNESSES**

You have heard witnesses give opinions about matters requiring special knowledge or skill. You should judge this testimony in the same way that you judge the testimony of any other witness. The fact that such person has given an opinion does not mean that you are required to accept it. Give the testimony whatever weight you think it deserves, considering the reasons given for the opinion, the witness's qualifications, and all of the other evidence in the case.

## **INSTRUCTION No. 11 NONEXPERT OPINION EVIDENCE**

Although a witness may be allowed to state his or her opinion, you are not required to accept that opinion. To determine what value, if any, you will give to a witness's opinion you should consider such things as the witness's opportunity and ability to form the opinion, the witness's believability, and how the witness reached the opinion.

## **INSTRUCTION No. 12 DEFENDANT NOT TESTIFYING**

A defendant has an absolute constitutional right not to testify. Therefore, a defendant's decision not to testify cannot be considered as an indication of guilt. It should not be commented on or in any way considered by you in your deliberations.

**INSTRUCTION No. 13**  
**ACCOMPLICE WITNESS—DEFINITION**

A witness is an accomplice witness if he could be charged with the same crime or crimes as that with which the defendant is charged. Therefore, under the circumstances of this case, despite the grant of immunity by the prosecutor, Billy Rayfield is an accomplice as he could have been charged by the State with the same crimes as the defendant.

**INSTRUCTION No. 14**  
**ACCOMPLICE TESTIMONY**  
**(View with Distrust)**

As an accomplice witness, I instruct you that you should view Billy Rayfield's witness's testimony with distrust.

**INSTRUCTION No. 15**  
**ACCOMPLICE—CORROBORATION**

The testimony of an accomplice in and of itself is not sufficient to support a conviction. There must be in addition some evidence other than the testimony of an accomplice that tends to connect the defendant with the commission of the crime.

This other evidence, or corroboration, need not be sufficient by itself to support a conviction but it must tend to show something more than just that a crime was committed. It must also connect or tend to connect the defendant with the commission of the crime.

**INSTRUCTION No. 16**  
**CRIMINAL CHARGES**

**THE CHARGE - THE INDICTMENT**

The indictment in this case is the formal method of accusing the Defendant of an offense and placing the Defendant on trial. It is not evidence against the Defendant and does not create any inference of guilt.

The Defendant is charged with the offenses of dogfighting (Count I as to all nine dogs) and two counts of practicing veterinary medicine without a license (Count II as to the dog



named Shred and III as to the dog named White Fiend). The Defendant has pleaded not guilty to each of these three charges.

### **DOGFIGHTING IN VIOLATION OF STATE STATUTE (Count I)**

In the State of New Maine, it is unlawful for any person to own, possess, keep or train any animal with the intent that the animal be engaged in an exhibition of fighting.

The State contends that the Defendant violated the New Maine dogfighting statute. The Defendant is entitled to the presumption of innocence unless the State proves, beyond a reasonable doubt, all elements of the crime of dogfighting. Accordingly, it is the State's burden to convince you beyond a reasonable doubt that:

- The Defendant owned, possessed, kept or trained an animal;
- The Defendant intended the animal to be engaged in an exhibition of fighting.

A person acts "intentionally" or "with intent" when that person acts with a conscious objective either:

- (1) To cause a particular result; or
- (2) To engage in particular conduct.

If you find from your consideration of all the evidence that each of the above elements are satisfied beyond a reasonable doubt, then you should find the Defendant guilty of dogfighting in violation of state statute.

### **PRACTICING VETERINARY MEDICINE WITHOUT A LICENSE (Counts II & III)**

In the State of New Maine, the practice of veterinary medicine is a privilege given only to persons holding a valid veterinary medicine license. To obtain such a license, a person must be qualified by educational training and experience and granted a veterinary license by the State of New Maine.

The State contends that the Defendant has practiced veterinary medicine without a license. The Defendant is entitled to the presumption of innocence unless the State proves, beyond a reasonable doubt, all elements of the crime of practicing veterinary medicine without a license.

To sustain the charge in the indictment relating to the unauthorized practice of veterinary medicine, the State must prove beyond a reasonable doubt that the Defendant committed acts that constitute veterinary medicine. I instruct you that a valid license of veterinary medicine is required to perform the following acts in the State of New Maine:

- Diagnoses, treats, corrects, changes, relieves or prevents animal disease, deformity, injury or other physical, mental or dental conditions by any method or mode, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic or other therapeutic or diagnostic substance, technique or non-surgical procedure; or
- Performs a surgical operation, including cosmetic surgery, upon any animal.

If you find from your consideration of all the evidence that the Defendant committed one or more of the above acts beyond a reasonable doubt, then you should find the Defendant guilty of the unauthorized practice of veterinary medicine.

This concludes the instruction phase of the case and after the clerk administers the oath prior to deliberations, you will be escorted into the jury room to begin your work. A unanimous verdict, meaning all twelve of you must agree on a verdict, is required in this State. The Court thanks you for your attention to this important matter.

END