

No. 31022

THE STATE OF TEXAS
VS
BEVERLY G. LATIMER

SECTION 101.001

IN THE DISTRICT COURT
OF
NAVARRO COUNTY, TEXAS

CHARGE OF THE COURT

The defendant, BEVERLY G. LATIMER, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about 4th day of September, 2006, in Navarro County, Texas. To this charge, the defendant has pleaded not guilty.

1.

A person commits murder when she intentionally or knowingly causes the death of an individual.

A person commits capital murder when she murders an individual under six years of age.

2.

A person acts intentionally, or with intent, with respect to a result of her conduct when it is her conscious objective or desire to cause the result.

A person acts knowingly, or with knowledge, with respect to a result of her conduct when she is aware that ~~his~~ ^{her} conduct is reasonably certain to cause the result.

3.

Now, if you find from the evidence beyond a reasonable doubt that on or about 4th day of September, 2006, in Navarro County, Texas, the defendant, BEVERLY G. LATIMER, did intentionally or knowingly cause the death of an individual, namely, Christian Raymond Nieto, by blunt force trauma in a manner and means that are unknown, and the said Christian Raymond Nieto was then and there an individual younger than six years of age, then you will find the defendant guilty of capital murder as charged in the indictment.

If you find beyond a reasonable doubt, or if you have a reasonable doubt thereon, you will acquit the defendant of capital murder and say by your verdict "not guilty".

4.

You are instructed that in considering your verdict you may consider all relevant

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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 killing, if any.

5.

Our law provides that a defendant may testify in her own behalf if she elects to do so. This is a privilege accorded a defendant; but in the event she elects not to testify, that fact cannot be taken as a circumstance against her.

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 the defendant, nor will you refer to or discuss any matter not before you in evidence.

6.

Your verdict must be by a unanimous vote of all members of the jury. In deliberating on this case, you shall consider the charge as a whole and you must not refer to or discuss any matters not in evidence before you.

In arriving at your verdict, it will not be proper to ~~fix~~ ^{fix} the same by lot, chance, or by any method other than by a full, fair, and ~~free~~ ^{free} exercise of the opinion of the individual jurors under the evidence admitted before you.

In all criminal cases, the burden of proof is upon the State. The defendant is presumed to be innocent unless her guilt is established by legal and competent evidence beyond a reasonable doubt, and in case you have a reasonable doubt as to the defendant's guilt, you will acquit him and say by your verdict not guilty.

All communications from the jury to the Court must be in writing and signed by the presiding juror.

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

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. The Court has no right by any word or any act to indicate any opinion respecting any matter of fact involved in this case, nor to indicate any desire respecting the outcome of the case. The Court has not intended to express any opinion upon any matter of fact, and if you have observed anything which you may have interpreted as the Court's opinion as to any matter of fact, you must wholly disregard it.

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, or otherwise charged with the offense give rise to no inference of guilt at this trial. The law does not require a defendant to prove his ^{innocence} 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 it if fails to do so, you must acquit the defendant.

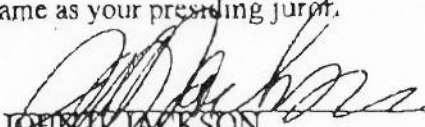
It is not required that the prosecution prove guilt beyond all possible doubt, it is required that the prosecution's proof excludes all reasonable doubt; concerning the defendant's guilt.

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, knowledge, 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.

You are further instructed that note taking has been determined to be beneficial for you in understanding this case in light of the factual and legal issues that have been presented at trial. You should not be distracted by note taking and you should regard the notes you have taken, if any, as merely memory aids, as they may help you, and not as evidence.

The Grand Jury indictment in this case is no evidence whatsoever of the guilt of the defendant. It is a mere pleading necessary in order to bring this case into court for trial, and you will consider it for no purpose at all.

After you retire to the jury room, you should elect one of your number as your 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 and signing the same as your presiding juror.


JOSEPH JACKSON,
JUDGE PRESIDING

VERDICT SHEET

(If you find the Defendant guilty of the offense of Capital Murder, use the form of verdict shown immediately below:)

We, the jury, find the Defendant guilty of the offense of Capital Murder.

Bonita Moss
PRESIDING JUROR

(If you find the Defendant not guilty, use the verdict form shown immediately below:)

We, the jury, find the Defendant not guilty.

PRESIDING JUROR