

Original

IN THE IOWA DISTRICT COURT FOR POTTAWATTAMIE COUNTY

IN THE MATTER OF
THE PRESUMPTIVE DEATH OF
JOHN STEVEN CONAWAY

ESPR 043203
STATEMENT OF THE CASE
AND
JURY INSTRUCTIONS

2018 DEC 11 AM 11:15
CLERK DISTRICT COURT
POTTAWATTAMIE COUNTY
IOWA

FILED

Members of the Jury: This is an action to establish a presumption of death of John Steven Conaway. A petition to establish the presumption of death was filed by John Steven Conaway's parents, John A. Conaway and Donna M. Conaway. The petition states that John Steven Conaway has been missing since on or about February 9, 1998. At the time he went missing, John Steven Conaway was a resident of Council Bluffs, Pottawattamie County, Iowa. The petitioners are claiming that they've had no contact with John Steven Conaway since he went missing, and they have no knowledge of anyone having contact with John Steven Conaway since on or about February 9, 1998.

This action was filed asking the Court to make a determination that John Steven Conaway is presumed dead. You are required to determine whether there is sufficient evidence from which is fairly may be presumed that John Steven Conaway has met his death.

INSTRUCTION NO. 1

Whenever a party must prove something they must do so by the preponderance of the evidence.

INSTRUCTION NO. 2

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

Evidence is:

1. Testimony in person.
2. Exhibits received by the court.
3. Stipulations which are agreements between the attorneys.
4. Any other matter admitted.

Evidence may be directed or circumstantial. The weight to be given any evidence is for you to decide.

The following are not evidence:

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

Sometimes, during a trial, references are made to pre-trial statements and reports, witnesses' depositions, 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.

INSTRUCTION NO. 3

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's 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 motives, candor, bias and prejudice.

INSTRUCTION NO. 4

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 view.

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.

INSTRUCTION NO. 5

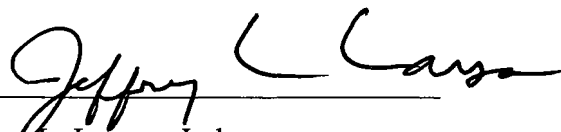
I am giving you one Special Interrogatory to be filled out and signed.

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 Interrogatory must be signed by your foreman or forewoman.

After deliberating for six hours from 11 o'clock a.m., excluding meals or recesses outside your jury room, then it is necessary that only ~~seven~~^{five} of you agree upon the Interrogatory. In that case the verdict must be signed by all ~~seven~~ jurors who agree.

When you have agreed a decision and appropriately signed it, tell the court attendant.

Dated this 11th day of December, 2018.



Jeffrey L. Larson, Judge
Fourth Judicial District