

N.C.P.I.—Crim—100.25

PRECAUTIONARY INSTRUCTIONS TO JURORS. (TO BE GIVEN AFTER JURY IS IMPANELED.)

CRIMINAL VOLUME

JUNE 2013

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100.25 PRECAUTIONARY INSTRUCTIONS TO JURORS. (TO BE GIVEN AFTER JURY IS IMPANELED.)

Ladies and Gentlemen, you have been selected and impaneled to serve as jurors in the case of the State of North Carolina versus *(insert name of defendant)*.

At this time I want to explain to you the manner in which we will proceed as we attempt together to find the truth in this case. First, the attorneys will have an opportunity to make opening statements. The purpose of an opening statement is narrow and limited. It is an outline of what the attorney believes the competent and admissible evidence will be. An opening statement is not evidence and must not be considered by you as evidence. *(The evidence will come in the form of the testimony of the witnesses, admissions of the parties, stipulations of counsel, or any physical exhibits that may be offered by the parties.)*

(The court sets a time limit of \_\_\_ minutes to each side for opening statements.)

Following opening statements, evidence will be offered. Witnesses will be placed under oath and questioned by the attorneys. It may be that documents and other tangible exhibits will be offered and received as evidence. If any exhibit is given to you to examine, you should examine it carefully, individually, and without comment.

It is the right of the attorneys to object when testimony or other evidence is offered that the attorney believes is not admissible. When the court sustains an objection to a question, the jurors must disregard the question and the answer, if one has been given, and draw no inference from the question or answer or speculate as to what the witness would have said

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if permitted to answer. When the court overrules an objection to any evidence, you must not give such evidence any more weight than if the objection had not been made.

If the court grants a motion to strike all or part of the answer of a witness to a question, you must disregard and not consider the evidence that has been stricken.

During the course of the trial, it may be that questions of law will arise that need to be considered by the court out of the presence of the jury. When this happens, I may ask you to go to the jury room for a few minutes. You should not worry or speculate about what takes place in the courtroom during your absence—we will merely be considering questions of law that have to be heard out of the presence of the jury. All of the competent evidence in the case will be presented while you are present in the courtroom.

When the evidence is completed, the attorneys will make their final statements or arguments. The final arguments of the attorneys are not evidence, but are given to assist you in evaluating the evidence.

Your duty is to decide the facts from the evidence. You, and you alone, are the judges of the facts. It is important that you be fair and attentive during the trial. You will see and hear the evidence and decide the facts. You will then apply the law that I will give you to those facts. To be an effective juror, you must not be influenced to any degree by personal feelings, sympathy for, or prejudice against any of the parties involved in the case.

The fact that a criminal charge has been filed against the defendant is not evidence. The defendant is innocent of any crime unless and until the

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state proves the defendant's guilt beyond a reasonable doubt.

Finally, before you retire to consider your verdict, you must obey the following rules:

First, you must not talk about the case amongst yourselves. The only place this case may be discussed is in the jury room and then only after you begin your deliberations.

Second, you must not talk about this case with anyone else (including members of your families) or allow anyone else to talk with you or say anything in your presence about this case. If anyone communicates or attempts to communicate with you or in your presence about this case, you must notify the bailiff of that fact immediately.

In this age of instant electronic communication and research, I want to emphasize that in addition to not speaking face-to-face with anyone about the case, you should not engage in any form of electronic communication about the trial, including but not limited to: Twitter, blogging, Facebook, text messaging, instant messaging, and any other such means of electronic communication.

Third, you must keep all cell phones turned off when you are in the courtroom or the jury room.

Fourth, while you sit as a juror in this case, you are not to form an opinion about the guilt or innocence of the defendant, nor are you to express to anyone any opinion about the case until I tell you to begin your deliberations.

Fifth, you must not talk or communicate in any way with any of the

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parties, attorneys, or witnesses involved in the case. This rule applies inside as well as outside the courtroom, and it prohibits any type of conversation, whether about the evidence in this case or about the weather, or just to pass the time of day.

Sixth, you must not read or listen to any news media coverage of this case or trial, including television, newspaper, radio, or Internet accounts. Newspaper, radio, television, and Internet accounts may be inaccurate, or they may contain references to matters which are not proper for your consideration. Your verdict must be based solely on the evidence presented during this trial and no other source.

Seventh, you must not allow what you have seen on popular television shows that concern the legal system or police investigations to influence you. Television shows may leave you with an improper preconceived idea about the legal system. As far as this case is concerned, you are not prohibited from watching such shows. However, there are many reasons why you cannot rely on television legal programs, including the fact that these shows: (1) are not subject to the rules of evidence and legal safeguards that apply in this courtroom, and (2) are works of fiction that present unrealistic situations for dramatic effect. While entertaining, television legal dramas condense, distort, or even ignore many procedures that take place in real cases and real courtrooms. No matter how convincing they try to be, these shows simply cannot depict the reality of an actual trial or police investigation. You must put aside anything you think you know about the legal system that you saw on television.

Eighth, you must not visit the scene or place that is the subject matter of this trial or make any independent inquiry or investigation about this

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matter. You may not conduct any research, including Internet research, to look for any information regarding the case.

Each of you must obey each of these rules to the letter. Unless you do so, there is no way the parties can be assured of absolute fairness and impartiality. It is your duty, while the trial is in progress, or while it is in recess, or while you are in the jury room, to see that you remain a fair and impartial trier of the facts. If you violate these rules, you violate an order of the court and this is contempt of court which could subject you to punishment as provided by law.

We are now ready for the opening statements of counsel.

