

FILED

IN THE DISTRICT COURT OF THE CHEROKEE NATION
CRIMINAL DIVISION

2024 MAY -6 PM 3:05

CHEROKEE NATION,
Plaintiff,
vs.
CHAD RAYLEE DANDERSON
DOB: 9/1/1987
Defendant.

Case No. CF-22-2538

DISTRICT COURT
CHEROKEE NATION
COUNTY

NATION'S PROPOSED JURY INSTRUCTIONS

Provided this 6th day of May, 2024

By
Catina R. Drywater, CBA#0864
Assistant Attorney General
Cherokee Nation of Oklahoma

INSTRUCTION NO. _____

CHARGE

The defendant, Chad Raylee Danderson, is charged with the crimes of Stalking and Violation of Protective, committed against Megan McClain within the boundaries of the Cherokee Nation.

To these charges, the defendant has entered a plea of not guilty.

INSTRUCTION NO. _____

ROLE OF THE JUROR

For those who have been summoned as jurors, I remind you jury service is a legal obligation as well as a civic duty. Each of you is an officer of the court just as the judge, the attorney representing the prosecution, and the attorney representing the defense. Your role as juror is one of extreme public trust. The services you perform as juror are as important and essential to the administration of justice as those performed by the judge and the attorneys.

INSTRUCTION NO. _____

EXPLANATION TO JURY PANEL OF VOIR DIRE

Both the Cherokee Nation and the defendant(s) are entitled to jurors who approach this case with open minds and agree to keep their minds open until a verdict is reached. Jurors must be as free as humanly possible from bias, prejudice, or sympathy. Jurors must not be influenced by preconceived ideas as to the facts or as to the law. As possible jurors you will be questioned to determine your qualifications to serve in this case. The purpose of these questions is to obtain a fair jury. Hence, the law permits unlimited challenges for cause. Moreover, the law grants both the Nation and the Defendant 3 peremptory challenges. A peremptory challenge permits either the Nation or the defendant to excuse a prospective juror for any reason allowed by law. If excused from being a juror in this particular case, it is not a reflection on you. You could be chosen to serve as a juror in another case. Since this is an important part of the trial, it is necessary you take an oath to ensure you answer truthfully all questions asked about your qualifications to serve as jurors. Will you please stand and raise your right hand?

INSTRUCTION NO. _____

OATH ON VOIR DIRE

Do you solemnly swear you will truly and fully answer all questions asked by the Judge and the lawyers to serve as a juror in the case now on trial, so help you God?
[Juror should be required to answer "I do."].

or

Do you affirm under the pains and penalties of perjury to truly and fully answer all questions asked by the Judge and lawyers to serve as a juror in the case now on trial?
[Juror should be required to answer "I do."].

Notes on Use

If any prospective juror has conscientious scruples against taking an oath, such juror may affirm. 22 C.N.C.A. § 602.

INSTRUCTION NO. _____

INITIAL QUALIFYING QUESTIONS

I will now ask you a number of questions to determine your qualifications to serve as jurors in this case. To determine your qualifications, I will need to obtain information from each of you, including some personal information. The purpose of these questions is to obtain a fair jury and it is not to embarrass you. If any of my questions should touch on sensitive subjects you do not want to have heard by everyone present, you should tell me, and you can then come forward so we can discuss those matters privately.

1. Do you reside within the Reservation Boundaries of the Cherokee Nation?
2. The attorney for the Cherokee Nation is Catina Drywater. Do any of you know the attorney for the Cherokee Nation? Has the Attorney General's office handled any matter for any of you?
3. The attorney for the defendant is Kendra Blocker. Do any of you know the attorney for the defendant? Has the attorney for the defendant or her firm represented you on any legal matter?
4. The defendant in this case is Chad Raylee Danderson. Do any of you know the defendant?
5. The witnesses who may be called in this case are:
 - John Epperson, Claremore Police Department
 - Matt Rice, Claremore Police Department
 - Nathan Reed, Claremore Police Department
 - Vicki Rhames, Rogers County Sheriff's Office
 - Megan McClain
 - Allison LaFever
 - Makayla Grimsley

Do any of you know any of the witnesses, or any member of their families?

6. Have any of you read or heard the alleged facts of this case? Have you expressed or formed an opinion concerning this case? Would any information you have read or heard concerning this case influence your ability to hear or decide this case impartially? Have you discussed this case with anyone prior to today?
7. Have any of you had any experience that you feel might affect your consideration of this case?
8. Are you or is anyone in your immediate family employed or involved with a law enforcement agency or organization? Have you or any of your friends

or relatives been connected with law enforcement in the past? Do you hold or have you held a "Reserve Deputy Commission," a "Special Deputy Commission," or an "Honorary Deputy Commission"?

9. Have any of you ever been charged with or accused of a crime? Have any of your close friends or relatives ever been charged with or accused of a crime?
10. Have any of you ever been victims of a crime? Have any of your close friends or relatives ever been victims of a crime?
11. Having been asked these questions, do any of you know at this time any reason why you could not be a fair and impartial juror? If so please raise your hand.
12. The court now requests that each of you give your name, your spouse's name if you are married, your occupation, your spouse's occupation, and the number of children you have. Please speak slowly and clearly. Let us begin with [Note: Indicate the juror who is to begin.]

INSTRUCTION NO. _____

The attorneys for the Cherokee Nation and the defendant will now ask you questions. The questions are not designed to pry into your personal affairs but to discover if you have any information or opinions concerning this case which you cannot lay aside, or personal experiences in your life which might cause you to favor or disfavor the Cherokee Nation or the defendant or persons who may be witnesses. The questions may further be designed to ascertain your attitude on social, religious, or moral issues. These questions are necessary to assure the Cherokee Nation and the defendant an impartial jury.

The attorney for the Cherokee Nation will proceed first.

INSTRUCTION NO. _____

OATH TO THE SELECTED JURY

Do you, and each of you, solemnly swear/affirm that you will well and truly try the issues submitted to you in the case now on trial and reach a true verdict, according to the law and evidence presented to you, (so help you God?)/(this you do affirm under the penalties of perjury)?

INSTRUCTION NO. _____

OPENING INSTRUCTIONS

Members of the Jury: I will now explain your duties as jurors. It is vital to the administration of justice you fully understand and faithfully perform these duties.

It is my duty to determine all of the law applicable to this case and to inform you of that law by these instructions and by the instructions I will give you after all evidence has been received. It is your duty to accept and follow all of these instructions as a whole, not accepting one or more of these instructions and disregarding the others.

It is your duty to determine the facts of this case from the evidence produced in open court. It is then your duty to apply the law, as determined by the court, to the facts as determined by you, and thus render a verdict. You should not allow sympathy or prejudice to influence your decision. Your decision should be based upon probabilities, and not possibilities. It may not be based upon speculation or guesswork.

The evidence which you are to consider consists of the testimony of the witnesses; the exhibits, if any, admitted into evidence; any facts admitted or agreed to by the attorneys; and any facts which I instruct you to accept as true. The term "witness" means anyone who testifies in person, or by deposition, including the parties.

The production of evidence in court is governed by rules of law. From time to time it may be the duty of the attorneys to object to the production of evidence and my duty to rule on these objections. If I say the objection is sustained, you must not consider the testimony or exhibit covered by the objection. If I say the objection is overruled, you may consider the testimony or exhibit covered by the objection. The attorneys' objections, and my rulings upon these objections, together with the reasons for these objections and rulings are not evidence and should not be considered by you.

The statements, remarks and arguments of the attorneys are intended to help you in understanding the evidence and applying the law, but are not evidence. If any statement, remark or argument of an attorney has no basis in the evidence, then you should disregard it.

You are the sole judges of the believability of each witness and the value to be given to the testimony of each. You should take into consideration the witness's means of knowledge, strength of memory and opportunities of observation. Also, consider the reasonableness, consistency or inconsistency of the testimony. You should also consider the bias, prejudice or interest the witness might have in the outcome of the trial, the conduct of the witness upon the witness stand and all other facts and circumstances that affect the believability of the witness.

My rulings and remarks made during the course of this trial are not intended to indicate my opinion as to the facts. During all recesses and adjournments, while this case is in progress, you must not discuss this case, or anything about this case, with anyone, and you must not allow anyone to discuss it with you. This rule applies not only to court

employees, the attorneys involved in this case, and others you may meet in the courthouse, but also to your husband and wife, other members of your family, your friends and anyone else you may meet. If during the trial anyone talks to you or tries to talk to you about this case, you must immediately report it to me, or the **clerk of the court and/or bailiff**, who will report to me.

Do not, before this case is submitted to you for a decision, talk to your fellow jurors about this case or form or express any opinion about it.

Do not read newspaper reports or obtain information from the internet about this trial or the issues, parties or witnesses involved in this case, and do not watch or listen to television or radio reports about it. Do not attempt to investigate this case on your own.

The reasons for these rules are it is essential you should keep your minds free and open at all times throughout this trial and you should not be influenced by anything except the evidence you hear and see in the courtroom. From now on, at the beginning of each recess or adjournment, I will refer to these instructions as "my instructions" or "my usual instructions," but whether or not this is done, you will carefully observe these rules at all times.

INSTRUCTION NO. _____

USE OF CELL PHONES OR OTHER ELECTRONIC DEVICES

Regarding the use of cell phones, computers, other communication or electronic devices (the device), you may not communicate with anyone about the case on your cell phone, through e-mail, Blackberry, iPhone, text messaging, or on Twitter, through any blog or website, through any internet chat room, or by way of any other social networking websites, including Facebook, Instagram, TikTok, MySpace, LinkedIn and YouTube. You as prospective jurors are instructed as follows:

IN THE COURTROOM: Use of the device in the courtroom at any time for any purpose is strictly prohibited. You may not view or send any text, e-mail, or other similar communication nor take photographs, make audio or video recordings, or play games. The device should either be turned off, or placed in a totally silent (not vibrate) mode.

DURING RECESS BREAKS: You may use the device in a normal manner in the hallways or outside the courthouse during recess or breaks from activities in the courtroom, EXCEPT as provided below:

You may not utilize a device to research the law or any matter connected with the case. You may not send, or publish for viewing by any third party, your experiences or observations or any other matter regarding the trial while serving as a juror. You are permitted however to communicate matters regarding scheduling, when you expect to be home, or similar matters. You will not electronically communicate with any other juror during the trial or anyone associated with the trial.

IF YOU ARE SELECTED TO SERVE ON THIS CASE, WHEN JURY DELIBERATIONS BEGIN: At the close of all of the evidence, when you retire to the jury room for your deliberations, the law prohibits your taking the device into the jury room. You will be required to leave your device with the bailiff for safekeeping until you are released from deliberations.

Notes on Use

With the availability of information on the internet jurors may be able to gather information about the case or the parties and witnesses on their own. The cautionary instruction modeled after OUJI-CIV 1.4 is modified to instruct jurors not to investigate the case.

INSTRUCTION NO. _____

OPENING INSTRUCTION – ROADMAP OF TRIAL

At this point in the trial, the attorney for the Nation reads the information, the plea of the defendant(s), and gives an opening statement. The attorney for the defendant(s) may give an opening statement after the attorney for the Nation, or may elect to reserve his opening statement until the conclusion of the evidence by the Nation. Opening statements are not evidence but serve as guides so you may better understand and evaluate the evidence when it is presented.

Following the opening statements, witnesses are called to testify. Witnesses are sworn and then examined and cross-examined by the attorneys. Exhibits may also be introduced into evidence.

After the evidence is completed, I will instruct you on the law applicable to the case. The attorneys are then permitted closing arguments. Closing arguments are not evidence and are permitted for purposes of persuasion only.

When closing arguments are completed, the case will be submitted to you. You will then retire to consider your verdict.

The attorney for the Nation may now proceed.

INSTRUCTION NO. _____

GENERAL CLOSING CHARGE - INTRODUCTION

Since all the evidence in this case has been given to you, it is now my duty, under the law, to give you the instructions that apply in this trial. The instructions contain all rules of the law that are to be applied by you in this case, and all the rules of law by which you are to weigh the evidence and determine the facts in issue in deciding this case and in reaching a verdict. You must consider the instructions as a whole and not as a part to the exclusion of the rest. All the testimony and evidence which it is proper for you to consider has been introduced in this case. You should not consider any matter of fact or of law except what has been given to you while this court is or has been in session.

INSTRUCTION NO. _____

GENERAL CLOSING CHARGE - FUNCTION OF THE JURY

It is your responsibility as jurors to determine the facts from the evidence, to follow the rules of law as stated in these instructions, to reach a fair and impartial verdict of guilty or not guilty based upon the evidence[, and to determine punishment if you should find the defendant guilty] pursuant to your instructions. You must not use any method of chance in arriving at a verdict, but must base your verdict on the judgment of each juror.

INSTRUCTION NO. _____

GENERAL CLOSING CHARGE - CHARGING INSTRUCTION

The defendant, Chad Raylee Danderson, is charged in an information with the crime of Stalking, by repeatedly following and harassing Megan McClain causing her to feel frightened, terrorized, intimidated, threatened and harrassed between April 14, 2022 and August 24, 2022 while a valid Protective Order in Rogers County PO-22-50 was in place ordering him to remain away from Megan McClain in Rogers County, Oklahoma within the Cherokee Nation Reservation.

To this charge the defendant has entered a plea of not guilty.

The defendant, Chad Raylee Danderson, is charged in an information with the crime of Violation of Protective Order, by willfully following Megan McClain in a parking lot and deliberately driving into the lot in order to drive around her and make eye contact on August 24, 2022 while a valid Protective Order in Rogers County PO-22-50 was in place ordering him to remain away from Megan McClain in Rogers County, Oklahoma within the Cherokee Nation Reservation.

To this charge the defendant has entered a plea of not guilty.

INSTRUCTION NO. _____

GENERAL CLOSING CHARGE - PRESUMPTION OF INNOCENCE

The defendant is presumed innocent of the crime charged, and the presumption continues unless, after consideration of all the evidence, you are convinced of his guilt beyond a reasonable doubt. The Nation has the burden of presenting the evidence that establishes guilt beyond a reasonable doubt.

The defendant must be found not guilty unless the Nation produces evidence which convinces you beyond a reasonable doubt of each element of the crime.

INSTRUCTION NO. _____

STALKING IN VIOLATION OF COURT ORDER - ELEMENTS

No person may be convicted of stalking in violation of a court order unless the Nation has proved beyond a reasonable doubt each element of the crime. These elements are:

First, willfully;

Second, maliciously;

Third, repeatedly;

Fourth, followed/harassed another person;

Fifth, in a manner that would cause a reasonable person;

Sixth, to feel frightened/intimidated/threatened/harassed;

Seventh, actually caused the person being followed/harassed to feel terrorized/frightened/intimidated/threatened/ harassed;

Eighth, a protective order prohibited the defendant's actions; and

Ninth, the defendant had actual notice of the issuance of the protective order.

INSTRUCTION NO. _____

DEFINITIONS:

Course of conduct means a pattern of conduct composed of a series of two (2) or more separate acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

Emotional distress means significant mental suffering or distress that may, but does not necessarily require, medical or other professional treatment or counseling.

Harasses means conduct directed toward a person that includes, but is not limited to, repeated or continuing unconsented contact, that would cause a reasonable person to suffer emotional distress, and that actually causes emotional distress to the victim. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose

Unconsented contact means any contact with another individual that is initiated or continued without the consent of the individual, or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Constitutionally protected activity is not included within the meaning of unconsented contact. Unconsented contact includes but is not limited to any of the following:

- a. following or appearing within the sight of that individual;
- b. approaching or confronting that individual in a public place or on private property;
- c. appearing at the work place or residence of that individual;
- d. entering onto or remaining on property owned, leased, or occupied by that individual;
- e. contacting that individual by telephone;
- f. sending mail or electronic communications to that individual; and
- g. placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

INSTRUCTION NO. _____
VIOLATION OF PROTECTIVE ORDER - ELEMENTS

No person may be convicted of violation of a protective order unless the Nation has proved beyond a reasonable doubt each element of the crime. These elements are:

First, a valid protective order;

Second, the defendant had actual notice of the issuance of the protective order;

Third, the protective order prohibited the defendant's actions;

Fourth, the defendant's actions were willful.

INSTRUCTION NO. _____

EVIDENCE - INFERENCES

You should consider only the evidence introduced while the court is in session. You are permitted to draw such reasonable inferences from the testimony and exhibits as you feel are justified when considered with the aid of the knowledge which you each possess in common with other persons. You may make deductions and reach conclusions which reason and common sense lead you to draw from the fact which you find to have been established by the testimony and evidence in the case.

INSTRUCTION NO. _____

DIRECT EVIDENCE DEFINED

"Direct evidence" is the testimony of a person who asserts actual, personal knowledge of a fact, such as the testimony of an eyewitness. "Direct evidence" may also be an exhibit such as a photograph which demonstrates the existence of a fact. It is proof which points immediately to a question at issue and which proves the existence of a fact without inference or presumption.

INSTRUCTION NO. _____

EVIDENCE - RIGHT OF ATTORNEY TO INTERVIEW WITNESSES

An attorney has the right to interview his/her witnesses for the purpose of learning the testimony the witness will give. The fact that the witness has talked to an attorney and told the attorney what he/she would testify to does not, by itself, reflect adversely on the truth of the testimony of the witness.

INSTRUCTION NO. _____

GENERAL CLOSING CHARGE - DEFINITION OF EVIDENCE

Evidence is the testimony received from the witnesses under oath, stipulations made by the attorneys, and the exhibits admitted into evidence during the trial.

INSTRUCTION NO. _____

**GENERAL CLOSING CHARGE - INFORMATION
OR INDICTMENT NOT EVIDENCE**

The Information in this case is the formal method of accusing the defendant of a crime. The information is not evidence of guilt, and the law is that you should not allow yourselves to be influenced against the defendant by reason of the filing of the Information.

INSTRUCTION NO. _____

GENERAL CLOSING CHARGE - JUDICIAL RULINGS

The Court has made rulings in the conduct of the trial and the admission of evidence. In so doing I have not expressed nor intimated in any way the weight or credit to be given any evidence or testimony admitted during the trial. Nor have I indicated in any way the conclusions to be reached by you in this case.

INSTRUCTION NO. _____

GENERAL CLOSING CHARGE - CREDIBILITY OF WITNESSES

It is your responsibility to determine the credibility of each witness and the weight to be given the testimony of each witness. In determining such weight or credibility, you may properly consider: the interest, if any, which the witness may have in the result of the trial; the relation of the witness to the parties; the bias or prejudice of the witness, if any has been apparent; the candor, fairness, intelligence, and demeanor of the witness; the ability of the witness to remember and relate past occurrences, the means of observation, and the opportunity of knowing the matters about which the witness has testified. From all the facts and circumstances appearing in evidence and coming to your observation during the trial, aided by the knowledge which you each possess in common with other persons, you will reach your conclusions. You should not let sympathy, sentiment or prejudice enter into your deliberations, but should discharge your duties as jurors impartially, conscientiously, and faithfully under your oaths and return such verdict as the evidence warrants when measured by these instructions.

INSTRUCTION NO. _____

GENERAL CLOSING CHARGE - OBJECTIONS

From time to time during this trial, the attorneys have made objections that I have ruled on. You should not speculate upon the reasons why objections were made. If I approved or sustained an objection, you should not speculate on what might have been said or what might have occurred had the objection not been sustained by me.

INSTRUCTION NO. _____

GENERAL CLOSING CHARGE - CLOSING INSTRUCTION

After you have retired to consider your verdict, select one of your number as foreperson and enter upon your deliberations. When you have agreed on a verdict, your foreperson alone will sign it, and you will, as a body, return it in open court. Your verdict must be unanimous. Forms of verdict will be furnished. You will now listen to the argument of counsel, which is a proper part of this trial.

INSTRUCTION NO. _____

RETURN OF VERDICT -- BASIC INSTRUCTION

If you have a reasonable doubt of the defendant's guilt of the charge of Stalking, or you find the Nation has failed to prove each element of Stalking beyond a reasonable doubt, you shall return a verdict of not guilty by marking the Verdict Form as "not guilty".

If you find beyond a reasonable doubt Chad Raylee Danderson committed the crime of Stalking, you shall return a verdict of guilty by marking the Verdict Form as "guilty."

If you find the defendant guilty, you shall then determine the proper punishment. The crime of Stalking is punishable by incarceration of up to 3 years, or by a fine of not more than Five Thousand Dollars (\$5,000.00) or by both such fine and incarceration. When you have decided on the proper punishment, you shall fill in the appropriate space on the Verdict Form for the crime of Stalking and return the verdict to the Court.

INSTRUCTION NO. _____

RETURN OF VERDICT -- BASIC INSTRUCTION

If you have a reasonable doubt of the defendant's guilt of the charge of Violation of Protective Order, or you find the Nation has failed to prove each element of Violation of Protective Order beyond a reasonable doubt, you shall return a verdict of not guilty by marking the Verdict Form as "not guilty".

If you find beyond a reasonable doubt Chad Raylee Danderson committed the crime of Violation of Protective Order, you shall return a verdict of guilty by marking the Verdict Form as "guilty."

If you find the defendant guilty, you shall then determine the proper punishment. The crime of Stalking is punishable by incarceration of up to 1 years, or by a fine of not more than One Thousand Dollars (\$1,000.00) or by both such fine and incarceration. When you have decided on the proper punishment, you shall fill in the appropriate space on the Verdict Form for the crime of Stalking and return the verdict to the Court.

VERDICT FORM

IN THE DISTRICT COURT OF THE CHEROKEE NATION
CRIMINAL DIVISION

CHEROKEE NATION,
Plaintiff,

v.

CHAD RAYLEE DANDERSON
DOB: 9/1/1987
Defendant.

Case No. CF-22-2538

VERDICT

COUNT 1 – STALKING

We, the jury, empaneled and sworn in the above-entitled cause, do, upon our oaths,
find as follows:

Defendant is:

_____ Guilty and fix punishment at _____.

_____ Not Guilty.

FOREPERSON

VERDICT FORM

IN THE DISTRICT COURT OF THE CHEROKEE NATION
CRIMINAL DIVISION

CHEROKEE NATION,
Plaintiff,

v.

CHAD RAYLEE DANDERSON
DOB: 09/1/1987
Defendant.

Case No. CF-22-2538

VERDICT

COUNT 2- VIOLATION OF PROTECTIVE ORDER

We, the jury, empaneled and sworn in the above-entitled cause, do, upon our oaths,
find as follows:

Defendant is:

_____ Guilty and fix punishment at _____.

_____ Not Guilty.

FOREPERSON