

WALTER F. BUGDEN, JR. (480)
TARA L. ISAACSON (7555)
BUGDEN & ISAACSON, L.L.C.
445 East 200 South, Suite 150
Salt Lake City, UT 84111
Telephone: (801) 467-1700
Facsimile: (801) 746-8600

RICHARD A. WRIGHT (Nevada Bar No. 886)
WRIGHT, JUDD & WINCKLER
Bank of America Plaza
300 South Fourth Street, Suite 701
Las Vegas, NV 89101
Telephone: (702) 382-4004
Facsimile: (702) 382-4800

Attorneys for Defendant

FILED
FIFTH DISTRICT COURT
2007 SEP -7 PM 2:01
WASHINGTON COUNTY
BY _____

IN THE FIFTH DISTRICT COURT

WASHINGTON COUNTY, STATE OF UTAH

STATE OF UTAH,

Plaintiff,

vs.

WARREN STEED JEFFS,

Defendant.

**DEFENDANT'S REQUESTED
JURY INSTRUCTIONS**

Case No. 061500526

Judge James L. Shumate

The Defendant, by and through counsel, Walter F. Bugden, Jr. and Tara L. Isaacson, requests that this Court, in its charge to the jury, give the following instructions. Duplicate copies of the annotated and unannotated are separate.

DATED this 4th day of September, 2007.

BUGDEN & ISAACSON, L.L.C.

By: Walter F. Bugden, Jr.
WALTER F. BUGDEN, JR.
TARA L. ISAACSON

WRIGHT, JUDD & WINCKLER
RICHARD A. WRIGHT

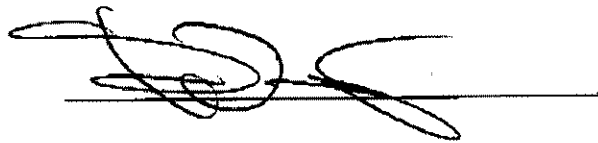
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that, on the 4 day of September, 2007, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Brock R. Beinap
Washington County Attorney
178 North 200 East
St. George, UT 84770

- HAND DELIVERY
- U.S. MAIL + *Special*
- OVERNIGHT MAIL
- FACSIMILE:



ANNOTATED

INSTRUCTION NO. _____

A person who solicits another person to engage in conduct is one who urges, advises, commands, or otherwise incites another to commit a crime.

A person who requests another person to engage in conduct is one who employs or involves oneself; to take part in; to embark on.

A person who commands another person to engage in conduct is one who directs authoritatively, to order.

A person who encourages another person to engage in conduct is one who instigates; to incite to action; to embolden; to help. In other words, there must be evidence presented by the State that establishes beyond a reasonable doubt that the defendant engaged in some active behavior, or at least speech or other expression, that served to assist or encourage Allen Steed to rape Elisa Wall.

A person who intentionally aids another person to engage in conduct is one who intends to bring about something planned or foreseen, to have a purpose or design with which an act is done, assists or facilitates the commission of a crime, or promotes the accomplishment of the crime.

INSTRUCTION NO. _____

Defendant is charge with Rape as an Accomplice. To find the Defendant guilty of this crime you must be convinced that the State has proved each element of accomplice liability beyond a reasonable doubt. In addition, you must be convinced that the State has proved each element of the rape of Elisa Wall by Allen Steed beyond a reasonable doubt. This includes the requisite mental state for the commission of Rape.

In order to find the Defendant guilty of the crime of Rape, you must be convinced that the State has proven beyond a reasonable doubt that defendant intentionally, knowingly, or recklessly solicited, requested, commanded, encouraged, or intentionally aided Allen Steed in the Rape of Elisa Wall. This includes that the Defendant knew that sexual intercourse was without consent, and that he intended that the result of his conduct would be that Allen Steed would Rape Elisa Wall.

State v. Lopes, 1999 UT 24, 980 P.2d 191; *State v. Hansen*, 734 P.2d 421 (1986); *State v. Chaney*, 1999 UT App 309, 989 P.2d 1091; *American Fork City v. Rothe*, 12 P.3d 108 (2000); *State v. Kerekes*, 622 P.2d 1161 (1980); *State v. Crick*, 675 P.2d 527 (1983); *State v. Crayer*, 814 P.2d 604; *State v. Holgate*, 2000 UT 74, 10 P.3d 346; *State v. Labrum*, 959 P.2d 120 (UT App 1988).

INSTRUCTION NO. _____

The Information states that the State of Utah intends to prove the alleged of rape as an accomplice. In order to find the defendant guilty, you must find that the State has proven that the defendant acted with the requisite mental state. In other words, the State must prove beyond a reasonable doubt:

1. That the Defendant intentionally, knowingly, or recklessly solicited, requested, commanded, encouraged, or intentionally aided Allen Steed to have sexual intercourse with Elisa Wall without her consent, and
2. That Allen Steed had sexual intercourse with Elisa Wall knowing it was without her consent.

Each and every element must be proven by the State beyond a reasonable doubt. If the State has not proven each and every element of Rape as an accomplice beyond a reasonable doubt, you must find the Defendant not guilty.

INSTRUCTION NO. _____

In order to find that Elisa Wall was enticed the State must prove beyond a reasonable doubt that the defendant lured or induced a person to commit a criminal act.

To "entice" consists of some acts or words intended to cause a person to do something the other person would not otherwise do. Considerations of age, mental development, relationship to each other, sophistication or lack thereof and all other facts and circumstances shown by the evidence enter into a determination of whether a person was enticed.

"Entice" is not a word referring to approved conduct. It may mean seduce, or is synonymous to lure, trap, or snare. In other words, to wrongfully solicit, persuade, procure, lure, attract, seduce, or persuade a person to do a criminal act. To entice as used in penal statutes may mean to inveigle, decoy, tempt, delude, to persuade against one's will or better judgment, or to draw into a situation by ruse or wiles.

INSTRUCTION NO. _____**(ELEMENTS OF THE OFFENSE OF RAPE AS AN ACCOMPLICE)**

To convict the Defendant as a party to the crime of rape, you must find from the evidence, beyond a reasonable doubt, all of the following elements of that crime:

1. That the Defendant:
 - a. Intentionally, knowingly, or recklessly solicited, requested, commanded or encouraged Allen Steed
 - i. to have sexual intercourse with Elisa Wall.
 - ii. without her consent; or
 - b. intentionally aided Allen Steed
 - i. to have sexual intercourse with Elisa Wall.
 - ii. without her consent; and
2. Allen Steed had sexual intercourse with Elisa Wall knowing it was without her consent.

If you do not find from the evidence, beyond a reasonable doubt, all of the foregoing elements, you must find the Defendant not guilty of rape as an accomplice.

Utah Code Ann. § 76-2-202

Utah Code Ann. § 76-5-402

State v. Chaney, 1999 UT App. 309 ¶¶ 50-51

State v. Calamity, 735 P.2d 39, 43 (Utah 1987)

Utah Code Ann. § 76-2-102 (1953 as amended)

INSTRUCTION NO. _____

In deciding whether Allen Steed's conduct constitutes enticement, you should look at the totality of the facts and circumstances. Relevant factors include: (1) the nature of Elisa Wall's participation, (2) the duration of the acts, (3) Allen Steed's willingness to terminate his conduct at the request of Elisa Wall, (4) the relationship between Allen Steed and Elisa Wall, (5) the age of Elisa Wall, and (6) the age of Allen Steed.

INSTRUCTION NO. _____

Every person acting with the mental state required for the commission of an offense who directly commits the offense, and solicits, requests, commands, encourages, or intentionally aids another person to engage in conduct which constitutes an offense shall be criminally liable as a party to such conduct.¹