

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.

“Attempt” means with the 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.

All persons are parties to an offense who are guilty of acting together in the commission of an offense. Each party to an offense may be charged with commission of the offense.

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 conspiracy is an agreement between two or more persons, with intent that a felony be committed, that they, or one or more of them, engage in conduct that would constitute the offense. An agreement constituting a conspiracy may be inferred from acts of the parties.

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.

Now, if you find from the evidence beyond a reasonable doubt, that in Galveston County, Texas, on or about the 11th day of October, A.D., 2002, that AMADOR SANCHEZ and/or SCOTT COPELAND and the Defendant, BRANDY BERGARA, intentionally or knowingly

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entered into a conspiracy to commit the offense of robbery of Jeannie Collins and that pursuant thereto they did carry out or attempt to carry out such conspiracy to commit the offense of robbery of Jeannie Collins and that on or about the 11th day of October, 2002, in Galveston County, Texas, AMADOR SANCHEZ or SCOTT COPELAND, a member of the said conspiracy, if he was, did then and there commit another offense, to wit, capital murder, by intentionally causing the death of Joe Morreale, by shooting him with a handgun during the course of the robbery or attempted robbery of Jeannie Collins, and that the murder of Joe Morreale was done in furtherance of the conspiracy to rob Jeannie Collins, if any, and was an offense that should have been anticipated by defendant, BRANDY BERGARA, would occur as a result of the carrying out of the conspiracy to rob Jeannie Collins, then you will find the Defendant, BRANDY BERGARA, guilty of Capital Murder as alleged in the indictment.

If there was no such common design and intent of all, including the defendant, to commit the offense, or if the offense, if any, was committed by one or more, acting independently of the defendant in so doing and without participation by her in the design and intent to commit it, then the Defendant is not guilty, and, if you have a reasonable doubt as to this issue, you must give the defendant the benefit of the doubt and acquit her of capital murder and consider the lesser offenses.

Unless you so 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 go on to consider the lesser included offense of Murder.

A person commits the offense of Murder if he commits or attempts to commit a felony and in the course of and in furtherance of the commission or attempt, or in immediate flight from

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the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

Now, if you find from the evidence beyond a reasonable doubt, that in Galveston County, Texas, on or about the 11th day of October, A.D., 2002, that AMADOR SANCHEZ and/or SCOTT COPELAND and the Defendant, BRANDY BERGARA, intentionally or knowingly entered into a conspiracy to commit the offense of robbery of Jeannie Collins and that pursuant thereto they did carry out or attempt to carry out such conspiracy to commit the offense of robbery of Jeannie Collins and that on or about the 11th day of October, 2002, in Galveston County, Texas, AMADOR SANCHEZ or SCOTT COPELAND, a member of the said conspiracy, if he was, did then and there commit another offense, to wit, murder, by committing or attempting to commit a felony, to-wit: robbery of Jeannie Collins, and in the course of and in furtherance of the commission, or in immediate flight from the commission of the said felony, he (AMADOR SANCHEZ or SCOTT COPELAND) committed or attempted to commit an act clearly dangerous to human life, to wit: by shooting Joe Morreale with a handgun that caused the death of Joe Morreale, and that the murder of Joe Morreale was done in furtherance of the conspiracy to rob Jeannie Collins, if any, and was an offense that should have been anticipated by defendant, BRANDY BERGARA, would occur as a result of the carrying out of the conspiracy to rob Jeannie Collins, then you will find the Defendant, BRANDY BERGARA, guilty of Murder.

Unless you so 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 Murder and next go on to consider the lesser included offense of Aggravated Robbery.

Robbery was previously defined in this charge.

2009-2542-700
10/11/07

A person commits Aggravated Robbery if he commits robbery as defined and he uses or exhibits a deadly weapon.

A person is criminally responsible as a party to an offense if acting with intent to promote or assist the commission of the offense, she solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense. Mere presence alone will not constitute a party to the offense.

Now, if you find from the evidence beyond a reasonable doubt, that in Galveston County, Texas, on or about the 11th day of October, A.D., 2002, that AMADOR SANCHEZ or SCOTT COPELAND did then and there in the course of committing theft of property, to wit: United States Currency, and with the intent to obtain and maintain control of the property AMADOR SANCHEZ or SCOTT COPELAND intentionally or knowingly threatened or placed Jeannie Collins in fear of imminent bodily injury or death and used or exhibited a deadly weapon, to-wit: a handgun and the Defendant, BRANDY BERGARA, with the intent to promote or assist the commission of the offense of Aggravated Robbery by AMADOR SANCHEZ or SCOTT COPELAND, she solicited, encouraged, directed, aided, or attempted to aid the AMADOR SANCHEZ or SCOTT COPELAND to commit the offense of Aggravated Robbery, then you will find the Defendant, BRANDY BERGARA, guilty of Aggravated Robbery.

Unless you so 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 Aggravated Robbery and next go on to consider the lesser included offense of Robbery.

Now, if you find from the evidence beyond a reasonable doubt, that in Galveston County, Texas, on or about the 11th day of October, A.D., 2002, that AMADOR SANCHEZ or SCOTT

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COPELAND did then and there in the course of committing theft of property, to wit: United States Currency, and with the intent to obtain and maintain control of the property, AMADOR SANCHEZ or SCOTT COPELAND intentionally or knowingly threatened or placed Jeannie Collins in fear of imminent bodily injury or death and the Defendant, BRANDY BERGARA, with the intent to promote or assist the commission of the offense of Robbery by AMADOR SANCHEZ or SCOTT COPELAND, she solicited, encouraged, directed, aided, or attempted to aid the AMADOR SANCHEZ or SCOTT COPELAND to commit the offense of Robbery, then you will find the Defendant, BRANDY BERGARA, guilty of Robbery.

Unless you so 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 Robbery and find the Defendant "not guilty"

If you believe that the Defendant, BRANDY BERGARA, is guilty of an offense, Capital Murder, Murder, Aggravated Robbery, or Robbery but you have a reasonable doubt as to which offense she is guilty, you must give the Defendant the benefit of the doubt and find her guilty of the appropriate lesser offense. If you have a reasonable doubt that the defendant is guilty of any offense, you acquit the defendant of all offenses and find her "not guilty".

Our law provides that a Defendant may testify in her own behalf if she elects to do so. This, however, is a right accorded a Defendant, and in the event she elects not to testify, that fact cannot be taken as a circumstance against her. In this case, the Defendant has elected not to testify and you are instructed that you cannot and must not refer to or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against her.

2009-253-402
12/3/06

All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that a person has been arrested, confined, or indicted for, or otherwise charged with, the offense gives rise to no inference of guilt at his trial. The law does not require a Defendant to prove his innocence or produce any evidence at all. The presumption of innocence alone is sufficient to acquit the Defendant, unless the jurors are satisfied beyond a reasonable doubt of the Defendant's guilt after careful and impartial consideration of all the evidence in the case.

The prosecution has the burden of proving the Defendant guilty and it must do so by proving each and every element of the offense charged beyond a reasonable doubt and if it fails to do so, you must acquit the Defendant.

In the event you have a reasonable doubt as to the Defendant's guilt after considering all the evidence before you and these instructions, you will acquit her and say by your verdict "Not Guilty".

A Grand Jury indictment is the means whereby a Defendant is brought to trial in a felony prosecution. It is not evidence of guilt nor can it be considered by you in passing upon the question of guilt of the Defendant. The burden of proof in all criminal cases rests upon the State throughout the trial and never shifts to the Defendant.

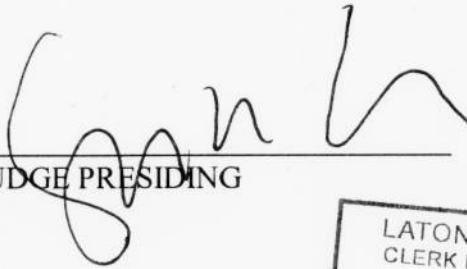
During your deliberations in this case, you must not consider, discuss, or relate any matters not in evidence before you. You should not consider or mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence.

You have been permitted to take notes during the testimony in this case. In the event any of

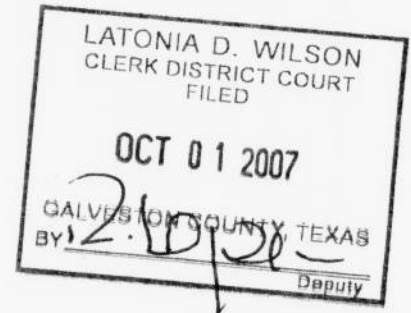
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No one has any authority to communicate with you except the officer who has you in charge. After you have retired, you may communicate with this Court in writing through the officer who has you in charge. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the court, or anyone else concerning any question you may have. After you have reached a unanimous verdict, the foreman will certify thereto by filling in the appropriate form attached to this charge and signing his or her name as foreperson.

Suitable forms for your verdict are hereto attached; your verdict must be in writing and signed by your foreperson. Your sole duty at this time is to determine the guilt or innocence of the Defendant under the indictment in this case; and restrict your deliberations solely to the issue of guilt or innocence of the Defendant.



JUDGE PRESIDING



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NO. 04CR0846

THE STATE OF TEXAS

§

IN THE DISTRICT COURT OF

VS.

§

GALVESTON COUNTY, TEXAS

BRANDY BERGARA

§

212TH JUDICIAL DISTRICT

VERDICT

We, the Jury, find the Defendant, BRANDY BERGARA, guilty of Capital Murder, as charged in the indictment.

Delaine [Signature]
FOREPERSON OF THE JURY

ANTONIA D. WILSON
CLERK DISTRICT COURT
FILED
OCT 01 2007
GALVESTON COUNTY, TEXAS
BY *[Signature]*
Deputy

We, the Jury, find the Defendant, BRANDY BERGARA, guilty of the lesser included offense of Murder.

FOREPERSON OF THE JURY

We, the Jury, find the Defendant, BRANDY BERGARA, guilty of the lesser included offense of Aggravated Robbery.

FOREPERSON OF THE JURY

We, the Jury, find the Defendant, BRANDY BERGARA, guilty of the lesser included offense of Robbery.

FOREPERSON OF THE JURY

We, the Jury, find the Defendant, BRANDY BERGARA, not guilty.

FOREPERSON OF THE JURY

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