

NO. 296-83181-2015

THE STATE OF TEXAS § IN THE 296TH JUDICIAL
VS. § DISTRICT COURT OF
TYMOTHY PATRICK PFEIFFER § COLLIN COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, **TYMOTHY PATRICK PFEIFFER**, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 1st day of August, 2015, in Collin County, Texas. To this charge the defendant has pleaded not guilty.

Our law provides that a person commits the offense of murder if the person intentionally or knowingly causes the death of an individual.

A person commits capital murder when he intentionally causes the murder of an individual in the course of committing or attempting to commit the offense of robbery.

Our law provides that a person commits the offense of Robbery if, in the course of committing theft, as that term is hereinafter defined, and with intent to obtain or maintain control of the property, he intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

A person acts intentionally, or with intent, with respect to the 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.

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

“Individual” means a person who has been born and was alive.

“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” means to commit an act with specific intent to commit an offense where the act committed amounts to more than mere preparation but fails to effect the commission of the offense intended.

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

“Theft” as used herein is the unlawful appropriation of the personal property of another, with the intent to deprive such person of said property.

“Appropriate” means 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” means to withhold property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the property is lost to the owner, or to dispose of property in a manner that makes recovery of the property by the owner unlikely.

“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 actor.

“Effective consent” includes consent by a person legally authorized to act for the owner.

You are instructed that 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. Each party to an offense may be charged with commission of the offense.

A person is a party to an offense and 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.

Mere presence or even knowledge of an offense does not make one a party to an offense. Acts committed after the offense is complete cannot make one a party to an offense.

CAPITAL MURDER

NOW, if you find from the evidence beyond a reasonable doubt that on or about the 1st day of August, 2015 in Collin County, Texas, the defendant, **TYMOTHY PATRICK PFEIFFER**, either acting alone or with another, namely Anthony Murphy, Teresia Mabry, or both, as a party to the offense, as that term is defined above, did then and there intentionally cause the death of an individual, namely, Juan Rodriguez, by shooting Juan Rodriguez with a firearm, and the defendant, either acting alone or with another, namely Anthony Murphy, Teresia Mabry, or both, as a party to the offense, as that term is defined above, was then and there in the course of committing or attempting to commit the offense

of robbery of Juan Rodriguez, then you will find the defendant guilty of Capital Murder as charged in the indictment.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof that the defendant is guilty of capital murder as charged, or if you cannot agree, you will consider whether he is guilty of the lesser included offense of murder as instructed below.

MURDER

If you find from the evidence beyond a reasonable doubt that on or about the 1st day of August 2015, in Collin County, Texas, that **TYMOTHY PATRICK PFEIFFER**, either acting alone or with another, namely Anthony Murphy, Teresia Mabry, or both, as a party to the offense, as that term is defined above, did then and there, intentionally or knowingly cause the death of Juan Rodriguez by shooting Juan Rodriguez with a firearm, then you will find him guilty of the lesser included offense of murder.

OR

If you find from the evidence beyond a reasonable doubt that on or about the 1st day of August 2015, in Collin County, Texas, that **TYMOTHY PATRICK PFEIFFER**, either acting alone or with another, namely Anthony Murphy, Teresia Mabry, or both, as a party to the offense, as that term is defined above, did then and there commit or attempt to commit the felony offense of robbery, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he committed or attempted to commit an act clearly dangerous to human life, namely shooting Juan Rodriguez with a firearm, that caused the death of Juan Rodriguez, then you will find him guilty of the lesser included offense of murder.

If you do not so believe or if you have a reasonable doubt as to the defendant's guilt of any offense defined in this charge, after considering all the evidence before you, and these instructions, you will acquit him and say by your verdict "Not Guilty".

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either capital murder on the one hand or murder on the other hand, but you have a reasonable doubt as to which of those two offenses he is guilty, then you must resolve that doubt in the defendant's favor and find him guilty of the lesser offense of murder.

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 refer or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against the defendant.

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 charged with an 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 of the evidence in the case.

You are instructed that you are not to allow yourselves to be influenced in any degree whatsoever by what you may think or surmise the opinion of the Court to be. The Court has no right by any word or any act to indicate any opinion respecting any matter of fact involved in this case, nor 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 not supported by the evidence, or statements of law made by counsel not in harmony with the law as stated to you by the Court in these instructions, are to be wholly disregarded.

You are further instructed that you should not question the Bailiff concerning the testimony or the law of the case, nor should you discuss the case in his presence. If you have any questions, you should reduce them to writing, to be signed by the presiding juror, and present them to the Court.

If the Jurors disagree as to the statement of any witness, they may, upon applying to the Court, have read to them from the Court Reporter's notes that portion of such witness' testimony, and only that portion, on the point in dispute.

You are instructed that the indictment is the means whereby a defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered as such when passing upon whether the defendant is guilty or not guilty.

During your deliberations in this case, you must not consider, discuss, nor relate any matters not in evidence before you. You should not consider nor 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.

After you retire to the jury room, you should select one of your members as your presiding juror. It is their duty to preside at your deliberations and vote with you. Your verdict must be unanimous and signed by the presiding juror.

You are the exclusive judges of the facts proved, of the credibility of the witnesses, and the weight to be given their testimony, but you must be governed by the law you receive in these written instructions.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, and no juror is permitted to communicate to any other juror anything he might have heard regarding the case from any source other than the witness stand.

In all criminal cases the burden of proof is on the State and the defendant is presumed to be innocent until the defendant's guilt is established by legal evidence beyond a reasonable doubt; and, in case you have a reasonable doubt of the defendant's guilt, you will acquit the defendant and say by your verdict "Not Guilty".

Suitable forms for your verdict are attached hereto. Your verdict must be in writing and signed by your presiding juror. Your sole duty at this time is to determine whether the defendant is guilty or not guilty under the indictment in this cause and you are to restrict your deliberations to that issue.

Signed this the 18 day of May, 2016.



Honorable John R. Roach, Jr.

Judge Presiding

VERDICT

We, the jury, find the defendant guilty of Capital Murder, as charged in the indictment.



Presiding Juror Signature



Presiding Juror Printed Name

OR,

We, the jury, find the defendant guilty of Murder, as charged in the indictment.

Presiding Juror Signature

Presiding Juror Printed Name

OR,

We, the jury, find the defendant not guilty.

Presiding Juror Signature

Presiding Juror Printed Name