

CR28321

THE STATE OF TEXAS  
VS.  
CORDERRAL JOHN SMITH

IN THE DISTRICT COURT OF  
LIBERTY COUNTY, TEXAS  
253<sup>RD</sup> JUDICIAL DISTRICT

LADIES AND GENTLEMEN OF THE JURY:

The defendant, CORDERRAL JOHN SMITH, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 7<sup>th</sup> day of August, 2006, in Liberty County, Texas. To this charge the defendant has pled not guilty.

Our law requires that I submit the following Charge to you in this case. This Charge contains all of the law necessary to enable you to reach a verdict. If any evidence was presented to raise an issue, the law on that issue must be and is provided.

You will note that the Indictment charges that the offense was committed "on or about" a certain date. The proof need not establish with certainty the exact date of the alleged offense. It is sufficient if the evidence in the case establishes beyond a reasonable doubt that the offense was committed before August 18, 2010.

You will also note that the indictment alleges that the offense was committed in a certain county. It is sufficient if the evidence in the case establishes beyond a reasonable doubt that the alleged county is where the injury occurred which caused the death, or where the death occurred or where the dead body was found.

A person commits the offense of capital murder if he employs another to commit the murder for remuneration or the promise of remuneration, and the murder is actually committed.

By the term "remuneration," as used in this charge, is meant payment by one person to another in compensation of a specific service or services rendered pursuant to an agreement therefore.

"Individual" means a human being who is alive, including an unborn child at every stage of gestation from fertilization to 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.

*CBE* ~~A person is criminally responsible if the result would not have occurred but for his conduct.~~

A person is criminally responsible if the result would not have occurred but for his conduct, operating either alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result and the conduct of the actor clearly insufficient.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that the defendant, CORDERRAL JOHN SMITH, on or about the 7<sup>th</sup> day of August, 2006, in the County of Liberty, and State of Texas, as alleged in the indictment, did then and there intentionally or knowingly cause the death of an individual, namely, GLORIA RYAN by employing Jason John-Joseph Rizzi to murder GLORIA RYAN for remuneration or the promise of remuneration, to-wit: United States currency and/or a motor vehicle, from CORDERRAL JOHN SMITH, and pursuant to said agreement, Jason John-Joseph Rizzi did then and there intentionally or knowingly cause the death of GLORIA RYAN by shooting GLORIA

RYAN with a firearm, then you will find the defendant guilty of Capital Murder, as charged in the indictment.

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

A conviction cannot be had upon the testimony of an accomplice unless corroborated by other evidence tending to connect the defendant with the offense committed; and the corroboration is not sufficient if it merely shows the commission of the offense.

You are instructed that JASON JOHN-JOSEPH RIZZI was an accomplice if any offense was committed, and you are instructed that you cannot find the defendant guilty upon the testimony of JASON JOHN-JOSEPH RIZZI, unless you believe that there is other evidence in this case, outside the testimony of said JASON JOHN-JOSEPH RIZZI, tending to connect the defendant with the commission of the offense charged in the indictment, and then from all the evidence you must believe beyond a reasonable doubt that the defendant is guilty.

You are instructed that you may consider all relevant facts and circumstances surrounding the killing, if any, and the previous relationship existing between the accused and the deceased, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the offense, if any.

The State has introduced evidence of extraneous crimes or bad acts other than the one charged in the indictment in this case. This evidence was admitted only for the purpose of assisting you, if it does, for the purpose of showing the defendant's motive, opportunity, intent, plan, and/or identity, if any. You cannot consider the evidence unless you find and believe beyond a reasonable doubt that the defendant committed these acts, if any were committed.

The Indictment is simply the description of the charge made by the State against the defendant and is the means by which a defendant is brought to trial in a felony prosecution. It is not evidence of his guilt nor can it be considered by you in passing on the 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 a careful and impartial consideration of all of 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.

If you have a reasonable doubt as to the defendant's guilt after considering all the evidence before you, and these instructions, you will find the defendant "not guilty."

While you should consider only the evidence in the case, you are permitted to draw such reasonable inferences from the testimony and exhibits as you feel are justified in the light of common experience. You may make deductions and reach conclusions which reason and

common sense lead you to draw from the facts which have been established by the testimony and evidence in the case.

You may also consider either direct or circumstantial evidence. "Direct evidence" is the testimony of one who asserts actual knowledge of a fact, such as an eyewitness. "Circumstantial evidence" is proof of a chain of facts and circumstances indicating either the guilt or innocence of the defendant. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It requires only that you weigh all of the evidence and be convinced of the defendant's guilt beyond a reasonable doubt before he can be convicted.

You have been permitted to take notes during the testimony in this case. In the event any of you took notes, you may rely on your notes during your deliberations. However, you may not share your notes with the other jurors and you should not permit the other jurors to share their notes with you. You may, however, discuss the contents of your notes with the other jurors. You shall not use your notes as authority to persuade your fellow jurors. In your deliberations, give no more and no less weight to the views of a fellow juror just because that juror did or did not take notes. Your notes are not official transcripts. They are personal memory aids, just like the notes of the judge and the notes of the lawyers. Notes are valuable as a stimulant to your memory. On the other hand, you might make an error in observing or you might make a mistake in recording what you have seen or heard. Therefore, you are not to use your notes as authority to persuade fellow jurors of what the evidence was during the trial.

Occasionally, during jury deliberations, a dispute arises as to the testimony presented. If this should occur in this case, you shall inform the Court and request that the Court read the portion of disputed testimony to you from the official transcript. If you did take notes, you shall not rely on your notes to resolve the dispute because those notes, if any, are not official

transcripts. The dispute must be settled by the official transcript, for it is the official transcript, rather than any juror's notes, upon which you must base your determination of the facts and, ultimately, your verdict in this case.

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 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 dating and signing the same as Foreperson.

No one has any authority to communicate with you except the officer who has you in charge. 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. During this phase of the trial, you are not to consider or discuss the issue of punishment if you find the defendant guilty of any offense.

After you have retired, you may communicate with this court in writing through the officer who has you in charge. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the Court, or anyone else concerning any question you may have. After you have reached a unanimous verdict, the Foreperson will certify thereto by filling in the appropriate form attached to this charge and dating and signing his or her name as Foreperson. You may retire to consider your verdict after the argument of counsel.

SIGNED this 15<sup>th</sup> day of September, 2010.

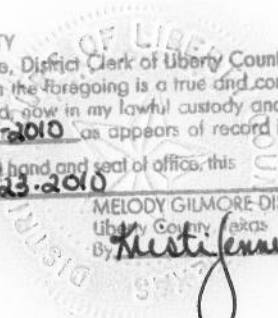


CHAP B. CAIN, III  
JUDGE PRESIDING

STATE OF TEXAS  
COUNTY OF LIBERTY  
I, Melody Gilmore, District Clerk of Liberty County, Texas, do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and possession, filed on 09-15-2010 as appears of record in my office.

Witness my official hand and seal of office, this 09-23-2010

MELODY GILMORE DISTRICT CLERK  
Liberty County, Texas  
By Melody Gilmore Deputy



FILED  
at 10:42 o'clock A.M

SEP 15 2010

MELODY GILMORE  
Clerk, District Court, Liberty, TX  
By Melody Gilmore DEPUTY

CERTIFIED  
COPY

YOU WILL FIND ONE AND ONLY ONE OF THE FOLLOWING VERDICTS:



NO. CR28321

THE STATE OF TEXAS

IN THE DISTRICT COURT OF

VS.

LIBERTY COUNTY, TEXAS

CORDERRAL JOHN SMITH

253<sup>RD</sup> JUDICIAL DISTRICT

WE, THE JURY, find the defendant CORDERRAL JOHN SMITH, guilty of the offense of Capital Murder, as alleged in the indictment.

Date: 09-15-10

*Kimberly Helms*  
FOREPERSON OF THE JURY

FILED  
at 12:30 o'clock P. M

SEP 15 2010

MELODY GILMORE  
Clerk, District Court, Liberty, TX  
By *Kristen* DEPUTY

STATE OF TEXAS  
COUNTY OF LIBERTY  
I, Melody Gilmore, District Clerk of Liberty County, Texas, do hereby certify that the foregoing is a true and correct copy of the original record now in my lawful custody and possession, filed on 09-15-2010 as appears of record in my office.  
Witness my official hand and seal of office, this  
09-15-2010  
MELODY GILMORE DISTRICT CLERK  
Liberty County, Texas  
By *Kristen* Deputy

CERTIFIED  
COPY

NO. CR28321

THE STATE OF TEXAS

IN THE DISTRICT COURT OF

VS.

LIBERTY COUNTY, TEXAS

CORDERRAL JOHN SMITH

253<sup>RD</sup> JUDICIAL DISTRICT

WE, THE JURY, find the defendant, CORDERRAL JOHN SMITH, not guilty.

Date: \_\_\_\_\_

\_\_\_\_\_  
FOREPERSON OF THE JURY