

THE STATE OF TEXAS

*

IN THE CRIMINAL DISTRICT

VS.

*

COURT NUMBER THREE OF

MARQUISE BROOKS

*

TARRANT COUNTY, TEXAS

FILED
THOMAS A WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

COURT'S CHARGE

APR 04 2013

MEMBERS OF THE JURY:

TIME 847A
BY Cm DEPUTY

The Defendant, Marquise Brooks, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about January 6, 2011, in Tarrant County, Texas. To this charge the Defendant has pleaded not guilty.

A person commits capital murder when such person intentionally commits the murder in the course of committing or attempting to commit the offense of robbery.

A person commits the offense of murder when he intentionally or knowingly causes the death of an individual.

A person commits the offense of robbery if, in the course of committing theft and with intent to obtain and maintain control of property of another, he intentionally or knowingly causes bodily injury to another.

The offense is aggravated robbery if the person committing robbery uses or exhibits a deadly weapon.

"In the course of committing theft" means conduct that occurs in an attempt to commit, during the commission, or in immediate flight after the attempt or commission of theft.

"Attempt" to commit an offense occurs if, with specific intent to commit an offense, a person does an act amounting to more than mere preparation that tends, but fails, to effect the commission of the offense intended.

"Bodily injury" means physical pain, illness, or any impairment of physical condition.

"Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

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ATTEST: April 9, 2013 106

property of another with the intent to deprive such person of said property.

“Appropriation” and “appropriate,” as those terms are used herein, mean to acquire or otherwise exercise control over property other than real property.

Appropriation of property is unlawful if it is without the owner’s effective consent.

“Property” as used herein means tangible or intangible personal property or documents, including money that represents or embodies anything of value.

“Deprive” as used herein means to withhold property from the owner permanently.

“Effective consent” means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner. Consent is not effective if induced by deception or coercion or force or threats.

“Owner” means a person who has title to the property, possession of the property, or a greater right to possession of the property than the person charged.

“Possession” means actual care, custody, control or management of property.

“Deadly weapon” means a firearm or anything manifestly designed, made, or adapted for the purpose of causing death or serious bodily injury, or anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

“Individual” means a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.

A person acts intentionally, or with intent, with respect to a result of his conduct when it is his conscious objective or desire to cause the result.

A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

A person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both.

A person is criminally responsible for an offense committed by the conduct of another if acting with intent to promote or assist the commission of the offense, he

offense.

If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy.

You are instructed that capital murder, robbery, and aggravated robbery are felony offenses in the State of Texas.

Each party to an offense may be charged with the commission of the offense.

Mere presence alone will not constitute one a party to an offense.

Voluntary intoxication does not constitute a defense to the commission of a crime.

“Intoxication” means disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

Upon the law of accomplice witness testimony, you are instructed that Floyd Miles was an accomplice, if any offense was committed, as alleged in the indictment. With this in mind, you are further instructed that you cannot convict the Defendant upon Floyd Miles’ testimony, unless you first believe that his testimony is true and shows the guilt of the Defendant as charged in the indictment, and then you cannot convict the Defendant unless Floyd Miles’ testimony is corroborated by other evidence tending to connect the Defendant with the offense charged. The corroboration is not sufficient if it merely shows the commission of an offense, but it must tend to connect the Defendant with its commission, and then from all the evidence, you must believe beyond a reasonable doubt that the Defendant is guilty of the offense charged against him.

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a privilege accorded a defendant, and in the event he elects not to testify, that fact cannot be taken as a circumstance against him. In this case, the Defendant has elected not to testify, and you are instructed that you cannot and must not

any purpose whatsoever as a circumstance against the Defendant.

Now, bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that the Defendant, Marquise Brooks, either acting alone or as a party as that term has been previously defined, in Tarrant County, Texas, on or about the 6th day of January 2011 did then and there intentionally cause the death of an individual, Kevan Dunlop, by shooting him with a deadly weapon, to-wit: a firearm, and the said Defendant was then and there in the course of committing or attempting to commit the offense of robbery of Kevan Dunlop, then you will find the Defendant guilty of the offense of capital murder, as charged in the indictment.

Unless you find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of the offense of capital murder, and next consider whether he is guilty of the offense of aggravated robbery.

If you find from the evidence beyond a reasonable doubt that on or about the 6th day of January 2011, in Tarrant County, Texas, the Defendant, Marquise Brooks, either acting alone or as a party as that term has been previously defined, did then and there intentionally or knowingly, while in the course of committing theft of property and with the intent to obtain or maintain control of said property, threaten or place Kevan Dunlop in fear of imminent bodily injury or death, and the Defendant used or exhibited a deadly weapon, to-wit: a firearm, then you will find the Defendant guilty of aggravated robbery.

Unless you find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant and say by your verdict "Not Guilty."

Your verdict must be by a unanimous vote of all members of the jury. In deliberating on this case, you shall consider the charge as a whole and you must not refer to nor discuss any matters not in evidence.

In all criminal cases, the burden of proof is on the State. The burden of proof rests upon the State throughout the trial and never shifts to the Defendant.

Defendant. It is a mere pleading that is necessary in order to bring this case into court for trial and you will not consider it for any purpose.

All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proven beyond a reasonable doubt. The fact that a defendant has been arrested, confined, indicted for, or otherwise charged with an offense gives no rise to any inference of guilt at his trial.

You are the exclusive judges of the facts proven, of the credibility of the witnesses, and of the weight to be given their testimony. But you are bound to receive the law from the Court, which is given in these written instructions, and be governed thereby.

After you retire to the jury room, you should select one of your members as your presiding juror. It is his or her duty to preside at your deliberations, to vote with you, and when you have reached a unanimous verdict, to certify to your verdict by using the attached form and signing the same as your presiding juror.

You may communicate with this Court in writing through the bailiff who has you in charge. Your written communication must be signed by the presiding juror. Do not attempt to talk to the bailiff, the attorneys, or the Court regarding any question you may have concerning the trial of the case. After you have reached a unanimous verdict or if you desire to communicate with the Court, please use the jury call button on the wall and one of the bailiffs will respond.



ROBB CATALANO, Judge
Criminal District Court Number Three
Tarrant County, Texas

We, the jury, find the Defendant, Marquise Brooks, guilty of the offense of capital murder, as charged in the indictment.

FILED
THOMAS A WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS
APR 04 2013
TIME 1033A
BY Om DEPUTY

Cecil Self
PRESIDING JUROR

-OR-

We, the jury, find the Defendant, Marquise Brooks, guilty of the offense of aggravated robbery.

PRESIDING JUROR

-OR-

We, the jury, find the Defendant, Marquise Brooks, not guilty.

PRESIDING JUROR