

PROPOSED INSTRUCTION NO. 12
CONTEMPT – ELEMENTS OF OFFENSE

- (1) The indictment accuses the defendant of the crime of contempt.
- (2) For you to find the defendant guilty of this crime, you must be convinced that the government has proved each and every one of the following elements beyond a reasonable doubt:
 - (A) First, that a court issued a clear and definite order.
 - (B) Second, that the defendant knew of the order.
 - (C) Third, that the defendant willfully disobeyed the court’s order in one of the ways set forth in the indictment.
- (3) Willfulness means a deliberate or intended violation, as distinguished from an accidental, inadvertent or negligent violation.

In re Smothers, 322 F.3d 438, 441-42 (6th Cir. 2003) (“The following conditions must be met in order to sustain a criminal contempt conviction falling under [18 U.S.C. § 401(3)]. First, the court’s writ, process, order, rule, decree or command must be resisted or disobeyed. Second, the act of disobedience or resistance must be a deliberate or intended violation, as distinguished from an accidental, inadvertent or negligent violation.”) (internal quotations omitted); United States v. Allen, 73 F.3d 64, 68 (6th Cir. 1995) (holding that knowledge of a court order intentional disobedience of that order established a violation of § 401(3)); United States v. Strickland, No. 89-3815, 1990 WL 33712, at *2 (6th Cir. Mar. 27, 1990) (18 U.S.C. § 401(3) requires the existence of a clear and definite court order, that the defendant knew of the order, and that the defendant willfully disobeyed the order.); TWM Mfg. Co., Inc. v. Dura Corp., 722 F.2d 1261, 1272 (6th Cir. 1983) (defining willfulness).