

"Abduct" means to restrain a person with intent to prevent his liberation by using or threatening to use deadly force or secreting or holding him in a place where he is not likely to be found.

"Restrain" means to restrict a person's movements without consent, so as to interfere substantially with the person's liberty, by moving the person from one place to another or by confining the person. Restraint is "without consent" if it is accomplished by force, intimidation, or deception.

"Person" means an individual, corporation, or association.

"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.

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.

In all criminal cases the Burden of Proof is on the State.

The indictment filed in this case by the State is not evidence of guilt or innocence. It is a mere accusation and cannot be considered by you as evidence in determining the innocence or guilt of the defendant in this case.

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.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 17th day of April, 2006, in McLennan County, Texas, the defendant, Robert Allen Byrd, did then and there intentionally cause the death of an individual, namely, Dana Taylor, by cutting or stabbing her, and the defendant was then and there in the course of committing or attempting to commit the offense of kidnapping of Dana Taylor; or did then and there intentionally cause the death of an individual, namely, Dana Taylor, by a manner and means unknown to the Grand Jury, and the defendant was then and there in the course of committing or attempting to commit the offense of kidnapping of Dana Taylor, then you will find the defendant guilty of capital murder.

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."

You are instructed that in considering your verdict, you may consider all relevant facts and circumstances surrounding the killing, if any, and the previous relationship existing between the accused and the deceased, if any, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the alleged killing in question, if any.

You are instructed that certain testimony was admitted in evidence before you in regard to the defendant's having been charged and convicted of offenses other than the one for which he is now on trial. Such testimony cannot be considered by you against the defendant as any evidence of guilt in this case. Said testimony was admitted before you for the purpose of aiding you, if it does aid you, in passing upon the weight you will give his testimony, and you will not consider the same for any other purpose.

You are also instructed that certain testimony was admitted in evidence before you in regard to certain witnesses having been convicted of other offenses. Said testimony was admitted before you for the purpose of aiding you, if it does aid you, in passing upon the weight you will give their testimony, and you will not consider the same for any other purpose.

During trial it was permissible for you to take notes. You may carry those notes to the jury room for your personal use during deliberation on the Court's charge. You may not share these notes with other jurors; however, you may discuss the contents of your notes. Your personal recollection of the evidence takes precedence over any notes you have taken. A juror may not rely on the notes of another juror. If you disagree about the evidence, the Presiding Juror may apply to the Court and have the court reporter's notes read to the jury.

After you retire to your jury room you will select one of your members as your Foreperson. Your Foreperson will certify to your verdict by using the appropriate form attached hereto, and signing the same as Foreperson. If you agree upon a verdict, it must be by unanimous vote.

Until you have finished your deliberations, you shall not communicate to anyone outside the jury room how the jury may stand numerically in its voting, nor how the jury may stand numerically on any issue before you, unless you are first called upon by the Court to do so.

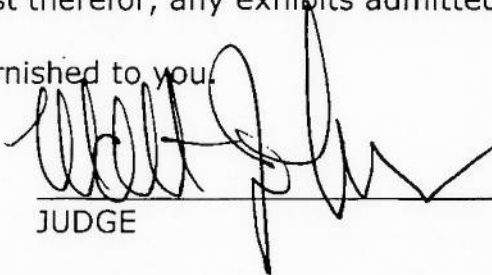
Any communications from the jury to the Court must be written, prepared by the Foreperson, signed by the Foreperson, and submitted to the Court through the Bailiff. Therefore, if you wish to communicate with the Court about any matter, then your Foreperson shall prepare your communication in writing, then sign it, and deliver it to the bailiff, and the bailiff will deliver it to the Court.

Do not let personal bias, prejudice, sympathy or resentment on your part, or any such personal emotion on your part, enter into your deliberations or affect your verdict in this case.

In your deliberations, you must not relate to your fellow jurors any personal experience of your own, nor shall you relate any occurrence, happening or event known to you, and not shown by the evidence in this case. And you shall not speculate on, nor concern yourself with matters not shown by the evidence in this case and about which you are not called upon to make any decision. In all of your deliberations, you will confine yourselves strictly to the evidence introduced before you in this trial under the rulings of the Court, and the definitions and instructions given to you by the Court. If any member of the jury attempts a violation of these instructions, the other members shall stop them at once. If the juror persists in the violation, the foreperson shall immediately report that fact to the Court.

You are the exclusive judges of the facts proved, of the credibility of the witnesses, and the weight to be given to their testimony, but in matters of law you must be governed by the instructions, definitions, and the rulings of the Court. You shall have this written charge with you when you go to the jury room.

Upon your written request therefor, any exhibits admitted as evidence in this case will be furnished to you.



JUDGE

JURY VERDICT

We, the jury, find the defendant, Robert Allen Byrd, guilty of the offense of capital murder, as alleged in the indictment.

Ram Berger
Foreperson

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We, the jury, find the defendant, Robert Allen Byrd, not guilty of the offense of capital murder, as alleged in the indictment.

Foreperson

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