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CAUSE NUMBER 25359-422

THE STATE OF TEXAS	§	IN THE 422ND
	§	
vs.	§	DISTRICT COURT
	§	
DANIEL JOSEPH GRIFFIN	§	KAUFMAN COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

DANIEL JOSEPH GRIFFIN, the defendant, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 9th day of October, 2006, in Kaufman County, Texas. The defendant has pled not guilty.

You are instructed that the law applicable to this case is as follows:

I.

A person commits the offense of murder if the person intentionally or knowingly causes the death of an individual.

“Individual” means a human being who is alive.

A person commits the offense of capital murder if the person intentionally commits the murder in the course of committing or attempting to commit retaliation.

“In the course of committing” means conduct occurring in an attempt to commit, during the commission, or in the immediate flight after the attempt or commission of the offense.

A person commits a criminal attempt if, with specific intent to commit an offense, he does an act amounting to more than mere preparation that tends but fails to effect the commission of the offense intended.

A person commits the offense of retaliation if he intentionally or knowingly harms or threatens to harm another by an unlawful act in retaliation for or on account of the service or the status of another as a witness, or prospective witness, or informant, or person who has reported the occurrence of a crime or person who the actor knows intends to report the occurrence of a crime.

"Harm" means anything reasonably regarded as loss, disadvantage, or injury, including harm to another person in whose welfare the person affected is interested.

"Unlawful" means criminal or tortuous or both and includes what would be criminal or tortuous but for a defense not amounting to justification or privilege.

"Another" means a person other than the actor.

"Informant" means a person who has communicated information to the government in connection with any governmental function.

"Actor" means a person whose criminal responsibility is in issue in a criminal action.

Terms not defined herein are to be given their ordinary meaning.

II.

With regard to the offense of 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.

With regard to the offense of retaliation, 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.

With regard to the offense of retaliation, 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.

Intent may be inferred from the surrounding facts and circumstances including but not limited to acts done and words spoken.

III.

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

“Intoxication” means a disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

IV.

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about the 9th day of October, 2006 in Kaufman County, Texas, the defendant, Daniel Joseph Griffin did intentionally cause the death of an individual, namely, Cheri Lynn Duggan, by stabbing her with a knife, and the defendant was then and there in the course of committing or attempting to commit the offense of retaliation against Cheri Lynn Duggan, you will find the defendant guilty of the offense of capital murder as alleged in the indictment.

If you do not so believe, or if you have a reasonable doubt thereof, you will acquit the defendant of capital murder and proceed to consider whether the defendant is guilty of the lesser included offense of murder:

V.

A person commits the offense of murder if he intentionally or knowingly causes the death of an individual.

VI.

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about the 9th day of October, 2006 in Kaufman County, Texas, the defendant, Daniel Joseph Griffin, did intentionally or knowingly cause the death of Cheri Lynn Duggan, by stabbing her with a knife, you will find the defendant guilty of murder as included in the indictment.

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

If you should find from the evidence beyond a reasonable doubt that the defendant is either guilty of capital murder or murder, but you have a reasonable doubt as to which offense he is guilty of, then you should resolve that doubt in the defendant's favor and find the defendant guilty of the lesser included offense of Murder.

VII.

It is a defense to prosecution if the defendant's conduct was justified by law.

Under the law of self defense, you are instructed that a person is justified in using force against another when and to the degree he reasonably believes the force is immediately necessary to protect himself against the other person's use or attempted use of unlawful force.

The use of force is not justified in response to verbal provocation alone.

A person is justified in using deadly force against another if he is justified in using force against the other in self defense as explained above and, provided that a reasonable person in his situation would not have retreated, and when and to the degree he reasonably believes the deadly force is immediately necessary to protect himself against the other's use or attempted use of unlawful deadly

force.

In considering all the foregoing instructions, you, the jury, should place yourselves in defendant's position and view the circumstances from his standpoint alone at the time in question. The right of self-defense continues as long as it reasonably appears to the defendant that danger, real or apparent, exists, viewed from his standpoint at the time.

Therefore, if you believe from the evidence beyond a reasonable doubt that ^{the} ~~the defendant~~ on or about the 9th day of October, 2006, in Kaufman County, Texas, the defendant, Daniel Joseph Griffin, intentionally caused the death of an individual, namely, Cheri Lynn Duggan, by stabbing her with a knife, but you further believe from the evidence, or you have a reasonable doubt thereof, that at the time he did so, as viewed from the standpoint of the defendant at the time, that from the words or conduct, or both, of Cheri Lynn Duggan,

- (1) the defendant reasonably believed that Cheri Lynn Duggan was using or attempting to use unlawful deadly force against him, AND
- (2) the defendant reasonably believed that the use of force and the degree of force used were immediately necessary to protect himself against Cheri Lynn Duggan's use or attempted use of unlawful deadly force, AND
- (3) a reasonable person in the defendant's situation would not have retreated, you will find the defendant not guilty.

VIII.

In all criminal cases, the burden of proof is on the State. 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, 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.

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".

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. At times throughout the trial, the Court has been called upon to pass on the question of whether or not certain offered evidence might properly be admitted. Do not be concerned with the reasons for such rulings and draw no inferences from them. Whether offered evidence is admissible is purely a question of law. In admitting evidence to which an objection is made, the Court does not determine what weight should be given such evidence; nor does it pass on the credibility of the witness. As to any offer of evidence that has been rejected by the Court, you of course must not consider the same. As to any question to which an objection was sustained, you must not conjecture as to what the answer might have been or as to the reason for the objection.

You are further charged that if there is any evidence before you in this case tending to show that the defendant herein committed offenses other than the offense alleged against him in the indictment, you cannot consider said testimony for any purpose unless you find and believe, beyond a

reasonable doubt, that the defendant committed the other offenses, if any, were committed; and if you find and believe beyond a reasonable doubt from such testimony that other offenses were committed, you may then consider the same in determining the motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, and for no other purpose.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given their testimony, but you are bound to receive the law from the Court, which is hereby given you, and be governed thereby.

After you retire to the jury room, you will select one of your members as presiding juror. It is the presiding juror's 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 presiding juror.

During your deliberations in this case, you must neither consider, discuss, nor relate any matters not in evidence before you. You should neither 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 consider your verdict, no one has any authority to communicate with you except the bailiff. Any communication must be in writing and signed by the presiding juror. Do not attempt to talk to the bailiff, the attorneys, or the Court regarding any question you may have concerning the trial of this case. After you have reached a unanimous verdict or if you desire to communicate with the Court in writing, please knock on the jury room door and the bailiff will respond.

Signed January 10, 2008.



**B. MICHAEL CHITTY
PRESIDING JUDGE
422ND DISTRICT COURT
KAUFMAN COUNTY, TEXAS**

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KAUFMAN COUNTY
TX 75135

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SANDRA T. GIBBSON
DISTRICT CLERK

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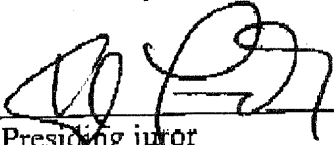
VERDICT FORMS

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

Presiding juror

-or-

We, the jury, find the defendant, DANIEL JOSEPH GRIFFIN, guilty of the offense of Murder, as included in the indictment.



Presiding juror

-or-

We, the jury, find the defendant, DANIEL JOSEPH GRIFFIN, not guilty.

Presiding juror

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SANDRA J. BERRY
DISTRICT CLERK
SECURITY