

INSTRUCTION NO. _____

Based on your verdict in this case, there is an additional issue that the law requires you to decide.

The defendant has alleged that he acted in self-defense. Under our state's law, if the defendant's use of force was justified, the defendant has the right to be reimbursed by the State of Washington for the reasonable cost of legal fees and expenses involved in his defense as well as for loss of time.

You will be asked to decide whether the defendant's use of force was justified. You will hear additional evidence on this question in the next phase of the trial.

The next phase of the trial differs in several ways from the phase you have already completed. First, the burden of proof is on the defendant. In order to receive reimbursement, the defendant must prove by a preponderance of the evidence that his use of force was justified. When it is said that a claim must be proved by a preponderance of the evidence, it means you must be persuaded, considering all of the evidence in the case, that the claim is more probably true than not true.

Second, the definition of justified force is different for this phase of the trial. This time, you will apply an objective rather than a subjective standard. This means that the issue is whether a reasonably prudent person, under the same or similar conditions existing at the time of the incident, would have used the same degree of force as the defendant. You will receive additional instruction on this before you deliberate.

And finally, when you deliberate on this question, only ten of you will need to agree.

Until you are in the jury room for those deliberations, you must not discuss the case with the other jurors or with anyone else, or remain within hearing of anyone discussing it. It is your duty as a jury to decide the facts in this case based upon the evidence presented to you during the entire proceeding.

During your deliberations, you should consider the evidence presented to you in the first phase of this case. You should also consider any evidence offered and received during this phase of the case.

Until you are dismissed at the end of this trial, you must continue to avoid outside sources such as newspapers, magazines, the internet, or radio or television broadcasts which may discuss this case or issues involved in this trial.

PLTF. _____

INSTRUCTION NO. _____

If a defendant's use of force was justified, as defined in this instruction, the defendant has the right to be reimbursed by the State of Washington for the reasonable cost of all loss of time, legal fees, or other expenses involved in his or her defense.

In order for the court to award the defendant reasonable costs for the expenses incurred in defending this action, you must find that the defendant has proved the claim of justifiable homicide by a preponderance of the evidence.

When it is said that a claim must be proved by a preponderance of the evidence, it means that you must be persuaded, considering all the evidence in the case, that the claim is more probably true than not true.

For this part of the trial, you will use the following definition of justified force:

Homicide or the use of deadly force is justifiable:

When necessarily used by a peace officer to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, or in discharge of a legal duty.

A peace officer shall not be held criminally liable for using deadly force without malice and with a good faith belief that such act is justifiable.

The State has the burden of proving beyond a reasonable doubt that the homicide was not justifiable. If you find that the State has not proved the absence of this defense beyond a reasonable doubt, it will be your duty to return a verdict of not guilty.

Homicide or the use of deadly force is also justifiable:

When committed in the lawful defense of the slayer and any person in the slayer's presence or company when:

(1) the slayer reasonably believed that the person slain intended to inflict death or great personal injury;

(2) the slayer reasonably believed that there was imminent danger of such harm being accomplished; and

(3) the slayer employed such force and means as a reasonably prudent person would use under the same or similar conditions as they reasonably appeared to the slayer, taking into consideration all the facts and circumstances as they appeared to him, at the time of and prior to the incident.

The State has the burden of proving beyond a reasonable doubt that the homicide was not justifiable. If you find that the State has not proved the absence of this defense beyond a reasonable doubt, it will be your duty to return a verdict of not guilty.

You have been provided with a special verdict form to be used in answering the question of whether defendant has met his burden of establishing justified use of force. Because this is a civil question, ten or more of you must agree to return a verdict. When ten of you have agreed, the presiding juror will sign the special verdict form, regardless of whether or not the presiding juror agrees with the special verdict. You will then notify the bailiff who will escort you into court to declare your special verdict.

IN THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR SNOHOMISH COUNTY

THE STATE OF WASHINGTON,)
)
 Plaintiff,)
)
 vs.)
)
 MEADE, TROY,)
)
 Defendant.)

No. 09-1-01971-6

SPECIAL VERDICT FORM

We, the jury, return a special verdict by answering the following questions:

(1) Did the defendant TROY MEADE prove by a preponderance of the evidence that the use of force was lawful?

ANSWER: _____
(Write "yes" or "no")

(If you answered "no" to Question (1), sign this verdict. If you answered "yes" to Question (1), answer Question (2).)

(2) Was the defendant engaged in criminal conduct substantially related to the events giving rise to the crime with which the defendant was charged?

ANSWER: _____
(Write "yes" or "no")

DATED this _____ day of _____, 2010.

Presiding Juror