



Cause No. 17-DCR-077001A

STATE OF TEXAS	§	IN THE JUDICIAL DISTRICT
v.	§	OF THE 400 TH DISTRICT COURT
JACOB DANTE PAYTON	§	OF FORT BEND COUNTY, TEXAS

CHARGE TO THE JURY

Members of the Jury:

The defendant, **JACOB DANTE PAYTON**, stands charged by indictment with the offense of Count I: Capital Murder and Count II: Murder, alleged to have been committed on or about February 25, 2017, in Fort Bend County, Texas. The defendant has pleaded not guilty.

I

A person commits the offense of murder under Texas Penal Code §19.02(B)(1) if he intentionally or knowingly causes the death of an individual.

A person commits the offense of capital murder if he commits murder, as defined in Texas Penal Code §19.02(B)(1), and the person murders an individual under ten years of age.

A person commits the offense of murder under Texas Penal Code §19.02(B)(2) if he, intending to cause serious bodily injury, intentionally and knowingly commits an act clearly dangerous to human life that causes the death of an individual

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.

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.

II

A person is criminally responsible for causing a result if the only difference between what actually occurred and what he desired, contemplated, or risked is that a different person was injured, harmed or otherwise affected.

III

Now, if you find from the evidence beyond a reasonable doubt that on or about February 25th, 2017, in Fort Bend County, Texas, the defendant, Jacobe Dante Payton did then and there intentionally or knowingly cause the death of De'Maree Adkins an individual under ten years of age, by shooting De'Maree Adkins, then you will find the defendant guilty of capital murder, as charged in the indictment; or

If you believe from the evidence beyond a reasonable doubt, that the defendant, Jacobe Dante Payton, on or about February 25th, 2017, in Fort Bend County, Texas, acting with knowledge or intending to cause the death of Latoyia Thomas by shooting her with a firearm but instead, did then and there cause the death of De'Maree Adkins, an individual under ten years of age, by shooting her with a firearm you will find the defendant guilty of the offense of capital murder, as charged in the indictment.

IV

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 capital murder and next consider whether the defendant is guilty of murder.

V

If you find from the evidence beyond a reasonable doubt that on or about February 25th, 2017, in Fort Bend County, Texas, the defendant, Jacobe Dante Payton, intending to cause serious bodily injury, did then and there intentionally and knowingly commit an act clearly dangerous to human life that caused the death of an individual, namely, De'Maree Adkins, to wit: by discharging a firearm in the direction of De'Maree Adkins, then you will find the defendant guilty of murder.

VI

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 murder.

VII

If you have a reasonable doubt as to whether the defendant is guilty of any offense defined in this charge you will acquit the defendant and say by your verdict "Not Guilty."

VIII

You have heard evidence that the defendant made statements to Detectives Sullivan & Stark. If you find the defendant did make these statements, you may consider each of these statements against the defendant, only if you resolve a preliminary question in favor of the state.

A statement of an accused may be considered against the accused only if the statement was freely and voluntarily made without compulsion or persuasion.

Therefore, you may consider any statement you believe the defendant made only if you all agree that the state has proved, beyond a reasonable doubt, that the defendant made the statement freely and voluntarily without compulsion or persuasion.

Unless you so find the state has proved, beyond a reasonable doubt, that the statements to Detectives Sullivan & Stark were in fact made freely and voluntarily, you must not consider those statement for any purpose.

IX

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a right 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 to or allude to that fact

throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against him.

X

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.

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 he 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.

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

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 him and say by your verdict "Not Guilty."

XI

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

After you retire to the jury room, you should select one of your members as your Foreman. It is his or her 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 attached hereto and signing the same as Foreman.

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.

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 this officer. Any communication relative to the cause must be written, prepared and signed by the Foreman and shall be submitted to the court through this officer. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the Court, or anyone else concerning any questions you may have.

Your sole duty at this time is to determine the guilt or innocence of the defendant under the indictment in this cause and restrict your deliberations solely to the issue of guilt or innocence of the defendant.

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 foreman.

Following the arguments of counsel, you will retire to consider your verdict.

FILED
FEB 10 2020
AT 9:48 AM
Rebecca M. Shaw Hall
CLERK DISTRICT COURT, FORT BEND CO., TX

Maggie Pi Jaramillo
Honorable Maggie Jaramillo *02/10/2020*
400th District Court
Fort Bend County, Texas

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JACOBE DANTE PAYTON	§	OF FORT BEND COUNTY, TEXAS

VERDICT

"We, the Jury, find the defendant, Jacobe Dante Payton, guilty of Capital Murder as charged in the indictment."

Foreman of the Jury

(Please Print) Foreman

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JACOBE DANTE PAYTON	§	OF FORT BEND COUNTY, TEXAS

VERDICT

"We, the Jury, find the defendant, Jacobe Dante Payton, guilty of Murder as charged in the indictment."

FILED

FEB 11 2020

AT 2:44 P.M. ^{AS}
Brenda McLean Wall
CLERK DISTRICT COURT, FORT BEND CO., TX



Foreman of the Jury

Michael Nguyen

(Please Print) Foreman

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VERDICT

"We, the Jury, find the defendant, Jacobe Dante Payton not guilty."

Foreman of the Jury

(Please Print) Foreman