



NO. 17,289-A

THE STATE OF TEXAS	§	IN THE 47TH DISTRICT COURT
VS.	§	IN AND FOR
MICHAEL STOCKER	§	RANDALL COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, MICHAEL STOCKER, stands charged by indictment with the offense of Capital Murder, alleged to have been committed in Randall County, Texas, on or about the 9th day of March, 2003. To this charge the defendant has pleaded not guilty. You are instructed that the law applicable to this case is as follows:

1.

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 aggravated kidnapping.

2.

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

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

3.

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.

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CLERK
 RANDALL COUNTY, TEXAS

 DEPUTY

12.

A person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both. Each party to an offense may be charged with the 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, 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.

The term "conspiracy" means an agreement with one or more persons that they or one or more of them engage in conduct that would constitute a felony. An agreement constituting a conspiracy may be inferred from the acts of the parties. You are instructed that aggravated kidnapping is a felony.

13.

Now bearing in mind the foregoing instructions, if you unanimously believe from the evidence beyond a reasonable doubt that the defendant, MICHAEL STOCKER, entered into a conspiracy with Joshua Stocker to commit the felony offense of aggravated kidnapping and that on or about the 9th day of March, 2003, in the State of Texas, in the attempt to carry out this conspiracy, if any, Joshua Stocker or Craig Kimberlin or Joshua Bledsoe or Frank Chacon did then and there, in the course of committing or attempting to commit the aggravated kidnapping of Dustin Pool, intentionally commit murder by intentionally causing the death of an individual, to-wit: Dustin Pool, by suffocating Dustin Pool by putting a sock into his throat or by causing

blunt force trauma to Dustin Pool's head, if Joshua Stocker or Craig Kimberlin or Joshua Bledsoe or Frank Chacon did so, and that such offense was committed in furtherance of the unlawful purpose to commit aggravated kidnapping and was an offense that should have been anticipated as a result of the carrying out of the conspiracy, and you further find that the dead body of Dustin Pool, if any, was found in Randall County, Texas, then you will find the defendant, MICHAEL STOCKER, guilty of Capital Murder, though he may have had no intent to commit it, 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 proceed to consider whether the defendant is guilty of the lesser included offense of Aggravated Kidnapping.

14.

Now bearing in mind the foregoing instructions, if you unanimously believe from the evidence beyond a reasonable doubt that the defendant, MICHAEL STOCKER, on or about the 9th day of March, 2003, in the State of Texas, did then and there intentionally or knowingly abduct another person, to-wit: Dustin Pool, and without Dustin Pool's consent did then and there restrain Dustin Pool with intent to prevent his liberation by using or threatening to use deadly force, and the said MICHAEL STOCKER did then and there use or exhibit a deadly weapon, namely: a firearm, during the commission of said offense, and you further find that the dead body of Dustin Pool, if any, was found in Randall County, Texas, you will find the defendant guilty of the lesser included offense of Aggravated Kidnapping and so say by your verdict, but if you do not so believe, or if you have a reasonable doubt thereof, you will proceed to consider whether the defendant is guilty of the lesser included offense of Aggravated Kidnapping as a party to that offense.

15.

A person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both. Each party to an offense may be charged with the commission of the 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.

Mere presence alone will not make a person a party to an offense.

16.

Now bearing in mind the foregoing instructions, if you unanimously believe from the evidence beyond a reasonable doubt, that on or about the 9th day of March, 2003, in the State of Texas, Joshua Stocker did then and there intentionally or knowingly abduct another person, to-wit: Dustin Pool, and without Dustin Pool's consent did then and there restrain Dustin Pool with intent to prevent his liberation by using or threatening to use deadly force, and the said Joshua Stocker did then and there use or exhibit a deadly weapon, namely: a fireplace poker, that in the manner of its use or intended use was capable of causing death or serious bodily injury to Dustin Pool, during the commission of said offense, and you further find that the dead body of Dustin Pool, if any, was found in Randall County, Texas, and if you further believe from the evidence beyond a reasonable doubt that on said date in said State, the defendant, MICHAEL STOCKER, as a party as that term is hereinbefore defined, acting with intent to promote or assist the commission of the offense, solicited, encouraged, directed, aided, or attempted to aid the said Joshua Stocker in the foregoing action, you will find the said MICHAEL STOCKER guilty of the lesser included offense of

Aggravated Kidnapping, 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 lesser included offense of Aggravated Kidnapping and proceed to consider whether the defendant is guilty of the lesser included offense of Kidnapping.

17.

A person commits the offense of kidnapping if he intentionally or knowingly abducts another person.

18.

Now bearing in mind the foregoing instructions, if you unanimously believe from the evidence beyond a reasonable doubt that the defendant, MICHAEL STOCKER, on or about the 9th day of March, 2003, in the State of Texas, did then and there intentionally or knowingly abduct another person, to-wit: Dustin Pool, and without Dustin Pool's consent did then and there restrain Dustin Pool with intent to prevent his liberation by secreting or holding Dustin Pool in a place where he was not likely to be found, and you further find that the dead body of Dustin Pool, if any, was found in Randall County, Texas, you will find the defendant guilty of the lesser included offense of Kidnapping and so say by your verdict, but if you do not so believe, or if you have a reasonable doubt thereof, you will proceed to consider whether the defendant is guilty of the lesser included offense of Kidnapping as a party to that offense.

19.

Now bearing in mind the foregoing instructions, if you unanimously believe from the evidence beyond a reasonable doubt, that on or about the 9th day of March, 2003, in the State of Texas, Joshua Stocker did then and there intentionally or knowingly abduct another person, to-wit: Dustin Pool, and without Dustin Pool's consent did then and there restrain Dustin Pool with intent to prevent his liberation by secreting or

holding Dustin Pool in a place where he was not likely to be found, and you further find that the dead body of Dustin Pool, if any, was found in Randall County, Texas, and if you further believe from the evidence beyond a reasonable doubt that on said date in said State, the defendant MICHAEL STOCKER, as a party as that term is hereinbefore defined, acting with intent to promote or assist the commission of the offense, solicited, encouraged, directed, aided, or attempted to aid the said Joshua Stocker in the foregoing action, you will find the said MICHAEL STOCKER guilty of the lesser included offense of Kidnapping, 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 and say by your verdict "Not Guilty."

20.

The defendant is on trial solely on the charge contained in the indictment. In reference to evidence, if any, that the defendant has previously participated in other crimes, wrongs, or acts, other than that which is charged in the indictment in this case, you are instructed that you cannot consider such other crimes, wrongs, or acts, if any, for any purpose unless you find and believe beyond a reasonable doubt that the defendant participated in or committed such other crimes, wrongs, or acts, if any; and even then you may only consider the same for the purpose of determining motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, if it does, or for the purpose of rebutting a defensive theory, if it does, and for no other purpose.

21.

The only function of the jury under this charge is to determine the guilt, if any, of the defendant or the innocence of the defendant according to the directions and instructions contained herein, the matter of punishment, should you find the defendant guilty, being the subject of further proceedings in the trial.

22.

You are instructed that a grand jury indictment is no 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 the innocence or guilt of this defendant.

23.

In all criminal cases, the burden of proof is on the State and never shifts to the defendant. The defendant is presumed to be innocent until his guilt is established by legal evidence beyond a reasonable doubt; and in case you have a reasonable doubt as to 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".

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".

24.

You are the exclusive judges of the facts proved, 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 here given to you in these written instructions, and you must be governed thereby.

25.

During your deliberations in this case, you must not consider, discuss or relate any matters not in evidence before you. You should not consider or 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.

26.

After you have retired to the jury room, you should select one of your members as your presiding juror. It is the presiding juror's duty to preside at your deliberations and to vote with you in arriving at a unanimous verdict. Your verdict must be unanimous, and when you have unanimously agreed upon a verdict, the presiding juror will certify to your verdict by signing the same as presiding juror.

27.

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. 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.

28.

After you have arrived at your verdict, you may use one of the verdict forms attached hereto by having your presiding juror sign his/her name to the particular form that conforms to your verdict, but in no event shall he/she sign more than one of such forms.

Hal Mues
JUDGE PRESIDING

*submitted Feb 10, 2009
9:00 AM.*

*Received Feb. 11, 2009
4:50 PM*

THE STATE OF TEXAS
VS.
MICHAEL STOCKER
CAUSE NO. 17,289-A

VERDICT FORMS

We, the jury, find the defendant, MICHAEL STOCKER, not guilty.

Presiding Juror of the Jury.

* * * * *

We, the jury, find the defendant, MICHAEL STOCKER, guilty of the offense of
Capital Murder, as alleged in the indictment.

Presiding Juror of the Jury.

* * * * *

We, the jury, find the defendant, MICHAEL STOCKER, guilty of the lesser
included offense of Aggravated Kidnapping.



Presiding Juror of the Jury.

* * * * *

We, the jury, find the defendant, MICHAEL STOCKER, guilty of the lesser
included offense of Kidnapping.

Presiding Juror of the Jury.