

22-DCR-099866
CHCO 217
Charge of the Court
6961946



No. 22-DCR-099866

THE STATE OF TEXAS	§	IN THE DISTRICT COURT OF
VS.	§	FORT BEND COUNTY, TEXAS
ANDREW CHRISTOPHER BURKE	§	458TH JUDICIAL DISTRICT COURT

JURY CHARGE

Members of the Jury:

The defendant, Andrew Christopher Burke, stands charged by indictment with the offense of solicitation of capital murder, alleged to have been committed on or about the 13th day of June, 2022, in Fort Bend County, Texas. The defendant has pleaded not guilty.

A person commits the offense of solicitation to commit capital murder if, with the intent that a capital murder be committed, he requests, commands, or attempts to induce another to engage in specific conduct that, under the circumstances surrounding his conduct as the defendant believes them to be, would constitute capital murder or make the other a party to its commission.

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

Our law provides that a person commits the offense of capital murder if he employs another to commit the murder for remuneration or the promise of remuneration or employs another to commit the murder for remuneration or the promise of remuneration.

“Remuneration” means payment by one person to another in compensation for a specific service or services rendered pursuant to an agreement.

A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. 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.

You are further charged as the law in this case that the State is not required to prove the exact date alleged in the indictment, but may prove the offense, if any, to have been committed at any time prior to the presentment of the indictment.

All persons are parties to an offense who are guilty of acting together in the 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 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.

Now, if you find from the evidence beyond a reasonable doubt that in Fort Bend County, Texas, the defendant, Andrew Christopher Burke, heretofore on or about the 13th day of June, 2022, did then and there unlawfully, with the intent that the offense of capital murder be

committed, request, command or attempt to induce B. Busch to engage in specific conduct, namely intentionally and knowingly cause the death of Ryan Shah for remuneration or the promise of remuneration, and that under the circumstances surrounding the conduct of B. Busch as the defendant believed them to be, would constitute the offense of capital murder or make B. Busch a party to the offense of capital murder, then you will find the defendant guilty of solicitation 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, you will acquit the defendant and say by your verdict “Not Guilty.”

You are instructed that a person may not be convicted for solicitation on the uncorroborated testimony of the person allegedly solicited and unless the solicitation is made under circumstances strongly corroborative of both the solicitation itself and the defendant’s intent that the other person act on the solicitation.

And so, in this case, unless you find from the evidence beyond a reasonable doubt that the testimony of B. Busch is corroborated by other evidence in the case, outside of the testimony of B. Busch, and that the solicitation itself was made under circumstances strongly corroborative of both the solicitation itself, if any, and the defendant’s intent, if any, that B. Busch act on the alleged solicitation, or if you have a reasonable doubt as to the existence of either of such matters, then you will find the defendant not guilty.

It is a defense to prosecution that the defendant engaged in the conduct charged because he was induced to do so by a law enforcement agent using persuasion or other means likely to cause persons to commit the offense. Conduct merely affording a person an opportunity to commit an offense does not constitute entrapment.

“Law enforcement agent” includes personnel of the state and local law enforcement agencies, as well as of the United States and any person acting in accordance with instructions from such agents.

Now, therefore, if you find and believe from the evidence beyond a reasonable doubt that the defendant committed the offense of solicitation to commit capital murder as alleged in the indictment, but you further find, or have a reasonable doubt thereof, that the defendant engaged in the conduct charged because he was induced to do so by B. Busch, acting as a law enforcement agent, using persuasion or other means likely to cause persons to commit the offense, keeping in mind that conduct merely affording a person an opportunity to commit an offense does not constitute entrapment, you will acquit the defendant and say by your verdict “not guilty.”

You are further instructed that if there is any evidence before you in this case regarding the defendant’s committing an alleged offense or offenses other than the offense alleged against him in the indictment in this case, you cannot consider such evidence for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offense or offenses, if any, and even then you may only consider the same in determining the motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident of the defendant, if any, in connection with the offense, if any, alleged against him in the indictment and for no other purpose.

You are further instructed that any evidence that any witness has been convicted in any case or cases was admitted before you for the purpose of aiding you, if it does aid you, in passing upon the credibility of the witnesses and the weight to be given his or her testimony, and you will not consider the same for any other purpose.

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 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.

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 defendant's guilt after considering all the evidence before you, and these instructions, you will acquit the defendant and say by your verdict "Not Guilty."

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, 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 Foreperson. 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 Foreperson.

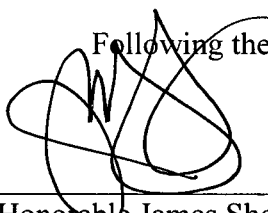
During your deliberations in this case, you must not consider, discuss, nor relate any matters not in evidence before you. You should not consider nor mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence.

No one has the 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 Foreperson 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 whether or not the state has proven its case beyond a reasonable doubt as to the defendant's guilt under the indictment in this cause and restrict your deliberations solely to that issue.

Your verdict must be by a unanimous vote of all members of the jury.

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



Honorable James Shoemake
Presiding Judge
458th Judicial District Court
Fort Bend County, Texas

FILED
SEP 15 2023
AT 3:21 P.M.
Bundy M. Allen
CLERK DISTRICT COURT, FORT BEND CO., TX

§ IN THE DISTRICT COURT OF

§ FORT BEND COUNTY, TEXAS

§ 458TH JUDICIAL DISTRICT COURT

VERDICT OF THE JURY

Choose One

We, the Jury, find the defendant, Andrew Christopher Burke, not guilty.

Foreperson

We, the Jury, find the defendant, Andrew Christopher Burke, guilty of Solicitation to Commit Capital Murder, as charged in the indictment.

Foreperson

FILED

SEP 15 2023

AT 5:00 P.M. By Brady, McQueen, Wall WZ
CLERK DISTRICT COURT, FORT BEND CO., TEX.