

6.22 Jury Consideration of Punishment

The punishment provided by law for this crime is for the court to decide. You may not consider punishment in deciding whether the government has proved its case against the defendant beyond a reasonable doubt.

Comment

In *United States v. Lynch*, 903 F.3d 1061, 1081 (9th Cir. 2018), the Ninth Circuit rejected a challenge to this instruction.

“[I]t is inappropriate for a jury to consider or be informed of the consequences of their verdict.” *United States v. Frank*, 956 F.2d 872, 879 (9th Cir. 1991). There may be “particular, limited circumstances,” however, when “‘an instruction of some form’ as to the consequences of a verdict” is necessary to ensure the jury remains “focused on the facts, the evidence, and the witnesses’ credibility.” *United States v. Dencklau*, 160 F.4th 1046, 1061 (9th Cir. 2025) (quoting *Shannon v. United States*, 512 U.S. 573, 587-88 (1994)) (rejecting challenge to jury instructions that informed jurors that cooperating witnesses faced the death penalty, but that defendants did not, that sentencing was the judge’s job, and that the jury should consider a witness’s interest in the outcome of a case and their cooperation in evaluating the witness’s credibility).

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