

2019 OK CR 28  
IN THE COURT OF CRIMINAL APPEALS  
OF THE STATE OF OKLAHOMA

DEC. 20 2019

JOHN D. HADDEN  
CLERK

IN RE: )

ADOPTION OF THE 2019 )  
REVISIONS TO THE OKLAHOMA )  
UNIFORM JURY INSTRUCTIONS- )  
CRIMINAL (SECOND EDITION)

**FOR PUBLICATION**

CASE NO. CCAD-2019-1

**ORDER ADOPTING AMENDMENTS TO OKLAHOMA  
UNIFORM JURY INSTRUCTIONS-CRIMINAL (SECOND EDITION)**

¶1 On August 30, 2019, the Oklahoma Court of Criminal Appeals Committee for Preparation of Uniform Jury Instructions submitted its report and recommendations to the Court for adoption of amendments to Oklahoma Uniform Jury Instructions-Criminal (Second Edition). The Court has reviewed the report and recommendations by the committee for the adoption of the proposed 2019 revisions to the Uniform Jury Instructions. Pursuant to 12 O.S.2011, § 577.1, the Court accepts that report and finds the revisions should be adopted.

¶2 **IT IS THEREFORE ORDERED ADJUDGED AND DECREED** that the report of The Oklahoma Court of Criminal Appeals Committee for Preparation of Uniform Jury Instructions shall be accepted, and its revisions adopted. The revisions shall be

available for access via the internet from this Court's website at www.okcca.net on the date of this order and provided to West Publishing Company for publication. The Administrative Office of the Courts is requested to duplicate and provide copies of the revisions to the judges of the District Courts and the District Courts of the State of Oklahoma are directed to implement the utilization of these revisions effective on the date of this order.

**¶3 IT IS FURTHER ORDERED ADJUDGED AND DECREED** the amendments to existing OUJI-CR (2d) instructions, and the adoption of new instructions, as set out in the following designated instructions and attached to this order, are adopted, to wit:

1-11; 4-11; 4-37; 4-56A; 4-58; 4-58A; 4-58A-1; 4-58B; 4-58B-1; 4-58C; 4-58C-1; 4-58D; 4-58E; 4-58F-1; 4-58F-2; 4-58G; 4-58H; 4-58H-1; 4-87C; 4-87C-1; 4-87D; 4-113; 4-124; 4-125; 4-127; 4-128; 4-147; 4-148; 5-13; 5-14; 5-14A; 5-20; 5-21; 5-38; 5-39; 5-40; 5-41; 5-42; 5-50; 5-69; 5-72; 5-78; 5-79; 5-90A; 5-93; 5-100; 5-103; 5-104; 5-105A; 5-111; 5-116; 5-116A; 5-117; 5-117A; 8-32; 8-33; 8-33B; 8-33C; 8-33D; 10-13A; 10-13B; 10-17; 10-19.


¶4 The Court also accepts and authorizes the updated committee comments to be published, together with the above styled revisions and each amended page in the revisions to be noted at the bottom as follows “(2019 Supp.)”.


¶5 **IT IS THE FURTHER ORDER OF THIS COURT** that the members of The Oklahoma Court of Criminal Appeals Committee for Preparation of Uniform Criminal Jury Instructions be commended for their ongoing efforts to provide up-to-date Uniform Jury Instructions to the bench and the bar of the State of Oklahoma.


¶6 **IT IS SO ORDERED.**

¶7 **WITNESS OUR HANDS AND THE SEAL OF THIS COURT**

this 20<sup>th</sup> day of December, 2019.

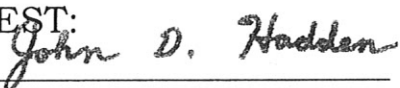
 - Concur in Part  
Dissent in Part  
Writing Attached  
**DAVID B. LEWIS, Presiding Judge**

 - CIR/DIP attached  
also join Presiding  
**DANA KUEHN, Vice Presiding Judge**  
Joy Lewis

  
\_\_\_\_\_  
**GARY L. LUMPKIN, Judge**

  
\_\_\_\_\_  
**ROBERT L. HUDSON, Judge**

  
\_\_\_\_\_  
**SCOTT ROWLAND, Judge**

ATTEST:  
  
\_\_\_\_\_  
Clerk

**LEWIS, P.J., CONCURRING IN PART AND DISSENTING IN PART:**

¶1 I concur in adoption of most the 2019 Supplement to the Oklahoma Uniform Jury Instructions-Criminal (2d) and commend the Committee for its work. I respectfully dissent from the adoption of the proposed text of Instruction No. 1-11. At almost 250 words, the proposed instruction is lengthy and academic, with references to the Sixth Amendment and waiver jargon that is likely to confuse jurors.

¶2 I would substitute the following eighty-three word jury instruction on the subject of self-representation and standby counsel:

**[Name of Defendant]** has the right to act as **[his/her]** own attorney. This is a proper part of the trial, and you are instructed not to let the defendant's decision to represent **[himself/herself]** influence your verdict. You must base your verdict on these instructions and the evidence admitted by the court. **[Name of Standby Counsel]** is not acting as the defendant's attorney in this case, but is standing by at the court's request to answer the defendant's questions about law and court procedures.

¶3 I am authorized to state that Vice Presiding Judge Kuehn joins in this separate writing.

**KUEHN, V.P.J., CONCURRING IN PART/DISSENTING IN PART:**

¶1 I concur in adopting most of the 2019 Supplement to the Oklahoma Uniform Jury Instructions – Criminal (2d). I join Presiding Judge Lewis’s separate writing concerning Instruction No. 1-11. In addition, I respectfully dissent from the adoption of the definition of Antisocial Personality Disorder contained in proposed Instruction No. 8-33D. Including this definition is potentially confusing to jurors, who are not charged with determining whether a defendant has such a disorder, but merely with determining if a defendant *has already been diagnosed with* such a disorder.

¶2 I also dissent to publication of the updated committee comments, insofar as they may advise or require a particular interpretation of the law. The Notes on Use and Comments are not themselves law; they are intended as useful guides for judges and practitioners in applying the Instructions. They are neither binding nor persuasive authority.