**IN THE MUNICIPAL COURT OF DELAWARE COUNTY, OHIO**

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| **THE STATE OF OHIO,** | **:** |  |  |
| **Plaintiff,** | **:** | **Case No.** | 112234 |
| **vs.** | **:** | **Judge Marianne T. Hemmeter** | |
| **Justin Test 3,**  **Defendant.** | **:**  **:** | **Operating a Motor Vehicle While Under the Influence of Alcohol  R.C. § 4511.19(A)(1)(A)**  **Operating a Motor Vehicle While Under the Influence of Alcohol  R.C. § 4511.19(A)(1)(A)** | |
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**JURY INSTRUCTIONS**

Members of the jury, you have heard the evidence and the arguments of counsel, and now it is my duty to instruct you on the law that applies in this case. You and I have separate and distinct functions to perform in the trial of this case. It is your function to decide the disputed questions of fact, and it is my function to provide you appropriate instructions on the law. It is your sworn duty to accept these instructions and to apply the law as I will explain it to you. You are not permitted to change the law or to apply your own conception of what you think the law ought to be.

On January 26, 2021, complaints were filed against the Defendant, Gregory Jaudzems, charging him with the crimes of Operating a Vehicle While Under the Influence of Alcohol and Operating a Vehicle with a Prohibited Alcohol Concentration. Later in my instructions, I will explain to you the law that applies to these crimes.

As I mentioned to you during the jury selection process, a criminal case, in the municipal court, begins with the filing of complaints. The function of the complaint is to inform any given Defendant that he or she has been charged with the commission of a crime or crimes, and, by law, the fact that these complaints have been filed against this Defendant must not and cannot be considered by you for any purpose whatsoever. No inference may be drawn from the fact that a criminal complaint was filed against this Defendant.

**Presumption of Innocence and Burden of Proof:**

To the charges set forth in the complaint, the Defendant has entered pleas of not guilty. By doing so, he has denied the charges set forth in the complaints, as well as each and every essential element of the charges. He has thereby cast upon the State of Ohio the burden of proving, beyond a reasonable doubt, each and every essential element of the crimes charged in the complaints.

During my inquiry of the prospective jury panel, I explained to you the presumption of innocence and the standard of proof required in a criminal case. At this juncture, I will review those two concepts for you.

The Defendant is presumed innocent until his guilt is established beyond a reasonable doubt. The Defendant must be acquitted unless the State of Ohio produces evidence that convinces all eight members of this jury, beyond a reasonable doubt, of each and every essential element of the crimes charged in the complaints.

**Standard of Proof:**

Reasonable doubt is present when, after the jury has carefully considered and compared all the evidence, the jury cannot say that it is firmly convinced of the truth of the charge. Reasonable doubt is a doubt based upon reason and common sense. Reasonable doubt is not mere possible doubt, because everything relating to human affairs or depending upon moral evidence is open to some possible or imaginary doubt. Proof beyond a reasonable doubt is proof of such a character that an ordinary person would be willing to rely upon it and act upon it in the most important of his or her own affairs.

**Instructions Regarding Evidence:**

Let us now consider the matter of the evidence. Evidence is all the testimony received from the witnesses, and it includes the exhibits admitted during the trial. Evidence may be direct or circumstantial or both.

Direct evidence is testimony given by a witness who has seen or heard the facts about which he or she testified, and it includes the exhibits admitted into evidence.

Circumstantial evidence is the proof of facts and circumstances by direct evidence from which you, the members of this jury, may reasonably infer other related or connected facts that naturally and logically follow, according to human experience.

To infer, or to make an inference, is to reach a reasonable conclusion or deduction of fact that you may, but are not required to make, from other facts that you find have been established by direct evidence. Whether an inference is made rests entirely with you, the members of this jury. Direct evidence and circumstantial evidence are of equal weight and probative value.

**Evidence Does Not Include:**

The evidence does not include the complaint, the opening statements, or the closing arguments of counsel. The opening statements and closing arguments of counsel are designed to assist you and are not evidence.

You are instructed that you must not speculate as to why I sustained an objection to any question or what the answer to that question might have been. You are not to draw any inference or speculate on the truth of any suggestion included in a question that was not answered. Any statements or answers that were stricken by me that you were instructed to disregard are not evidence and must be treated as though you never heard them.

**Judging the Credibility of the Witnesses and the Weight to be Given to the Evidence:**

You, the members of this jury, are the sole judges of the facts, the credibility of the witnesses, and the weight to be given to the evidence. To weigh the evidence, you must consider the credibility of the witnesses. You will apply the tests of truthfulness that you are accustomed to applying in your daily lives. These tests include the appearance of the witness on the stand; the opportunity the witness had to see, hear and know the things about which that witness testified; accuracy of memory; frankness or lack of it; intelligence; interest and bias, if any; together with all the facts and circumstances surrounding the testimony of the witness. Applying these tests, you will assign to the testimony of each witness whatever weight you feel it deserves.

You are not required to believe the testimony of any witness simply because the witness was placed under oath. You may believe or disbelieve all or any part of the testimony of any witness. It is your province to determine what testimony is worthy of belief and what testimony is not worthy of belief. The testimony of one witness, if believed by you, is sufficient to prove any disputed fact.

Exhibits and testimony relating to them have been introduced. You will determine what weight, if any, the exhibits should receive considering the evidence.

The Defendant has a constitutional right not to take the stand and testify in his own defense. In this case, the Defendant testified. The testimony of the Defendant is to be judged according to the same standards or tests that you will apply to determine the credibility or believability of all other witnesses.

The complaints list a particular date when the offenses are alleged to have occurred. It is not necessary for the State of Ohio to prove that the crime was committed on the exact date listed in the complaint. It is sufficient for the State of Ohio to prove that the crime took place on a date reasonably near to the date listed in the complaint.

Further, the complaints charge that the crime took place in Delaware County, Ohio. The law provides that the trial of a criminal case in this state must be held in the court having jurisdiction of the subject matter, and in the territory where the offense or any element of the offense was committed. Therefore, the right of this court to try this Defendant depends on proof beyond a reasonable doubt that the crimes charged in the complaints, or any element of the offenses, were committed in Delaware County.

**Count One**

The first complaint in this case charges this Defendant with the crime of Operating a Vehicle While Under the Influence of Alcohol.  
 Before you can find the Defendant guilty of the crime of Operating a Vehicle While Under the Influence of Alcohol, the State of Ohio must prove, to each member of this jury, beyond a reasonable doubt, that:  
 on or about January 22, 2021, and in Delaware County, Ohio;  
 the Defendant, Gregory Jaudzems;  
 operated a vehicle;  
 while under the influence of alcohol.  
 In stating to you the essential elements of the crime of Operating a Vehicle While Under the Influence of Alcohol, I have used a number of specific terms, which I will explain to you.  
 The term “operate” means to cause or have caused the movement of a vehicle.  
 The term “vehicle” means every device upon which a person or property may be transported upon a highway.  
“Under the Influence” means that the Defendant consumed some alcohol, whether mild or potent, and in such a quantity, whether small or great, that it adversely affected and noticeably impaired the Defendant’s actions, reactions, or mental processes under the circumstances then existing and deprived the Defendant of that clearness of intellect and control of himself that he would otherwise have possessed. The question is not how much alcohol would affect an ordinary person. The question is what effect did any alcohol consumed by the Defendant have on him at the time and place involved. If the consumption of alcohol so affected the nervous system, brain, or muscles of the Defendant that it impaired, to a noticeable degree, his ability to operate a vehicle, then the Defendant was under the influence of alcohol.  
 If, after considering all the evidence, all eight members of this jury find that the State of Ohio proved, beyond a reasonable doubt, each and every essential element of the crime of Operating a Vehicle While Under the Influence of Alcohol, then it will be the duty of this jury to find the Defendant guilty on that charge.  
 If, after considering all of the evidence, this jury finds that the State of Ohio did not prove beyond a reasonable doubt any one of the essential elements of the crime of Operating a Vehicle While Under the Influence of Alcohol, then it will be the duty of this jury to find the Defendant not guilty on that charge.

**Count Two**

The second complaint in this case charges this Defendant with the crime of **Operating a Vehicle with a Prohibited Concentration of Alcohol** in his system. Before you can find the Defendant guilty of the crime of Operating a Vehicle with a Prohibited Alcohol Concentration, the State of Ohio must prove, to each member of this jury, beyond a reasonable doubt, that:

1. on or about January 22, 2021, and in Delaware County, Ohio;
2. the Defendant, Gregory Jaudzems;
3. operated a vehicle;
4. with a concentration of nineteen hundredths of one gram or more by weight of alcohol per two hundred‑ten liters of the defendant's breath.

In stating to you the essential elements of the crime of **Operating a Vehicle with a Prohibited Concentration of Alcohol**, I have used specific terms and will explain those terms to you.

The terms “operate” and “vehicle” have been defined for you in connection with the first count of the complaint, and you should rely on those definitions as you weigh the evidence on this second charge.

If, after consideration of all the evidence, all eight members of this jury find that the State of Ohio proved, beyond a reasonable doubt, each and every essential element of the crime of Operating a Vehicle with a Prohibited Concentration of Alcohol, then it will be the duty of this jury to find the Defendant guilty.

If, after a consideration of all the evidence, this jury finds that the State of Ohio did not prove beyond a reasonable doubt, any one of the essential elements of the crime of Operating a Vehicle with a Prohibited Concentration of Alcohol, then it will be the duty of this jury to find the Defendant not guilty.

**Each Charge is Separate and Must Be Considered Separately:**

The charges that I have explained to you constitute separate and distinct matters. You must consider each charge and the evidence applicable to each charge separately, and you must state your finding as to each charge uninfluenced by your verdict on the other charge. The defendant may be found guilty or not guilty on none, one, or both charges.

**Instructions on Jury Deliberations:**

During your deliberations, you must not communicate with or provide any information to anyone by any means about this case.  You may not use any electronic device or media, such as a telephone, cell phone, smart phone, iPhone, Blackberry or computer to communicate to anyone any information about this case or to conduct any research about this case.  Likewise, you may not use the internet, any internet service, any text or instant messaging service, or any internet chat room, blog, or website such as Facebook, My Space, LinkedIn, YouTube or Twitter to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdicts and discharge you from jury service in this case.

You may not discuss or consider the subject of punishment. Your duty is confined to the determination of whether the State of Ohio proved this Defendant’s guilt beyond a reasonable doubt. If you find the Defendant guilty on any charge, the duty to determine punishment is placed by law on me as the trial judge.

Circumstances in this case or any other case may arouse sympathy for one party or another. Sympathy is a common human experience. The law does not expect you to be free of such normal reactions. However, the law and your oath as jurors require you to eliminate sympathy during your deliberations and to disregard it in reaching your verdict. It is your duty to carefully weigh the evidence, to decide the disputed questions of fact, and then to apply the facts to the instructions that I have given to you and to render your verdicts accordingly. Remember that you are not partisans or advocates in this matter. Instead, you are the judges of the facts here in dispute.

Your efforts must be to arrive at just verdicts. Consider all the evidence and make your findings with intelligence and impartiality and without bias, sympathy, or prejudice so that the State of Ohio and this Defendant will know that their case was fairly and impartially tried.

If, during the course of the trial, I said or did anything that you consider an indication of my views on the facts, you are to disregard that information.

The oral testimony that you have heard from the witness stand, along with the exhibits, constitute the evidence in this case. The opening statements of counsel and the final arguments of counsel are not evidence.

Your initial conduct upon entering the jury room is a matter of importance and it is not wise to immediately express a determination to insist upon a certain verdict or certain verdicts. If your sense of pride is aroused, you might hesitate to change your position even if you later decide that you are wrong. Consult with one another. Consider your fellow jurors’ views and deliberate with the objective of reaching an agreement, if you can do so without disturbing your individual judgments. Each of you must decide this case for yourselves, but you should do so only after a discussion and consideration of the entire case with your fellow jurors. Do not hesitate to change an opinion, if you become convinced that it is wrong. However, you should not surrender honest judgments to be congenial or to reach a verdict solely because of the opinions of other jurors.

Because this is a criminal case, it will be necessary for the entire jury to agree on your verdicts. That is, all eight of you must agree on a verdict on the first count and you must all agree on a verdict on the second count. Also, the law requires that all eight jurors sign the verdict forms in blue ink.

When you retire, first select one of your members as a foreperson to expedite the handling of your deliberations. The foreperson will see that your discussions are orderly and that each juror has an opportunity to discuss the case and to cast his or her vote. Otherwise, the authority of the foreperson is the same as that of any other juror.

If, during your deliberations, you have an occasion to pose a question to me, I may, under certain circumstances, furnish an answer to you. If, after you retire to the jury room, a question should arise, the foreperson should reduce the question very specifically to writing and then should illuminate the yellow light and give the question to the Bailiff. The Bailiff will then give it to me, and, if legally appropriate to do so, I will provide an answer to you.

During your deliberations, the Bailiff will be seated just outside the door to the jury room.

I will place in your possession the exhibits, a copy of these jury instructions, and the verdict forms. The foreperson will retain possession of those items and will return them to the courtroom when you have reached your verdicts.

Until your verdicts are announced in open court, you are not to disclose to anyone the status of your deliberations. When all eight jurors agree on your verdicts, all of you will sign and date the verdict forms in ink, and you will notify us by illuminating the green light. You will then be returned to the courtroom.

**IN THE MUNICIPAL COURT OF DELAWARE COUNTY, OHIO**

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| **The State of Ohio,** | **:** |  |  |
| **Plaintiff,** | **:** | **Case No.** | **19TRC00007** |
| **vs.** | **:** | **Judge Marianne T. Hemmeter** | |
| **JESSICA GRANT,** | **:** | **Operating a Vehicle While Under the Influence of Alcohol** | |
| **Defendant.** |  | **R.C. § 4511.19(A)(1)(a)** | |

**VERDICT ON COUNT ONE**

We, the jury in this case, find the Defendant, **Jessica Grant** \*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of **Operating a Vehicle While Under the Influence of Alcohol** in violation of Section 4511.19(A)(1)(a) of the Ohio Revised Code. Each of us signs our names hereto on the \_\_\_\_\_\_\_ day of **May 2019**.

(\*insert - “not guilty” or “guilty” in ink)

* 1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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4. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
5. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Foreperson)

**IN THE MUNICIPAL COURT OF DELAWARE COUNTY, OHIO**

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| **The State of Ohio,** | **:** |  |  |
| **Plaintiff,** | **:** | **Case No.** | **19TRC00007** |
| **vs.** | **:** | **Judge Marianne T. Hemmeter** | |
| **JESSICA GRANT,** | **:** | **Operating a Vehicle with a Prohibited Concentration Alcohol** | |
| **Defendant.** |  | **R.C. § 4511.19(A)(1)(h)** | |

**VERDICT ON COUNT TWO**

We, the jury in this case, find the Defendant, **Jessica Grant** \*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of **Operating a Vehicle with a Prohibited Concentration of Alcohol** in violation of Section 4511.19(A)(1)(h) of the Ohio Revised Code. Each of us signs our names hereto on the \_\_\_\_\_\_\_ day of **May 2019**.

(\*insert - “not guilty” or “guilty” in ink)

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

4. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

5. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

6. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

7. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

8. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Foreperson)

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