

Filed at the bench in open Court @ 5:29 PM on 29th Day of April, 2016

NO. F15-1131-16

THE STATE OF TEXAS

§

IN THE 16TH JUDICIAL Sherry Shipman

VS.

§

Judge, 16th District Court DISTRICT COURT OF

DEMICO STANLEY

§

DENTON COUNTY, TEXAS

FILED 2015 MAY -3 PM 3:28 by SHERRI ADELSTEIN CLERK DENTON CO. TX DEPUTY

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, DEMICO STANLEY, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 7th day of April, 2015. The defendant has pleaded not guilty.

A person commits Capital Murder if he intentionally commits murder in the course of committing or attempting to commit the offense of Robbery.

A person commits the offense of Robbery if, in the course of committing theft and with intent to obtain or maintain control of the property, he:

- (1) intentionally, knowingly, or recklessly causes bodily injury to another;
- (2) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

A person commits Murder if he:

- (1) intentionally or knowingly causes the death of an individual;
- (2) intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual;
- (3) or commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

“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.

In order for the murder to qualify as capital murder, the intent to commit the crime of robbery must be formed prior to or concurrent with the Murder.

An “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.

“Theft” means the unlawful appropriation of property of another, with the intent to deprive such other person of said property.

“Appropriation” and “appropriate” 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” means tangible or intangible personal property or documents, including money, that represents or embodies anything of value.

“Deprive” 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.

“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 the property.

Capital murder is defined in terms of one’s intent to produce a specified result. Not only must the accused be found to have intended to engage in the act that caused the death, he also must have specifically intended that the death result from that conduct.

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 acts recklessly, or is reckless, with respect to the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the result will occur. The risk must be of such nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor’s standpoint.

For a person to be deemed reckless, there must actually be both a substantial and an unjustifiable risk that the result complained of will occur, and that the person acting was actually aware of such risk and consciously disregarded it.

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

Mere presence alone will not make a person a party to an offense.

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 solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense.

Therefore, if you believe from the evidence beyond a reasonable doubt that the defendant, DEMICO STANLEY, on or about the 7th day of April, 2015, in Denton County, Texas, did then and there intentionally cause the death of an individual, namely, Richard Myles, by shooting Richard Myles with a firearm, and the defendant was then and there in the course of committing or attempting to commit the offense of Robbery of Richard Myles, then you will find the defendant, DEMICO STANLEY, guilty of Capital Murder, as charged in the indictment.

If you find from the evidence beyond a reasonable doubt that the defendant, DEMICO STANLEY, on or about the 7th day of April, 2015, in Denton County, Texas, did then and there intentionally cause the death of an individual, namely, Richard Myles, by shooting Richard Myles with a firearm, and you believe beyond a reasonable doubt that DEMICO STANLEY, acting with intent to promote or assist the commission of the offense, either solicited, encouraged, directed, aided or attempted to aid Adrian Quigley in committing the offense of Capital Murder, to wit: by taking U.S. Currency belonging to Richard Myles, by taking a lunch bag belonging to Richard Myles, or by shooting Richard Myles with a firearm, and that Adrian Quigley was then and there in the course of committing or attempting to commit the offense of Robbery of Richard Myles, then you will find DEMICO STANLEY, guilty of Capital Murder, as charged in the indictment.

If you do not so believe beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will next consider whether or not the defendant is guilty of Murder, a lesser included offense of the indictment.

If you believe from the evidence beyond a reasonable doubt that the defendant, DEMICO STANLEY, on or about the 7th day of April, 2015, in Denton County, Texas: (1) did then and there intentionally or knowingly cause the death of Richard Myles by shooting Richard Myles with a firearm or (2) did then and there, with intent to cause serious bodily injury to an individual, namely, Richard Myles, commit an act clearly dangerous to human life to-wit: by shooting Richard Myles with a firearm that caused the death of Richard Myles; or (3) did then and there commit or attempt to commit a felony, to wit: Robbery, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or

attempt, said defendant committed or attempted to commit an act clearly dangerous to human life to-wit: by shooting Richard Myles with a firearm that caused the death of Richard Myles, then you will find the defendant, DEMICO STANLEY, guilty of Murder, a lesser included offense of the indictment.

If you do not so believe, or if you have a reasonable doubt thereof, you will find the defendant not guilty.

Upon the law of self-defense, you are instructed that a person is justified in using force against another when and to the degree that he reasonably believes the force is immediately necessary to protect himself against the other person's use or attempted use of unlawful force:

A person is justified in using deadly force against another if he would be justified in using force against the other in the first place, as above set out, and when he reasonably believes that such deadly force is immediately necessary to protect himself against the other person's use or attempted use of unlawful deadly force.

The actor's belief that the deadly force was immediately necessary is presumed to be reasonable if the actor:

(1) knew or had reason to believe that the person against whom the deadly force was used:

(A) unlawfully and with force entered, or was attempting to enter unlawfully and with force, the actor's occupied habitation, vehicle, or place of business or employment;

(B) unlawfully and with force removed, or was attempting to remove unlawfully and with force, the actor from the actor's habitation, vehicle, or place of business or employment; or

(C) was committing or attempting to commit an offense of aggravated kidnapping, murder, sexual assault, aggravated sexual assault, robbery, or aggravated robbery;

(2) did not provoke the person against whom the force was used; and

(3) was not otherwise engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic at the time the force was used.

A person who has a right to be present at the location where the deadly force is used, who has not provoked the person against whom the deadly force is used, and who is not engaged in criminal activity at the time the deadly force is used is not required to retreat before using deadly force.

By the term "reasonable belief" as used herein is meant a belief that would be held by an ordinary and prudent person in the same circumstances as defendant.

By the term "deadly force" as used herein is meant force that is intended or known by the persons using it to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.

A person's use of deadly force against another that would otherwise constitute the crime of murder is not a criminal offense if the person reasonably believed the force used was immediately necessary to prevent the other's imminent commission of aggravated kidnapping, murder, sexual assault, aggravated sexual assault, robbery, or aggravated robbery.

The use of force against another is not justified in response to verbal provocation alone. The Defendant must have reasonably believed the other person had done more than verbally provoke the Defendant.

Therefore, if you find from the evidence beyond a reasonable doubt that the defendant, DEMICO STANLEY did cause the death of Richard Myles as alleged, but you further find from the evidence, as viewed from the standpoint of the defendant at the time, that from the words or conduct, or both, of Richard Myles it reasonably appeared to the defendant that his life or person was in danger and there was created in his mind a reasonable expectation or fear of death or serious bodily injury from the use of unlawful deadly force at the hands of Richard Myles or a reasonable expectation or fear of the imminent commission of the offense of robbery at the hands of Richard Myles and that acting under such apprehension and reasonably believing that the use of deadly force on his part was immediately necessary to protect himself against Richard Myles use or attempted use of unlawful deadly force or Richard Myles's imminent commission of robbery, he shot Richard Myles and that a reasonable person in the defendant's situation would not have retreated, then you should acquit the defendant on the grounds of self-defense; or if you have a reasonable doubt as to whether or not the defendant was acting in self-defense on said occasion and under the circumstances, then you should give the defendant the benefit of that doubt and say by your verdict, not guilty.

The Defendant is not required to prove prevention of a felony. Rather, the State must prove, beyond a reasonable doubt, that prevention of a felony does not apply to the Defendant's conduct.

When a person is attacked with unlawful deadly force, or he reasonably believes he is under attack or attempted attack with unlawful deadly force, and there is created in the mind of such person a reasonable expectation or fear of death or serious bodily injury, then the law

excuses or justifies such person in resorting to deadly force by any means at her command to the degree that he reasonable believes immediately necessary, viewed from his standpoint at the time, to protect herself from such attack or attempted attack. And it is not necessary that there be an actual attack or attempted attack, as a person has a right to defend his life and person from apparent danger as fully and to the same extent as he would had the danger been real, provided that he acted upon a reasonable apprehension of danger, as it appeared to his from her standpoint at the time, and that he reasonably believed such deadly force was immediately necessary to protect himself against the other person's use or attempted use of unlawful deadly force.

In determining the existence of real or apparent danger, you should consider all the facts and circumstances in evidence before you, all relevant facts and circumstances surrounding the murder, if any, the previous relationship existing between the accused and the victim, together with all relevant facts and circumstances going to show the condition of the mind of the defendant at the time of the offense, and in considering such circumstances, you should place yourselves in the defendant's position at that time and view them from her standpoint alone.

Now if you find from the evidence beyond a reasonable doubt that on the occasion in question the defendant, DEMICO STANLEY, did commit murder against Richard Myles by shooting Richard Myles with a firearm, as alleged in the indictment, but you further find from the evidence, as viewed from the standpoint of the defendant at the time, that from the words or conduct, or both, of Richard Myles it reasonably appeared to the defendant that his life or person was in danger and there was created in his mind a reasonable expectation or fear of death or serious bodily injury from the use of unlawful deadly force at the hands of Richard Myles, and that acting under such apprehension and reasonably believing that the use of deadly force on his part was immediately necessary to protect himself against Richard Myles's use or attempted use of unlawful deadly force, he shot Richard Myles with a firearm, then you should acquit the defendant on the grounds of self-defense; or if you have a reasonable doubt as to whether or not the defendant was acting in self-defense on said occasion and under the circumstances, then you should give the defendant the benefit of that doubt and say by your verdict not guilty.

Our law provides that a defendant may testify if he elects to do so. However, in the event a defendant does not testify, the fact that he did not testify cannot be considered as evidence or circumstance against him or anyone else. You are instructed that you cannot, and must not, refer to or allude to the election of any defendant to not testify when you enter your deliberations, or take such election into consideration for any purpose whatever as evidence or a circumstance against the defendant.

You are instructed that if there is any testimony before you in this case regarding the defendant's having committed offenses other than the offense alleged against him in the indictment in this case, you cannot consider said testimony for any other purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offenses, if any were committed, and even then you may only consider the same in determining the intent of the defendant, if any, in connection with the offense, if any, alleged against him in the indictment in this case, and for no other purpose.

At times throughout the trial the Court has been called upon to pass on the question of whether or not certain offered evidence might properly be admitted. You are not to draw any inferences from them. Whether offered evidence is admissible is purely a question of law. In admitting evidence to which an objection is made, the Court does not determine what weight should be given such evidence; nor does it pass on the credibility of the witness. As to any offer of evidence that has been rejected by the Court, you, of course, must not consider the same; as to any question to which an objection was sustained, you must not conjecture as to what the answer might have been or as to the reason for the objection.

You are instructed that you are not to allow yourselves to be influenced in any degree whatsoever by what you think or surmise the opinion of the court to be. The Court has no right by any word or any act to indicate any desire respecting its outcome. The Court has not intended to express any opinion upon any matter of fact in this case, and if you have observed anything which you have or may interpret as the Court's opinion upon any matter of fact in this case, you must wholly disregard it.

You are instructed that any statements of counsel, made during the course of the trial or during argument are not evidence.

You are limited in your deliberations as jurors on the verdict of guilt or innocence. You are to consider and discuss only the facts and circumstances as were admitted into evidence. You should not consider nor discuss facts and circumstances that are not in evidence, nor should you make deductions therefrom and in connection with this, you are instructed that no juror may lawfully relate any fact or circumstance of which he or she may claim to have knowledge which has not been admitted into evidence before you. If any evidence has been withdrawn from the jury by the Court, you will not discuss or consider it for any purpose.

All persons are presumed to be innocent and no person may be convicted of any 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.

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.

It is not required that the prosecution proves guilt beyond all possible doubt. It is required that the prosecution's proof excludes all reasonable doubt concerning the defendant's guilt.

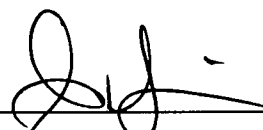
The Presiding Juror or any other juror who observes a violation of the Court's instructions shall immediately warn the one who is violating the same and caution the juror not to do so again.

You will make no further finding in this case except to show in the blank on the form of verdict whether the defendant is guilty beyond a reasonable doubt, or not guilty, as you may find and determine from the law and the evidence in this case.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given to the testimony. You can believe or disbelieve all or any part of any testimony of any witness or witnesses but you are bound to receive the law from the Court, which is herein given you, and be governed thereby.

After you retire to your jury room you should select one of your members as your Presiding Juror. It is the Presiding Juror's duty to preside at your deliberations, vote with you, and when you have unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form, and signing the same as Presiding Juror.

SIGNED this the 29th day of April, 2016.



JUDGE PRESIDING

VERDICT FORM

(Presiding Juror to sign only one)

We, the jury, find the defendant, DEMICO STANLEY guilty of the offense of Capital Murder, as alleged in the indictment.

PRESIDING JUROR

We, the jury, find the defendant, DEMICO STANLEY, guilty of the offense of Murder, a lesser included offense of the indictment.


PRESIDING JUROR

We, the jury, find the defendant, DEMICO STANLEY, not guilty.

PRESIDING JUROR