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CAUSE NUMBER 1782383

THE STATE OF TEXAS

IN THE 396th JUDICIAL

vs.

DISTRICT COURT

JACOBY DEJUAN ROBERTS, JR.

TARRANT COUNTY, TEXAS

COURT'S CHARGE

Members of the jury,

You have heard all the evidence. The parties will soon present final arguments. Before they begin, here are the instructions you must follow in deciding whether or not the State has proved the Defendant guilty.

You will have a written copy of these instructions to take with you and to use during your deliberations.

First, I will tell you about some general principles that apply in all criminal cases. Second, I will tell you about the specific law applicable to this case. Finally, I will instruct you on the rules that control your deliberations.

GENERAL PRINCIPLES

The Indictment

The indictment is not evidence of guilt. It is a legal document required to bring the case before you. Do not draw any inference of guilt from the fact the Defendant has been arrested, confined, indicted, or charged with a crime.

Presumption of Innocence

The Defendant is presumed innocent of the charge, and the Defendant may not be convicted of an offense unless the State proves each element of the

offense beyond a reasonable doubt. The law does not require the Defendant to prove their innocence or produce any evidence at all.

The presumption of innocence alone is sufficient for you to return a verdict of not guilty. You may find the Defendant guilty only after a careful and impartial consideration of all the evidence and only if the State has proved the Defendant's guilt beyond a reasonable doubt.

Burden of Proof

The State has the burden to prove every element of the offense beyond a reasonable doubt. 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.

If, after careful consideration of the evidence, you find the State has proved every element of the offense beyond a reasonable doubt, then you must find the Defendant guilty. If the State fails in this burden, or if you have a reasonable doubt about whether the Defendant is guilty, then you must find the Defendant not guilty.

Jury as Fact Finder

As jurors, you review the evidence and determine the facts and what they prove. You judge the believability of the witnesses and what weight to give their testimony.

In judging the facts and the believability of the witnesses, you must apply the law provided in these instructions.

Evidence

The evidence consists of the testimony and exhibits admitted during trial. You must consider only the evidence presented in the courtroom to reach your decision. You must not consider, discuss, or mention any other thing not admitted as evidence in the trial. Do not consider or mention any personal knowledge or information you may have about any fact or person connected with this case that is not evidence in the trial.

Statements made by the lawyers are not evidence. The questions asked by the attorneys are not evidence. Nothing I have said or done in this case should be

considered by you as my opinion about the facts of this case or influence you to vote one way or the other.

You should give terms their common meanings, unless I provide you a specific definition. If I provide a definition for a term in this charge, you should use the meanings provided in these instructions.

While you shall consider only the evidence presented in court, you are permitted to draw reasonable inferences from the testimony and exhibits if those inferences are justified in the light of common experience. In other words, you may make deductions and reach conclusions that reason and common sense lead you to draw from the evidence.

You are to render a fair and impartial verdict based on the evidence admitted in court and under the law that is in these instructions. Do not allow your verdict to be determined by bias or prejudice.

Admitted Exhibits

You may, if you wish, examine exhibits. If you wish to examine an exhibit, the foreperson will inform the court and specifically identify the exhibit you wish to examine. Only exhibits that were admitted into evidence may be given to you for examination.

Communication

After you retire to consider your verdict, no one has any authority to communicate with you except the bailiff. You may communicate with this Court in writing through that bailiff, and there are forms in the jury room for these notes if needed. Any written communication must be signed by the presiding juror.

ALTERNATE JURORS

In this case we have alternate jurors. The law does not allow their presence or participation in deliberations. The alternate jurors will be separated from you during deliberations.

VOLUNTARINESS OF STATEMENT

You have heard evidence that the Defendant made a statement to Detective Cedillo on April 4th, 2023. If you find the Defendant did make the statement, you may consider that statement 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 the State has proved, beyond a reasonable doubt, that the Defendant made the statement freely and voluntarily without compulsion or persuasion.

Unless you find the state has proved, beyond a reasonable doubt, that the statement to Detective Cedillo on April 4th, 2023, was in fact made and that it was made freely and voluntarily, you must not consider the statement for any purpose.

OTHER CRIMES OR ACTS

During the trial, you heard evidence that the Defendant may have committed crimes, wrongs or other acts not charged in the indictment, namely Conspiracy to Possess with Intent to Distribute a Controlled Substance, for the limited purpose of establishing elements for the charges you are to consider. You are not to consider that evidence at all unless you find, beyond a reasonable doubt, that the Defendant did, in fact, commit the wrongful act. Those of you who believe the Defendant did the wrongful act may consider it.

Even if you do find that the Defendant committed a wrongful act, you may consider this evidence only for the limited purpose I have described. You may not consider this evidence to prove the Defendant is a bad person and for this reason was likely to commit the charged offense. In other words, you should consider

this evidence only for the specific, limited purpose I have described. To consider this evidence for any other purpose would be improper.

DEFINITIONS

- 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 commits the offense of "**Robbery**" if, in the course of committing or attempting to commit theft and with intent to obtain or maintain control of the property, the person intentionally causes bodily injury to another.
- "**Bodily Injury**" means physical pain, illness, or any impairment of physical condition.
- The term "**Theft**" means a person commits an offense if he unlawfully appropriates property with intent to deprive the owner of property.
- The term "**Act**" means bodily movement, whether voluntary or involuntary, and includes speech.
- The term "**Actor**" means a person whose criminal responsibility is in issue in a criminal action.
- The term "**Another**" means a person other than the actor.
- The term "**Individual**" means a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.
- "**Firearm**" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

THE CHARGE

Our law provides a person commits the offense of capital murder if the person intentionally causes the death of an individual in the course of committing or attempting to commit robbery.

APPLICATION

Now, if you find from the evidence beyond a reasonable doubt that:

1. The Defendant: Jacoby Dejuan Roberts, Jr.;
2. On or about: April 4, 2023;
3. In Tarrant County, Texas;
4. Did intentionally cause the death of Jailon Freeman, by shooting him with a firearm;
5. And the said Defendant was in the course of committing or attempting to commit the offense of robbery;

then you will find the Defendant “Guilty” of the offense as charged in the indictment.

If you have a reasonable doubt of the Defendant’s guilt, you will acquit the Defendant and say by your verdict “Not Guilty.”

UNANIMITY

To find the Defendant guilty, the jurors must all agree the State has proved elements 1, 2, 3, 4, and 5 listed above, beyond a reasonable doubt.

If you do not believe the Defendant committed the charged offense of capital murder, or if you have a reasonable doubt thereof, you will find the Defendant “not guilty” of that offense and proceed to the next section to determine whether the Defendant is guilty of the lesser-included offense of felony murder.

DELIBERATIONS ON THE LESSER-INCLUDED CHARGE

You may discuss the offenses in any order you choose, starting with the charged offense of capital murder or the lesser-included offense of felony murder.

Although the State has charged the Defendant with the offense of capital murder, you may find the Defendant “not guilty” of that charged offense but “guilty” of any lesser-included offense. In this case, the offense of felony murder is a lesser-included offense of the charged and greater offense of capital murder.

To find the Defendant guilty of murder, you must first find the Defendant “not guilty” of capital murder. You may then determine whether the State has proved, beyond a reasonable doubt, the lesser-included offense of felony murder.

If you believe from the evidence, beyond a reasonable doubt, that the Defendant is guilty of either capital murder or murder, but you have a reasonable doubt about which of these offenses he is guilty of, you must resolve that doubt in the Defendant’s favor. In that situation, you must find him guilty of the lesser offense of felony murder.

LESSER-INCLUDED CHARGE OF FELONY MURDER

The State accuses the Defendant of having committed the offense of capital murder. You are asked to now consider whether or not the Defendant is guilty of the lesser included offense of felony murder.

Our law provides a person commits the offense of murder if the person commits or attempts to commit a felony, and in the course of and in furtherance of the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

DEFINITIONS

- 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.
- "**Felony**" means an offense so designated by law or punishable by death or confinement in a penitentiary.
- "**Conspiracy to Possess with Intent to Distribute a Controlled Substance**" is a felony offense and its elements are:
 - That two or more persons, directly or indirectly, reached an agreement to distribute or possess with intent to distribute a controlled substance, as charged in the information;
 - That the defendant knew of the unlawful purpose of the agreement;
 - That the defendant joined in the agreement willfully, that is, with the intent to further its unlawful purpose;
 - That the overall scope of the conspiracy involved at least 50 grams of a mixture or substance containing a detectable amount of cocaine, a Schedule II controlled substances; and
 - That the defendant knew or reasonably should have known that the scope of the conspiracy involved at least 50 grams of a mixture or substance containing a detectable amount of cocaine, a Schedule II controlled substances.

APPLICATION ON THE LESSER-INCLUDED CHARGE

To find the Defendant guilty of felony murder, you must determine whether the State has proved, beyond a reasonable doubt, the elements of the offense.

Now, if you find from the evidence beyond a reasonable doubt that:

1. The Defendant: Jacoby Dejuan Roberts, Jr.;
2. On or about: April 4, 2023;
3. In Tarrant County, Texas;
4. Committed or attempted to commit Conspiracy to Possess with Intent to Distribute a Controlled Substance (cocaine), and;
5. In the course of and in furtherance of the commission or attempt to commit the offense of Conspiracy to Possess with Intent to Distribute a Controlled Substance, the Defendant committed an act clearly dangerous to human life by shooting Jailon Freeman with a firearm; and
6. the act clearly dangerous to human life caused the death of Jailon Freeman.

then you will find the Defendant "Guilty" of the offense of the lesser included offense.

If you have a reasonable doubt of the Defendant's guilt, you will acquit the Defendant and say by your verdict "Not Guilty."

UNANIMITY – LESSER INCLUDED CHARGE

To find the Defendant guilty of the lesser included offense of murder, you must all agree the State has proved elements 1, 2, 3, 4, 5, and 6 listed above beyond a reasonable doubt.

If you all agree the State has failed to prove one or more of the elements for the charged offense of capital murder, or the lesser-included charge of felony murder, and find the Defendant "not guilty," you do not need to review the following sections or proceed further with deliberations. Proceed to the verdict form, where your presiding juror will sign the appropriate blank and then notify the Court of your verdict.

If you all agree the State has proved, beyond a reasonable doubt, each of the elements for one of the offenses listed above, you must next consider whether the Defendant is not guilty because his use of force was justified by self-defense.

SELF-DEFENSE

You are instructed that a person is justified in using force against another when and to the degree that the actor reasonably believes the force is immediately necessary to protect the actor against the other person's use or attempted use of unlawful force.

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

Self-defense does not cover conduct in response to verbal provocation alone. The Defendant must have reasonably believed the other person had done more than verbally provoke the Defendant.

The law of self-defense may apply either to the charged offense of capital murder or the lesser-included offense of felony murder.

DEFINITIONS

- **"Reasonable belief"** means the reasonableness of the actor's belief must be viewed from the actors viewpoint at the time they acted.
- **"Person"** means an individual.
- **"Deadly force"** means force that is intended or known by the person using it to cause death or serious bodily injury or force that in the manner of its use or intended use is capable of causing death or serious bodily injury.
- **"Unlawful"** means criminal or tortious or both and includes what would be criminal or tortious but for a defense not amounting to justification or privilege.

PRESUMPTION

Under certain circumstances, the law creates a presumption that the defendant's belief—that the deadly force he used was immediately necessary—was reasonable. A presumption is a conclusion the law requires you to reach if certain other facts exist.

Therefore, you must find the Defendant's belief—that the deadly force he used was immediately necessary—was reasonable unless you find the State has proved, beyond a reasonable doubt, at least one of the following elements. The elements the State must prove are that:

1. the Defendant provoked the person against whom the force was used; or
2. the Defendant, at the time the deadly force was used, was engaged in criminal activity other than a class C misdemeanor that is a violation of a law or ordinance regulating traffic.

If you find the State has proved, beyond a reasonable doubt, element 1 or 2 listed above, the presumption does not apply and you are not required to find that the Defendant's belief was reasonable.

Whether or not the presumption applies, the State must prove, beyond a reasonable doubt, that self-defense does not apply to this case.

BURDEN OF PROOF

The Defendant is not required to prove self-defense. Rather, the State must prove, beyond a reasonable doubt, that self-defense does not apply to the Defendant's conduct.

APPLICATION OF LAW TO FACTS

To decide the issue of self-defense, you must determine whether the State has proved, beyond a reasonable doubt, one of the following two elements. The elements the State must prove are that:

1. the Defendant did not believe his use of force was immediately necessary to protect himself against Jailon Freeman's use or attempted use of unlawful deadly force; or
2. the Defendant's belief was not reasonable.

Before you may find the Defendant guilty, you must all agree that the State has proved, beyond a reasonable doubt, either element 1 or 2 listed above. You need not agree on which of these elements the State has proved.

If you find that the State has failed to prove, beyond a reasonable doubt, either element 1 or 2 listed above, you must find the defendant "not guilty."

If you all agree the State has proved, beyond a reasonable doubt, each of the elements of the charged offense of capital murder or the lesser-included offense of murder, and you all agree the State has proved, beyond a reasonable doubt, either element 1 or 2 listed above, you must find the Defendant "guilty."

RULES THAT CONTROL DELIBERATIONS

Your first task will be to pick your foreperson. The foreperson should preside over your deliberations and vote with you.

While deliberating and until excused by the trial court, all jurors must follow these rules:

1. You must not discuss this case with any court officer, or the attorneys, or anyone not on the jury.
2. You must not discuss this case unless all of you are present in the jury room. If anyone leaves the room, even to go to the restroom, then you must stop your discussions about the case until all of you are present again.
3. You must communicate with the court only in writing, signed by the foreperson and given to the officer assigned to you.
4. You must not conduct any independent investigations, research, or experiments. Do not look anything up on your phone.
5. You must tell the court if anyone attempts to contact you about the case before you reach your verdict.
6. You may return a verdict only if all twelve of you agree on this verdict.

Your sole duty at this point is to determine whether the State has proved the Defendant guilty beyond a reasonable doubt. You must restrict your deliberations to this matter.

After you have arrived at your verdict, your foreperson will fill out the appropriate form attached to these instructions.



VINCENT GIARDINO, JUDGE
396th JUDICIAL DISTRICT COURT

CAUSE NUMBER 1782383

THE STATE OF TEXAS

IN THE 396th JUDICIAL

vs.

DISTRICT COURT

JACOBY DEJUAN ROBERTS, JR.

TARRANT COUNTY, TEXAS

VERDICT FORM

NOT GUILTY

We, the jury, find the Defendant not guilty.

Foreperson of the Jury

Printed Name of Foreperson

GUILTY OF THE LESSER-INCLUDED OFFENSE

We, the jury, find the Defendant guilty of the lesser-included offense of ***Felony Murder.***

Foreperson of the Jury

Printed Name of Foreperson

GUILTY

We, the jury, find the Defendant guilty of the offense of ***Capital Murder***, as charged in the indictment.



Foreperson of the Jury

Wren Ludlow
Printed Name of Foreperson

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