

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

CASE NUMBER: 24-00914CFFA

STATE OF FLORIDA

VS.

JAMES TYLER MELADY,

JURY INSTRUCTIONS

3.1 Introduction to Final Instruction

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.

3.2 Statement of Charge

James Melady, the defendant in this case, has been accused of the crimes of SEXUAL BATTERY UNDER SPECIFIED CIRCUMSTANCES and VIDEO VOYEURISM.

COUNT I: 11.3 SEXUAL BATTERY — UNDER SPECIFIED CIRCUMSTANCES

To prove the crime of Sexual Battery Under Specified Circumstances, the State must prove the following five elements beyond a reasonable doubt:

1. James Melady committed an act upon [REDACTED] in which the vagina of [REDACTED] was penetrated by an object.
2. [REDACTED] was physically helpless to resist.
3. James Melady's act was committed without the consent of [REDACTED].
4. At the time, [REDACTED] was 18 years of age or older.
5. At the time, James Melady was 18 years of age or older.

However, any act done for bona fide medical purposes is not a Sexual Battery.

"Bona fide" means genuine.

"Consent" means intelligent, knowing, and voluntary consent and does not include coerced submission. Consent does not mean the failure by the alleged victim to offer physical resistance to the offender.

"An object" includes a finger.

"Physically helpless" means that a person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to act.

[REDACTED] lack of chastity is not a defense to the crime charged.

3.4 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 crime[s] of which he is accused, there may be evidence that he 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 crimes indicated in the definition of SEXUAL BATTERY UNDER SPECIFIED CIRCUMSTANCES are ATTEMPTED SEXUAL BATTERY UNDER SPECIFIED CIRCUMSTANCES, SEXUAL BATTERY, ATTEMPTED SEXUAL BATTERY and BATTERY.

5.1 ATTEMPT TO COMMIT SEXUAL BATTERY UNDER SPECIFIED CIRCUMSTANCES

To prove James Melady attempted to commit the crime of Sexual Battery Under Specified Circumstances, the State must prove the following three elements beyond a reasonable doubt:

1. James Melady intended to commit the crime of Sexual Battery Under Specified Circumstances.
2. James Melady committed an overt act toward the commission of Sexual Battery Under Specified Circumstances that went beyond mere preparation.
3. James Melady failed to complete the Sexual Battery Under Specified Circumstances.

The line between mere preparation and an overt act is a question of fact for you to decide. Mere preparation consists of devising or arranging the means or measures necessary to commit the crime. An overt act consists of some movement toward committing the crime after mere preparation. An overt act need not be the last possible act toward completing the crime.

The crime of Sexual Battery Under Specified Circumstances is defined as

1. James Melady committed an act upon [REDACTED] in which the vagina of [REDACTED] was penetrated by an object.
2. [REDACTED] was physically helpless to resist.
3. James Melady's act was committed without the consent of [REDACTED]
4. At the time, [REDACTED] was 18 years of age or older.

5. At the time, James Melady was 18 years of age or older.

It is a defense to the crime of Attempted Sexual Battery, Under Specified Circumstances if the defendant abandoned his attempt to commit the offense or otherwise prevented its commission, under circumstances indicating a complete and voluntary renunciation of his criminal purpose.

Renunciation is not complete and voluntary where the defendant failed to complete the crime because of unanticipated difficulties, unexpected resistance, a decision to postpone the crime to another time, or circumstances known by the defendant that increased the probability of being apprehended.

If you find that the defendant proved by a preponderance of the evidence that he abandoned his attempt to commit the offense or otherwise prevented its commission, under circumstances indicating a complete and voluntary renunciation of his criminal purpose, you should find him not guilty of Attempted Sexual Battery Under Specified Circumstances.

If the defendant failed to prove by a preponderance of the evidence that he abandoned his attempt to commit the offense or that he otherwise prevented its commission, under circumstances indicating a complete and voluntary renunciation of his criminal purpose, you should find him guilty of Attempted Sexual Battery Under Specified Circumstances if all the elements of the charge have been proven beyond a reasonable doubt.

11.4 SEXUAL BATTERY

To prove the crime of Sexual Battery, the State must prove the following four elements beyond a reasonable doubt:

1. James Melady committed an act upon [REDACTED] in which the vagina of [REDACTED] was penetrated by an object.
2. James Melady's act was committed without the consent of [REDACTED]
3. At the time [REDACTED] was 18 years of age or older.
4. At the time, James Melady was younger than 18 years of age.

However, any act done for bona fide medical purposes is not a Sexual Battery.

"Bona fide" means genuine.

"Consent" means intelligent, knowing, and voluntary consent and does not include coerced submission. Consent does not mean the failure by the alleged victim to offer physical resistance to the offender.

"An object" includes a finger.

[REDACTED] lack of chastity is not a defense to the crime charged.

5.1 ATTEMPT TO COMMIT SEXUAL BATTERY

To prove James Melady attempted to commit the crime of Sexual Battery, the State must prove the following three elements beyond a reasonable doubt:

1. James Melady intended to commit the crime of Sexual Battery.
2. James Melady committed an overt act toward the commission of Sexual Battery that went beyond mere preparation.
3. James Melady failed to complete the Sexual Battery.

The line between mere preparation and an overt act is a question of fact for you to decide. Mere preparation consists of devising or arranging the means or measures necessary to commit the crime. An overt act consists of some movement toward committing the crime after mere preparation. An overt act need not be the last possible act toward completing the crime.

The crime of Sexual Battery is defined as

1. James Melady committed an act upon [REDACTED] in which the vagina of [REDACTED] was penetrated by an object.
2. James Melady's act was committed without the consent of [REDACTED]
3. At the time [REDACTED] was 18 years of age or older.
4. At the time, James Melady was younger than 18 years of age.

It is a defense to the crime of Attempted Sexual Battery if the defendant abandoned his attempt to commit the offense or otherwise prevented its commission, under circumstances indicating a complete and voluntary renunciation of his criminal purpose.

Renunciation is not complete and voluntary where the defendant failed to complete the crime because of unanticipated difficulties, unexpected resistance, a decision to postpone the crime to another time, or circumstances known by the defendant that increased the probability of being apprehended.

If you find that the defendant proved by a preponderance of the evidence that he abandoned his attempt to commit the offense or otherwise prevented its commission, under circumstances indicating a complete and voluntary renunciation of his criminal purpose, you should find him not guilty of Attempted Sexual Battery.

If the defendant failed to prove by a preponderance of the evidence that he abandoned his attempt to commit the offense or that he otherwise prevented its commission, under circumstances indicating a complete and voluntary renunciation of his criminal purpose, you should find him guilty of Attempted Sexual Battery if all the elements of the charge have been proven beyond a reasonable doubt.

8.3 BATTERY

To prove the crime of Battery, the State must prove the following element beyond a reasonable doubt:

1. James Melady actually and intentionally touched or struck [REDACTED] against her will.

COUNT II: 11.13(b) DIGITAL VOYEURISM

To prove the crime of Digital Voyeurism, the State must prove the following three elements beyond a reasonable doubt:

1. James Melady intentionally used an imaging device to secretly view or record under or through the clothing worn by [REDACTED] for the amusement, entertainment, sexual arousal or gratification of himself.
2. James Melady use of the imaging device was for the purpose of viewing the body of [REDACTED]
3. James Melady's use of the imaging device was without the knowledge and consent of [REDACTED]

"Imaging device" means any mechanical, digital, or electronic viewing device; still camera; camcorder; motion picture camera; or any other instrument, equipment, or format capable of recording, storing, or transmitting visual images of another person.

If you find that James Melady committed the crime of Digital Voyeurism, you must also determine whether the State proved beyond a reasonable doubt that James Melady was 19 years of age or older at the time the Digital Voyeurism occurred.

3.7 Plea of Not Guilty; Reasonable Doubt; & 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.

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

3.9 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. Has the witness been offered or received any money, preferred treatment, or other benefit in order to get the witness to testify?
7. Did the witness at some other time make a statement that is inconsistent with the testimony [he] [she] 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 her testimony deserves more or less consideration than that of any other witness.

Expert witnesses are like other witnesses, with one exception—the law permits an expert witness to give [his] [her] opinion. However, an expert's opinion is reliable only when given on a subject about which you believe [him] [her] to be an expert. Like other witnesses, you may believe or disbelieve all or any part of an expert's testimony.

The defendant in this case has become a witness. You should apply the same rules to consideration of his 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] [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.

3.9(b) 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, he had been threatened in order to get him to make it, and
2. whether anyone had promised him anything in order to get him to make it.

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

3.10 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.

3.11 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.

3.12 Verdict

You may find the defendant guilty as charged in the information or guilty of such lesser included crime(s) as the evidence may justify or not guilty.

If you return a verdict of guilty, it should be for the highest offense which 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 form has been prepared for you. It is as follows (read verdict form(s)):

3.12(a) Single Defendant, Multiple Counts or Informations:

A separate crime is charged in each count of the indictment 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 crime(s) charged.

3.13 Submitting Case to Jury

In just a few moments you will be taken to the jury room by the bailiff. 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 form when all of you have agreed on a verdict and to bring the verdict form 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. 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 bailiff.

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 bailiff while you deliberate.

If you need to communicate with me, send a note through the bailiff, signed by the foreperson. If you have voted, do not disclose the actual vote in the note.

If you have questions, 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.

Some of these exhibits will be sent into the jury room with you when you begin to deliberate. If you wish to see any exhibits that were not sent to the jury room with you, please request that in writing.

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 two centuries we have lived by the constitution and the law. No juror has the right to violate rules we all share.