

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

v.

CASE NO.: 48-2022-CF-000688-O

KELLI RENEE LYNCH,

Defendant.

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JURY INSTRUCTIONS

FILED BY CLERK OF COURT 8/14/24
Clerk, Cir. Ct., Orange Co., FL
By ML D.C.

INTRODUCTION TO FINAL INSTRUCTIONS

Members of the jury, I thank you for your attention during this trial. Please pay attention to the instructions I am about to give you.

STATEMENT OF CHARGE

KELLI RENEE LYNCH, the defendant in this case, has been accused of the crimes of FRAUDULENT USE OF PERSONAL IDENTIFICATION INFORMATION, GRAND THEFT, SECOND DEGREE and POSSESSION OF UNAUTHORIZED DRIVER'S LICENSE.

FRAUDULENT USE OF PERSONAL IDENTIFICATION INFORMATION
(Count 1)

To prove the crime of Fraudulent Use of Personal Identification Information or Possession with Intent to Fraudulently Use Personal Identification Information, the State must prove the following two elements beyond a reasonable doubt:

1. KELLI RENEE LYNCH willfully and without authorization fraudulently used or possessed with intent to fraudulently use personal identification information concerning JENNIFER BUHIGAS.
2. She did so without first obtaining the consent of JENNIFER BUHIGAS.

“Willfully” means intentionally, knowingly, and purposely.

“Fraudulently” means purposely or intentionally suppressing the truth or perpetrating a deception or both.

“Authorization” means empowerment, permission, or competence to act.

“Personal identification information” means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including any name, postal or electronic mail address, telephone number, social security number, date of birth, mother’s maiden name, official state or United States issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer’s identification number, Medicaid or food stamp account number, bank account number, credit or debit card number or personal identification number or code assigned to the holder of a debit card by the issuer to permit authorized use of such card, unique biometric data such as fingerprint, voice print, retina or iris image, or other unique physical representation, unique electronic identification number, address, or routing code, medical record, telecommunication identifying information or access device, or other number or information that can be used to access a person’s financial resources.

The word “person” includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

“Pecuniary” means of or relating to money.

To prove KELLI RENEE LYNCH “possessed personal identification information,” the State must prove beyond a reasonable doubt that she a) knew of the existence of the personal identification information and b) intentionally exercised control over that personal identification information.

Control can be exercised over personal identification information whether the information is carried on a person, near a person, or in a completely separate location. Mere

proximity to the personal identification information does not establish that the person intentionally exercised control over the personal identification information in the absence of additional evidence. Control can be established by proof that KELLI RENEE LYNCH had direct personal power to control the personal identification information or the present ability to direct its control by another.

Possession of personal identification information may be sole or joint, that is, two or more persons may possess the personal identification information.

If you find KELLI RENEE LYNCH guilty of Fraudulent Use of Personal Identification Information, you must then determine whether the State has further proved beyond a reasonable doubt that:

- a. the pecuniary benefit, the payment sought to be avoided, or the amount of the injury or fraud perpetrated was \$50,000 or more.
- b. the pecuniary benefit, the payment sought to be avoided, or the amount of the injury or fraud perpetrated was \$5,000 or more but less than \$50,000.

THEFT
(Count 2)

To prove the crime of Theft, the State must prove the following two elements beyond a reasonable doubt:

1. KELLI RENEE LYNCH knowingly and unlawfully endeavored to obtain or to use the 2021 Dodge Challenger of AIRPORT CHRYSLER DODGE JEEP, LLC.
2. She did so with intent to, either temporarily or permanently,
 - a. deprive AIRPORT CHRYSLER DODGE JEEP, LLC of its right to the property or any benefit from it; OR
 - b. appropriate the property of AIRPORT CHRYSLER DODGE JEEP, LLC to her own use or to the use of any person not entitled to it.

If you find the defendant guilty of theft, you must also determine if the State has proved beyond a reasonable doubt whether:

- a. the value of the property taken was \$20,000 or more but less than \$100,000.
- b. the value of the property taken was \$10,000 or more but less than \$20,000.
- c. the value of the property taken was \$5,000 or more but less than \$10,000.
- d. the value of the property taken was \$750 or more but less than \$5,000.
- e. the value of the property taken was \$100 or more but less than \$750.
- f. the value of the property taken was less than \$100.

“Obtains or uses” means any manner of

- a. Taking or exercising control over property.
- b. Making any unauthorized use, disposition, or transfer of property.
- c. Obtaining property by fraud, willful misrepresentation of a future act, or false promise.
- d. Conduct previously known as stealing; larceny; purloining; abstracting; embezzlement; misapplication; misappropriation; conversion; or obtaining

money or property by false pretenses, fraud, deception; or other conduct similar in nature.

“Endeavor” means to attempt or try.

“Property” means anything of value, and includes tangible or intangible personal property, including rights, privileges, interests, and claims.

“Value” means the market value of the property at the time and place of the offense, or if that value cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense.

If the exact value of the property cannot be ascertained, you should attempt to determine a minimum value. If you cannot determine the minimum value, you must find the value is less than \$100.

POSSESSION OF UNAUTHORIZED DRIVER'S LICENSE
(Count 3)

To prove the crime of Possession of an Unauthorized Driver's License, the State must prove the following two elements beyond a reasonable doubt:

1. KELLI RENEE LYNCH knowingly possessed a blank, forged, stolen, fictitious, counterfeit, or unlawfully issued driver's license;
2. KELLI RENEE LYNCH did so without being duly authorized by the Department of Highway Safety and Motor Vehicles.

The term "driver license" includes a driver license issued by the Department of Highway Safety and Motor Vehicles or its agents or a driver license issued by any state or jurisdiction that issues licenses recognized in this state for the operation of a motor vehicle. This subsection does not prohibit a person from possessing or displaying another person's driver license or identification card for a lawful purpose.

PRINCIPALS

If the defendant helped another person or persons commit or attempt to commit a crime, the defendant is a principal and must be treated as if she had done all the things the other person or persons did if the State proved beyond a reasonable doubt:

1. the defendant intended the crime to occur;

and
2. the defendant did some act or said something that was intended to and that did incite, cause, encourage, assist, or advise the other person or persons to actually commit or attempt to commit the crime.

WHEN THERE ARE LESSER INCLUDED CRIMES OR ATTEMPTS

In considering the evidence, you should consider the possibility that although the evidence may not convince you that the defendant committed the main crimes of which she is accused, there may be evidence that she committed other acts that would constitute a lesser included crime or crimes. Therefore, if you decide that the main accusation has not been proved beyond a reasonable doubt, you will next need to decide if the defendant is guilty of any lesser included crime.

The lesser crime indicated in the definition of FRAUDULENT USE OF PERSONAL IDENTIFICATION INFORMATION is UNLAWFUL POSSESSION OF THE PERSONAL IDENTIFICATION INFORMATION OF ANOTHER PERSON.

**UNLAWFUL POSSESSION OF THE PERSONAL IDENTIFICATION INFORMATION
OF ANOTHER PERSON
(Lesser Included Count 1)**

To prove the crime of Unlawful Possession of the Personal Identification Information of Another Person, the State must prove the following two elements beyond a reasonable doubt:

1. KELLI RENEE LYNCH intentionally or knowingly possessed the personal identification information of JENNIFER BUHIGAS.
2. KELLI RENEE LYNCH did not have authorization to do so.

To prove KELLI RENEE LYNCH “possessed personal identification information,” the State must prove beyond a reasonable doubt that she a) knew of the existence of the personal identification information; and b) intentionally exercised control over that personal identification information.

Control can be exercised over personal identification information whether the information is carried on a person, near a person, or in a completely separate location. Mere proximity to the personal identification information does not establish that the person intentionally exercised control over the personal identification information in the absence of additional evidence. Control can be established by proof that KELLI RENEE LYNCH had direct personal power to control the personal identification information or the present ability to direct its control by another.

Possession of personal identification information may be sole or joint, that is, two or more persons may possess the personal identification information.

“Personal identification information” means a person’s social security number, official state-issued or United States-issued driver license or identification number, alien registration number, government passport number, employer or taxpayer identification number, Medicaid or food assistance account number, bank account number, credit or debit card number, and medical records.

The personal identification information can be in any form, including, but not limited to, mail, physical documents, identification cards, or information stored in digital form.

It is an affirmative defense to the crime of Unlawful Possession of the Personal Identification Information of Another Person if, at the time of the possession, KELLI RENEE LYNCH:

- A. obtained JENNIFER BUHIGAS’ personal identification information from a forum or resource that was open or available to the general public or from a public record.

**PLEA OF NOT GUILTY; REASONABLE DOUBT;
AND BURDEN OF PROOF**

The defendant has entered a plea of not guilty. This means you must presume or believe the defendant is innocent. The presumption stays with the defendant as to each material allegation in the information through each stage of the trial unless it has been overcome by the evidence to the exclusion of and beyond a reasonable doubt.

To overcome the defendant's presumption of innocence, the State has the burden of proving the crime with which the defendant is charged was committed and the defendant is the person who committed the crime.

The defendant is not required to present evidence or prove anything except for the affirmative defense to the crime of Unlawful Possession of the Personal Identification Information of Another Person as I previously explained to you.

Whenever the words "reasonable doubt" are used you must consider the following:

A reasonable doubt is not a mere possible doubt, a speculative, imaginary or forced doubt. Such a doubt must not influence you to return a verdict of not guilty if you have an abiding conviction of guilt. On the other hand, if, after carefully considering, comparing and weighing all the evidence, there is not an abiding conviction of guilt, or, if, having a conviction, it is one which is not stable but one which wavers and vacillates, then the charge is not proved beyond every reasonable doubt and you must find the defendant not guilty because the doubt is reasonable.

It is to the evidence introduced in this trial, and to it alone, that you are to look for that proof.

A reasonable doubt as to the guilt of the defendant may arise from the evidence, conflict in the evidence, or the lack of evidence.

If you have a reasonable doubt, you must find the defendant not guilty. If you have no reasonable doubt, you should find the defendant guilty.

VOLUNTARY INTOXICATION

Voluntary intoxication resulting from the use of a controlled substance is not a defense to a crime. Evidence of a defendant's voluntary intoxication may not be taken into consideration to show that she lacked the specific intent to commit any crime. A person is voluntarily intoxicated if he or she knowingly consumed a substance that he or she knew or should have known could cause intoxication.

WEIGHING THE EVIDENCE

It is up to you to decide what evidence is reliable. You should use your common sense in deciding which is the best evidence and which evidence should not be relied upon in considering your verdict. You may find some of the evidence not reliable, or less reliable than other evidence.

You should consider how the witnesses acted, as well as what they said. Some things you should consider are:

1. Did the witness seem to have an opportunity to see and know the things about which the witness testified?
2. Did the witness seem to have an accurate memory?
3. Was the witness honest and straightforward in answering the attorneys' questions?
4. Did the witness have some interest in how the case should be decided?
5. Does the witness's testimony agree with the other testimony and other evidence in the case?
6. Did the witness at some other time make a statement that is inconsistent with the testimony the witness gave in court?

Whether the State has met its burden of proof does not depend upon the number of witnesses it has called or upon the number of exhibits it has offered, but instead upon the nature and quality of the evidence presented.

The fact that a witness is employed in law enforcement does not mean that his or her testimony deserves more or less consideration than that of any other witness.

The defendant in this case has become a witness. You should apply the same rules to consideration of her testimony that you apply to the testimony of the other witnesses.

It is entirely proper for a lawyer to talk to a witness about what testimony the witness would give if called to the courtroom. The witness should not be discredited by talking to a lawyer about his or her testimony.

You may rely upon your own conclusion about the credibility of any witness. A juror may believe or disbelieve all or any part of the evidence or the testimony of any witness.

DEFENDANT'S STATEMENTS

A statement claimed to have been made by the defendant outside of court has been placed before you. Such a statement should always be considered with caution and be weighed with great care to make certain it was freely and voluntarily made.

Therefore, you must determine from the evidence that the defendant's alleged statement was knowingly, voluntarily, and freely made.

In making this determination, you should consider the total circumstances, including but not limited to

1. whether, when the defendant made the statement, she had been threatened in order to get her to make it, and
2. whether anyone had promised her anything in order to get her to make it.

If you conclude the defendant's out of court statement was not freely and voluntarily made, you should disregard it.

CLOSING ARGUMENT

Both the State and the defendant have now rested their case.

The attorneys now will present their final arguments. Please remember that what the attorneys say is not evidence or your instruction on the law. However, do listen closely to their arguments. They are intended to aid you in understanding the case. Each side will have equal time, but the State is entitled to divide this time between an opening argument and a rebuttal argument after the defense has given its closing argument.

RULES FOR DELIBERATION

These are some general rules that apply to your discussion. You must follow these rules in order to return a lawful verdict:

1. You must follow the law as it is set out in these instructions. If you fail to follow the law, your verdict will be a miscarriage of justice. There is no reason for failing to follow the law in this case. All of us are depending upon you to make a wise and legal decision in this matter.
2. This case must be decided only upon the evidence that you have heard from the testimony of the witnesses and have seen in the form of the exhibits in evidence and these instructions.
3. This case must not be decided for or against anyone because you feel sorry for anyone, or are angry at anyone.
4. Remember, the lawyers are not on trial. Your feelings about them should not influence your decision in this case.
5. Your duty is to determine if the defendant has been proven guilty or not, in accord with the law. It is the judge's job to determine a proper sentence if the defendant is found guilty.
6. Whatever verdict you render must be unanimous, that is, each juror must agree to the same verdict.
7. Your verdict should not be influenced by feelings of prejudice, bias, or sympathy. Your verdict must be based on the evidence, and on the law contained in these instructions.

CAUTIONARY INSTRUCTION

Deciding a verdict is exclusively your job. I cannot participate in that decision in any way. Please disregard anything I may have said or done that made you think I preferred one verdict over another.

VERDICT

You may find the defendant guilty as charged in the information or guilty of such lesser included crimes as the evidence may justify or not guilty.

If you return a verdict of guilty, it should be for the highest offense that has been proven beyond a reasonable doubt. If you find that no offense has been proven beyond a reasonable doubt, then, of course, your verdict must be not guilty.

The verdict must be unanimous, that is, all of you must agree to the same verdict. Only one verdict may be returned as to each crime charged. The verdict must be in writing and for your convenience the necessary verdict forms have been prepared for you. They are as follows:

**SINGLE DEFENDANT,
MULTIPLE COUNTS OR INFORMATIONS**

A separate crime is charged in each count of the information and, although they have been tried together, each crime and the evidence applicable to it must be considered separately and a separate verdict returned as to each. A finding of guilty or not guilty as to one crime must not affect your verdict as to the other crimes charged.

SUBMITTING CASE TO JURY

In just a few moments you will be taken to the jury room by the court deputy. The first thing you should do is choose a foreperson who will preside over your deliberations. The foreperson should see to it that your discussions are carried on in an organized way and that everyone has a fair chance to be heard. It is also the foreperson's job to sign and date the verdict forms when all of you have agreed on a verdict and to bring the verdict forms back to the courtroom when you return.

During deliberations, jurors must communicate about the case only with one another and only when all jurors are present in the jury room. If a juror goes to the restroom, the deliberations should stop until the juror returns. You are not to communicate with any person outside the jury about this case. Until you have reached a verdict, you must not talk about this case in person or through the telephone, writing, or electronic communication, such as a blog, twitter, e-mail, text message, or any other means. Do not contact anyone to assist you during deliberations. These communications rules apply until I discharge you at the end of the case. If you become aware of any violation of these instructions or any other instruction I have given in this case, you must tell me by giving a note to the court deputy.

Many of you may have cell phones, tablets, laptops, or other electronic devices here in the courtroom. The rules do not allow you to bring your phones or any of those types of electronic devices into the jury room. Kindly leave those devices on your seats where they will be guarded by the court deputy while you deliberate.

If you need to communicate with me, send a note through the court deputy. If you have voted, do not disclose the actual vote in the note.

If you have a question, I will talk with the attorneys before I answer, so it may take some time. You may continue your deliberations while you wait for my answer. I will answer any questions, if I can, in writing or orally here in open court.

During the trial, items were received into evidence as exhibits. You may examine whatever exhibits you think will help you in your deliberations.

These exhibits will be sent into the jury room with you when you begin to deliberate.

In closing, let me remind you that it is important that you follow the law spelled out in these instructions in deciding your verdict. There are no other laws that apply to this case. Even if you do not like the laws that must be applied, you must use them. For more than two centuries we have lived by the constitution and the law. No juror has the right to violate rules we all share.