

JUN 30 2021

TIME 2:25 PM
BY TG, JS4

Members of the Jury: In this case the petitioner Nicole Gries seeks a jury determination under Iowa Code to enter a finding that her ex-husband Joseph Robert Gries be declared deceased. You shall consider and render a decision in accordance with the evidence and instructions.

Do not consider anything I convey during these instructions or the phrasing of these instructions as proof or indication of my thoughts or leanings as to the issue before you. It is your duty to decide the facts from the evidence and apply the law which I will now give you.

INSTRUCTION NO. 1

My duty is to tell you what the law is. Your duty is to accept and apply this law. You must consider all of the instructions together because no one instruction includes all of the applicable law.

The order in which I give these instructions is not important. Your duty is to decide all fact questions. Do not be influenced by any personal likes or dislikes, sympathy, bias, prejudices or emotions.

INSTRUCTION NO. 2

Whenever a party must prove something, they must do so by the preponderance of the evidence. Preponderance of the evidence is evidence that is more convincing than opposing evidence.

Preponderance of the evidence does not depend upon the number of witnesses testifying on one side or the other.

INSTRUCTION NO. 3

You shall base your verdict only upon the evidence and these instructions.

Evidence is:

- 1. Testimony in person or by deposition.**
- 2. Exhibits received by the court.**
- 3. Any other matter admitted.**

INSTRUCTION NO. 4

You will decide the facts from the evidence. Consider the evidence using your observations, common sense and experience. You must try to reconcile any conflicts in the evidence; but, if you cannot, you will accept the evidence you find more believable.

In determining the facts, you may have to decide what testimony you believe. You may believe all, part or none of any witness' testimony.

There are many factors which you may consider in deciding what testimony to believe, for example:

- 1. Whether the testimony is reasonable and consistent with other evidence you believe;**
- 2. The witness' appearance, conduct, age, intelligence, memory and knowledge of the facts or occurrences pertinent to your decision making.**
- 3. Any other matter admitted (e.g. answers to interrogatories, matters which judicial notice was taken, and etc.).**

INSTRUCTION NO. 5

Evidence may be direct or circumstantial. The weight to be given any evidence is for you to decide. Sometimes, during a trial, references are made to pre-trial statements, reports, or other miscellaneous items. Only those things formally offered and received by the court are available to you during your deliberations. Documents or items read from or referred to which were not offered and received into evidence, are not available to you.

The following are not evidence:

- 1. Statements, arguments, questions and comments by the lawyers.**
- 2. Objections and rulings on objections.**
- 3. Any testimony I told you to disregard.**
- 4. Anything you saw or heard about this case outside the courtroom.**

INSTRUCTION NO. 6

Credibility of Witnesses. You will decide the facts from the evidence. Consider the evidence using your observations, common sense and experience. You must try to reconcile any conflicts in the evidence; but, if you cannot, you will accept the evidence you find more believable.

In determining the facts, you may have to decide what testimony you believe. You may believe all, part or none of any witnesses' testimony.

There are many factors which you may consider in deciding what testimony to believe, for example:

1. Whether the testimony is reasonable and consistent with other evidence you believe;
2. The witnesses' appearance, conduct, age, intelligence, memory and knowledge of the facts; and,
3. The witnesses' interest in the trial, their motive, candor, bias and prejudice.
4. You have heard testimony from various witnesses who come from various locations, occupations and personal histories. This factor alone does not give more or less credibility to their testimony. Rather you are to consider the testimony as presented. You are to evaluate each witness and piece of evidence presented in this courtroom using these factors.

INSTRUCTION NO. 7

You will be charged to reach a decision based on the preponderance of the evidence. This standard means the evidence which as a whole shows that the fact sought to be proved is more probable than not, it may also be defined as evidence which is more credible and convincing to the mind and the conclusions to be drawn from it.

INSTRUCTION NO. 8

Upon retiring you shall select a foreman or forewoman. It will be his or her duty to see discussion is carried on in an orderly fashion, the issues are fully and freely discussed, and each juror is given an opportunity to express his or her views.

Your attitude at the beginning of your deliberations is important. It is not a good idea for you to take a position before thoroughly discussing the case with the other jurors. If you do this, individual pride may become involved and you may later hesitate to change an announced position even if shown it may be incorrect. Remember you are not partisans or advocates, but are judges -judges of the facts. Your sole interest is to find the truth and do justice.

investigation or experiment that we do not know about, then your verdict may be influenced by inaccurate, incomplete or misleading information that has not been tested by the trial process, including the oath to tell the truth and by cross-examination. All of the parties are entitled to a fair trial, rendered by an impartial jury, and you must conduct yourself so as to maintain the integrity of the trial process. If you decide a case based on information not presented in court, you will have denied the parties a fair trial in accordance with the rules of this state and you will have done an injustice. It is very important that you abide by these rules. [Failure to follow these instructions may result in the case having to be retried and could result in you being held in contempt and punished.]

Return Of Verdict I am giving you a very simple jury verdict form. During the first six hours of deliberations, excluding meals and recesses outside your jury room, your decision must be unanimous. If you all agree, the verdict must be signed by your foreman or forewoman.

After deliberating for six hours from o'clock .m. excluding meals or recesses outside your jury room, then it is necessary that all 6 (six) of you agree upon the answers to the questions. In that case, the verdict must be signed by all 6 (six) jurors who agree.

When you have agreed upon the verdict [and answers to questions] and appropriately signed it, tell the Court Attendant.