

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

ROWE DIVISION

JERSEY JACKSON, an individual,

Plaintiff,

v.

MARLOWE NAVARRO, in Navarro's
official capacity as an officer of the Rowe
Police Department,

Defendant.

Case No. 3:20-cv-00101-CC

FINAL JURY INSTRUCTIONS

The Court will now submit the case to the jury; you need to decide, based on the law and the evidence presented to you at trial, whether the plaintiff has prevailed in proving the plaintiff's claims against each defendant.

PREPONDERANCE OF THE EVIDENCE

The Plaintiff must prove all of the Plaintiff's claims by a "preponderance of the evidence." That means that the Plaintiff must persuade you by evidence that makes you believe that Plaintiff's claims are more likely true than not true. After weighing all of the evidence, if you cannot decide that something is more likely true than not true, you must conclude that the plaintiff did not prove it. You should consider all of the evidence in making that determination, no matter who produced it.

RETALIATORY ARREST IN VIOLATION OF FIRST AMENDMENT

Under the First Amendment, a citizen has the right to free expression. In order to prove the defendant deprived the plaintiff of this First Amendment right, the plaintiff must prove the following elements by a preponderance of the evidence: (1) the plaintiff engaged in speech protected under the First Amendment; (2) the defendant took action against the plaintiff; and (3) the plaintiff's protected speech was a substantial or motivating factor for the defendant's action. A substantial or motivating factor is a significant factor.

In this case, the plaintiff contends that the unlawful action taken against the plaintiff by the defendant was an arrest. Accordingly, the plaintiff must also prove (4) that the arrest occurred without probable cause, or that other similarly situated individuals who were not engaged in the same sort of protected speech were not arrested.

EVALUATING WITNESS TESTIMONY

The term “witness” includes every person who has testified under oath in this case. Every witness has taken an oath to tell the truth. In evaluating each witness’s testimony, however, you may consider such things as:

- (1) The manner in which the witness testifies;
- (2) The nature or quality of the witness’s testimony;
- (3) Evidence that contradicts the testimony of the witness;
- (4) Evidence concerning the bias, motives, or interest of the witness; and
- (5) Evidence concerning the character of the witness for truthfulness.

INFERENCES

In deciding this case you may draw inferences and reach conclusions from the evidence, if your inferences and conclusions are reasonable and are based on your common sense and experience.

DIRECT OR CIRCUMSTANTIAL EVIDENCE

There are two types of evidence. One is direct evidence — such as the testimony of an eyewitness. The other is circumstantial evidence — a chain of circumstances pointing to the existence or nonexistence of a certain fact. You may base your verdict on direct evidence or on circumstantial evidence, or on both.

WITNESS FALSE IN PART

A witness who lies under oath in some part of his or her testimony is likely to lie in other parts of his or her testimony. Therefore, if you find that a witness has lied in some part of his or her testimony, then you may distrust the rest of that witness’s testimony.

Sometimes witnesses who are not lying may give incorrect testimony. They may forget matters or may contradict themselves. Also, different witnesses may observe or remember an event differently. You have the sole responsibility to determine what testimony, or portions of testimony, you will or will not rely on in reaching your verdict.