

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

United States of America,

Plaintiff(s),

vs.

Case No. 09-00296-04/05-CR-W-FJG

James M. Cox (04),  
Steve W. Larson (05),

Defendant(s).

**INSTRUCTION(S) OFFERED AND REFUSED**

entitled to a "theory of defense" instruction. Defendant Larson submits that his proposed instruction will more adequately apprise the jury of the controlling law and give them a better idea of various options available to them in deciding this case.

*Larson's Proposed Alternate Instruction:*

**PROPOSED DEFENSE INSTRUCTION**

**Mere membership in a motorcycle club and association with other club members named in this indictment is not sufficient to establish guilt beyond a reasonable doubt that each of the defendants knowingly and intentionally distributed methamphetamine as part of an overall agreement. Nor is mere presence at a motorcycle club event by a defendant where the alleged distribution of a controlled substance might have taken place by someone other than the defendant whose case you are deciding, an act sufficient to establish that the particular individual defendant knowingly and intentionally participated in that distribution or was a party to an agreement to do so.**

WHEREFORE, defendant requests that his theory of defense instruction be given in lieu of the standard 8<sup>th</sup> Circuit "mere presence" instruction."

Respectfully submitted,

/S/

**ALBERTO O. MIERA**  
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