

NO. 2009-CR-12809A

THE STATE OF TEXAS                   §           IN THE DISTRICT COURT  
VS.                                       §           186TH JUDICIAL DISTRICT  
CHARLTON BRADSHAW                   §           BEXAR COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, Charlton Bradshaw, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 16th Day of October, 2009, in Bexar County, Texas. The defendant has pleaded not guilty.

I.

As it applies to capital murder, our law provides that a person commits the offense of murder if he intentionally causes the death of an individual.

Our law provides that a person commits capital murder when he intentionally commits the murder in the course of committing or attempting to commit the offense of robbery.

II.

"Individual" means a human being who has been born and is alive.

"In the course of committing" an offense means conduct that occurs in an attempt to commit, during the commission, or in immediate flight after the attempt or commission of the offense.

"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.

"Deadly weapon" means anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

"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.

### III.

For the offenses of murder and capital murder, 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.

IV.

A person commits a robbery if, in the course of committing theft, as defined hereinafter, and with intent to obtain or maintain control of the property, he intentionally, knowingly or recklessly causes bodily injury to another.

V.

"In the course of committing" as defined in Paragraph II applies and has the same meaning here.

"Attempt" as defined in paragraph II applies and has the same meaning here.

"Bodily injury" as defined in paragraph II applies and has the same meaning here.

VI.

A person commits the offense of theft if he unlawfully appropriates property with intent to deprive the owner of property.

VII.

"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 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.

"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.

#### VIII.

For the offenses of robbery and theft, 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.

For the offenses of robbery, 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. For the offenses of robbery and theft, 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.

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



You are instructed that an accomplice witness, as the term is hereinafter used, means any person connected with the crime charged, as a party thereto, and includes all persons who are connected with the crime, as such parties, by unlawful act or omission on their part transpiring either before or during the time of the commission of the offense, and whether or not they were present and participated in the commission of the crime.

You are instructed that a conviction cannot be had upon the testimony of an accomplice witness unless the jury first believes that the accomplice witness' testimony is true and that it shows the defendant is guilty of the offense charged against him, and even then you cannot convict unless the accomplice witness' testimony is corroborated by other evidence tending to connect the defendant with the offense charged, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must tend to connect the defendant with its commission.

The witnesses, Larry Mitchell and Tonya Moody are accomplices, if an offense was committed, and you cannot convict the defendant upon their testimony unless you first believe that the portion of the testimony that ascribes guilt to the defendant is true and shows that the defendant is guilty as charged, and then you cannot convict the defendant upon said testimony unless you further believe that there is other evidence in the case, outside of the evidence of the said accomplices tending to connect the defendant with the offense committed, if you find that an offense was

committed, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must tend to connect the defendant with its commission, and then from all of the evidence you must believe beyond a reasonable doubt that the defendant is guilty of the offense charged against him.

You are further instructed that one or more accomplices cannot corroborate each other. Such corroborative evidence, if any, must be from some source other than said accomplices, Larry Mitchell and Tonya Moody or either of them, as herein charged.

Our law provides 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 by both. Each party to an offense may be charged with 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.

If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy.

Robbery and Murder are felony offenses.

The term "conspiracy", as used in these instructions, means an agreement between two or more persons, with intent that a felony be committed, that they, or one or more of them, engage in conduct that would constitute the offense and he or one or more of them performs an overt act in pursuance of the agreement. An agreement constituting a conspiracy may be inferred from acts of the parties.



IX.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 16th Day of October, 2009, in Bexar County, Texas, the defendant, Charlton Bradshaw, either acting alone or together with Calvin Massengale, Larry Mitchell, and/or Tonya Moody as a party, did intentionally cause the death of an individual, namely, James Holmes, by cutting or stabbing James Holmes with a deadly weapon, namely, a knife, that in the manner of its use or intended use was capable of causing death or serious bodily injury, and Charlton Bradshaw, either acting alone or together with Calvin Massengale, Larry Mitchell, and/or Tonya Moody as a party, was in the course of committing or attempting to commit the offense of robbery of James Holmes, then you will find the defendant guilty of capital murder as charged in the indictment.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, or you are unable to agree, you will next consider whether the defendant is guilty of one of the lesser included offenses of murder, felony murder, aggravated robbery <sup>or</sup> ~~and~~ robbery.

X.

Our law provides that a person commits the offense of murder if he intentionally or knowingly causes the death of an individual or if he intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual.

XI.

"Individual," "deadly weapon," "bodily injury" and "serious bodily injury" as used in Paragraph II apply and have the same meaning here.

XII.

For the offense of murder, 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.

For the offense of murder, 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.

XIII.

Now if you find from the evidence beyond a reasonable doubt that on or about the 16<sup>th</sup> Day of October, 2009, in Bexar County, Texas, the defendant, Charlton Bradshaw, either acting alone or together with Calvin Massengale, Larry Mitchell, and/or Tonya Moody as a party, did intentionally or knowingly cause the death of an individual, namely, James Holmes, by cutting or stabbing James Holmes with a deadly weapon, namely, a knife, that in the manner of its use or intended use was capable of causing death or serious bodily injury;

Or, if you find from the evidence beyond a reasonable doubt that on or about the 16<sup>th</sup> Day of October, 2009, in Bexar County, Texas, the defendant, Charlton Bradshaw, either acting alone or together with Calvin Massengale, Larry Mitchell, and/or Tonya Moody as a party, with intent to cause serious bodily injury to an individual, namely, James Holmes, did commit an act clearly dangerous to human life that caused the death of James Holmes, by cutting or stabbing James Holmes with a deadly weapon, namely, a knife, that in the manner of its use or intended use was capable of causing death or serious bodily injury, then you will find the defendant guilty of murder.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, or you are unable to agree, you will next consider whether the defendant is guilty of felony murder.

XIV.

Our law provides that a person commits the offense of felony murder if he commits or attempts to commit a felony, other than manslaughter, 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.

Robbery is a felony offense.

XV.

"Individual" and "attempt" as used in Paragraph II apply and have the same meaning here.

XVI.

The terms and definitions used in Paragraph IV-VIII apply and have the same meaning here.

XVII.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 16<sup>th</sup> Day of October, 2009, in Bexar County, Texas, the defendant, Charlton Bradshaw, either acting alone or together with Calvin Massengale, Larry Mitchell, and/or Tonya Moody as a party, did commit or attempt to commit a felony, namely, robbery, and in the course of and in furtherance of the commission or attempt, Charlton Bradshaw, either acting alone or together with Calvin Massengale, Larry Mitchell, and/or Tonya Moody as a party, did commit an act clearly dangerous to human life, namely, cutting or stabbing James Holmes with a deadly weapon, namely: a knife, that in the manner of its use or intended use is capable of causing death or serious bodily injury, thereby causing the death of James Holmes, then you will find the defendant guilty of felony murder.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, or if you are unable to agree, you will next consider whether the defendant is guilty of aggravated robbery.



XVIII.

"Robbery" as defined in Paragraph IV applies and has the same meaning here.

A person commits aggravated robbery if the person commits a robbery, as defined in Paragraph IV, and causes serious bodily injury to another, or uses or exhibits a deadly weapon during the commission of the offense.

XIX.

The terms and definitions used in Paragraphs V-VIII apply and have the same meaning here.

"Serious bodily injury" as defined in Paragraph II applies and has the same meaning here.

XX.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 16<sup>th</sup> Day of October, 2009, in Bexar County, Texas, the defendant, Charlton Bradshaw, either acting alone or together with Calvin Massengale, Larry Mitchell, and/or Tonya Moody as a party, in Bexar County, Texas, did intentionally, knowingly or recklessly cause serious bodily injury to James Holmes by cutting or stabbing James Holmes with a deadly weapon, namely, a knife that in the manner of its use or intended use was capable of causing death or serious bodily injury, while Charlton Bradshaw, either acting alone or together with Calvin Massengale, Larry Mitchell, and/or Tonya Moody as a party, was in the course of committing theft of property, namely: lawful currency of the United States of America, from James Holmes, the owner of said property, without the effective consent of James Holmes, and said acts were committed by Charlton Bradshaw, either acting alone or together with Calvin Massengale, Larry Mitchell, and/or Tonya Moody as a party, with the intent to obtain or maintain control of the said property, then you will find the defendant guilty of aggravated robbery.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, or you are unable to agree, you will next consider whether the defendant is guilty of robbery.

XXI.

"Robbery" as defined in Paragraph IV applies and has the same meaning here.

The terms and definitions used in Paragraphs V-VIII apply and have the same meaning here.

XXII.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 16<sup>th</sup> Day of October, 2009, in Bexar County, Texas, the defendant, Charlton Bradshaw, either acting alone or together with Calvin Massengale, Larry Mitchell, and/or Tonya Moody as a party, in Bexar County, Texas, did intentionally, knowingly or recklessly cause bodily injury to James Holmes by cutting or stabbing James Holmes with a deadly weapon, namely, a knife while Charlton Bradshaw, either acting alone or together with Calvin Massengale, Larry Mitchell, and/or Tonya Moody as a party, was in the course of committing theft of property, namely: lawful currency of the United States of America, from James Holmes, the owner of said property, without the effective consent of James Holmes, and said acts were committed by Charlton Bradshaw, either acting alone or together with Calvin Massengale, Larry Mitchell, and/or Tonya Moody as a party, with the intent to obtain or maintain control of the said property, then you will find the defendant guilty of robbery.

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

Our law provides 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 or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against him.



Written or video taped statements made by a witness to investigators or other officers or police reports made by officers may be tendered by the prosecution to the defense for purposes of cross-examination. Many times statements and reports may be marked with an exhibit number but are neither offered nor received in evidence. I can send only statements and reports received in evidence to the jury room.

You are instructed that the statements of counsel made during the course of the trial or during the argument, if not supported by evidence, or statements of law made by counsel, if not in harmony with the law as stated to you by the Court in these instructions, are to be wholly disregarded.

You must disregard any comment or statement made by the Court during the trial or in these instructions which may seem to indicate an opinion with respect to any fact, item of evidence or verdict to be reached in this case. No such indication is intended.

You are instructed that the Grand Jury indictment is not evidence of guilt. It is the means whereby a defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered by you in 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.

You are instructed that you are not to let bias, prejudice, or sympathy play any part in reaching a verdict in this case.

After argument of counsel, you will retire to the jury room, select your own presiding juror and proceed with your deliberations. After you have reached a unanimous verdict the presiding juror will certify thereto by filling in the appropriate forms attached to this charge and signing his or her name as presiding juror.

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 you are bound to receive the law from the Court which is herein given to you and be governed by that law.

In order to return a verdict, each juror must agree to that verdict, but jurors have a duty to consult each other and to deliberate with a view to reaching unanimous agreement, if that can be done without violence to individual judgment.

Each juror must decide the case for himself, but only after an impartial consideration of the evidence with his fellow jurors.

In the course of deliberations, a juror should not hesitate to re-examine his own views and change his opinion if convinced it is erroneous. However, no juror should surrender his honest conviction as to the weight or effect of the evidence solely because of the opinion of his fellow jurors, or for the mere

purpose of returning a verdict.

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.

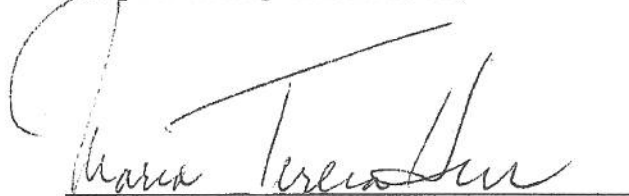
It is not required that the prosecution prove guilt beyond all possible doubt; it is required that the prosecution's proof excludes all "reasonable doubt" concerning the defendant's guilt.

In the event you have a reasonable doubt as to 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."

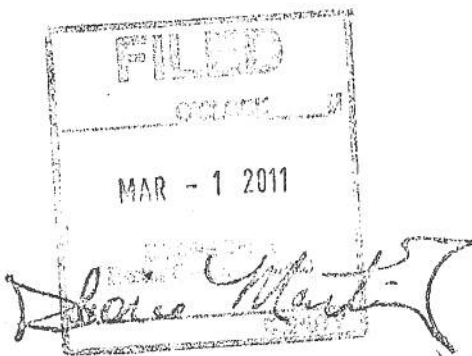


Suitable forms for your verdict are attached to the charge for your convenience if you care to use them, but they are not intended to suggest to you in any way what your verdict should be, and you may or may not, as you see fit, make use of them. At any rate, your verdict must be in writing and signed by your presiding juror. Your only duty at this time is to determine whether the defendant is guilty or not guilty under the indictment in this cause, and you must restrict your deliberations to the issue of whether the defendant is guilty or not guilty and nothing else. After you have retired to the jury room, no one has any authority to communicate with you except the officer who has you in charge. Do not attempt to talk to the officer, or anyone else concerning any question you may have; instead address your question to the Court in writing. If you want to communicate with the Court, notify the bailiff. Any communication relative to the case must be written, prepared by the presiding juror, and submitted to the Court through the bailiff.

Respectfully submitted,



Judge Maria Teresa Herr  
186th Judicial District  
Bexar County, Texas



NO. 2009-CR-12809A

THE STATE OF TEXAS

§

IN THE DISTRICT COURT

VS.

§

186TH JUDICIAL DISTRICT

CHARLTON BRADSHAW

§

BEXAR COUNTY, TEXAS

VERDICT FORM

We, the Jury, find the defendant, Charlton Bradshaw, not guilty.

\_\_\_\_\_  
PRESIDING JUROR

VERDICT FORM

We, the Jury, find the defendant, Charlton Bradshaw, guilty of capital murder as charged in the indictment.

*Felix A. Is* 3-1-11  
\_\_\_\_\_  
PRESIDING JUROR

VERDICT FORM

We, the Jury, find the defendant, Charlton Bradshaw, guilty of murder.

\_\_\_\_\_  
PRESIDING JUROR

VERDICT FORM

We, the Jury, find the defendant, Charlton Bradshaw, guilty of felony murder.

\_\_\_\_\_  
PRESIDING JUROR

VERDICT FORM

We, the Jury, find the defendant, Charlton Bradshaw, guilty of aggravated robbery.

\_\_\_\_\_  
PRESIDING JUROR

VERDICT FORM

We, the Jury, find the defendant, Charlton Bradshaw, guilty of robbery.

\_\_\_\_\_  
PRESIDING JUROR