

ORIGINAL

CAUSE NO. 12-904036

THE STATE OF TEXAS

*

IN THE 427TH JUDICIAL

*

VS.

*

DISTRICT COURT OF

*

CHARLIE MAYBERRY

*

TRAVIS COUNTY, TEXAS

CHARGE OF THE COURT

Ladies and Gentlemen of the Jury:

The defendant, Charlie Mayberry, stands charged by indictment with the offense of capital murder, alleged to have been committed in Travis County, Texas, on or about the 30th day of January, 2010. To this charge 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 capital murder if the person intentionally causes the death of an individual and the person intentionally commits the murder in the course of committing or attempting to commit robbery.

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

II.

“Attempt” means to commit an act with specific intent to commit an offense where the act committed amounts to more than mere preparation but fails to effect the commission of the offense intended.

“Individual” means a human being who is alive.

Filed in The District Court
of Travis County, Texas

AUG 30 2012

AB

At 12:20 p M.
Amalia Rodriguez-Mendoza, Clerk

“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.

III.

A person commits the offense of robbery if in the course of committing theft, as hereinafter defined, and with intent to obtain or maintain control of the property, he:

- (1) intentionally, knowingly, or recklessly causes bodily injury to another; or
- (2) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

IV.

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

Appropriation of property is unlawful if it is without the owner's effective consent.

V.

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

“Appropriate” means to acquire or otherwise exercise control over property other than real property.

“Owner” means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the defendant.

“Property” means:

- (A) tangible or intangible personal property including anything severed from land; or
- (B) a document, including money, that represents or embodies anything of value.

“Bodily injury” means physical pain, illness, or any impairment of physical condition.

“Consent” means assent in fact, whether express or apparent.

“Effective consent” includes consent by a person legally authorized to act for the owner.

Consent is not effective if induced by deception or coercion;

VI.

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 the conduct is reasonably certain to cause the result.

VII.

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

VIII.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that the defendant, Charlie Mayberry, on or about the 30th day of January, 2010, in the County of Travis, and State of Texas, as alleged in the indictment, did then and there intentionally cause the death of an individual, namely, T. Felder, by shooting T. Felder with a firearm, and the said Charlie Mayberry did then and there intentionally cause the death of the said T. Felder in the course of committing *or* attempting to commit the offense of robbery against T. Felder, you will find the defendant guilty of the offense of capital murder and so say by your verdict; but if you do not so believe, or if you have a reasonable doubt thereof,

you will acquit the defendant of the offense of capital murder and say by your verdict not guilty and proceed to consider whether the defendant is guilty of the lesser offense of murder.

IX.

Now if you believe beyond a reasonable doubt that the defendant, Charlie Mayberry, killed T. Felder, but you have a reasonable doubt as to whether Charlie Mayberry robbed T. Felder or you have a reasonable doubt as to whether the death of T. Felder occurred in the commission or attempted commission or in immediate flight after the attempt or commission of the robbery, if any, of T. Felder, then you cannot convict the defendant of capital murder, but you will consider whether the defendant is guilty of the lesser included offense of murder.

X.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that the defendant, Charlie Mayberry, on or about the 30th day of January, 2010, in the County of Travis, and State of Texas, as alleged in the indictment, did then and there intentionally or knowingly cause the death of an individual, namely, T. Felder, by shooting T. Felder with a firearm, you will find the defendant guilty of the offense of murder and so say by your verdict; but if you do not so believe, or if you have a reasonable doubt thereof, you will acquit the defendant of the offense of murder and say by your verdict not guilty.

XI.

You are instructed that in considering your verdict 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 alleged killing, if any.

XII.

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,

preparation, plan, knowledge, identity, or absence of mistake or accident, if any. You cannot consider the testimony unless you find and believe beyond a reasonable doubt that the defendant committed these acts, if any were committed.

XIII.

You are further instructed as a part of the law in this case that the indictment against the defendant is not evidence in the case, and that the true and sole use of the indictment is to charge the offense and to inform the defendant of the offense alleged against him. The reading of the indictment to the jury in the statement of the case of the State against the defendant cannot be considered as a fact or circumstance against the defendant in your deliberations.

XIV.

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 proven 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 a careful and impartial consideration of all the evidence in the case.

XV.

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; however, 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 the defendant and say by your verdict not guilty.

XVI.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, or any witness therein, and no juror is permitted to communicate to any other juror anything he or she may have heard regarding the case or any witness therein, from any source other than the witness stand.

XVII.

In deliberating on this cause you are not to refer to or discuss any matter or issue not in evidence before you; nor talk about this case to anyone not of your jury. And, after the reading of this charge, you shall not separate from each other until you have reached a verdict. Further, you shall not discuss or consider the punishment, if any, which may be assessed against the defendant in the event he is found guilty beyond a reasonable doubt.

XVIII.

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 you, and be governed thereby.

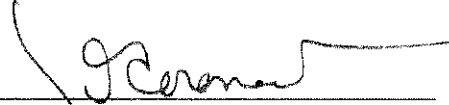
XIX.

If the jury wishes to communicate with the Court it must do so in writing. Such writing must be signed by the presiding juror and submitted to the Court through the bailiff.

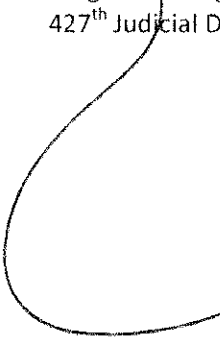
XX.

After the reading of the charge and argument of counsel, you will retire and select one of your members as your foreperson. It is his or her duty to preside at your deliberations and to vote with you in arriving at a unanimous verdict. Your verdict must be unanimous and it must reflect the individual verdict of each individual juror, and not a mere acquiescence in the conclusion of the other jurors. After you have arrived at your verdict, you may use the forms attached hereto by completing and signing it in conformance with your verdict.

8/30/12 12:20 p.m
Date & Time



Jim Coronado
Judge Presiding
427th Judicial District Court



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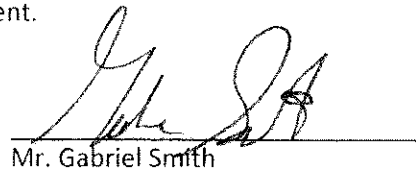
TRAVIS COUNTY, TEXAS

VERDICT OF THE JURY

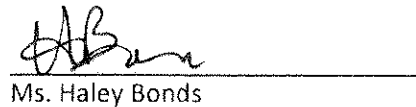
We, the Jury, find the defendant, Charlie Mayberry, guilty of
(not guilty or guilty)

the offense of capital murder, as alleged in the indictment.

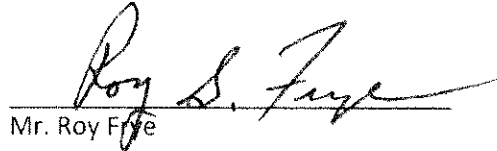

Ms. Irene Hepler


Mr. Gabriel Smith

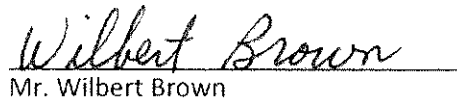

Mr. Amol Deshmukh

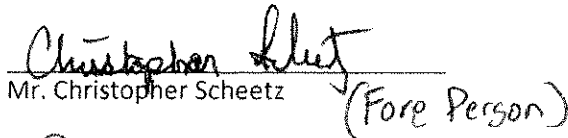

Ms. Haley Bonds


Ms. Kirstin Dreiss


Mr. Roy Fife


Ms. Martha Dillon


Mr. Wilbert Brown


Mr. Christopher Scheetz
(Fore Person)


Mr. Robert Collier


Ms. Amanda Nelsen

8/30/2012 6:55 pm
Date & Time

Filed in The District Court
of Travis County, Texas

AUG 30 2012

At 6:55 p.m.
Amalia Rodriguez-Mendoza, Clerk