

CAUSE NO. 1132560R

THE STATE OF TEXAS

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§  
§  
§

IN THE CRIMINAL DISTRICT COURT

VS.

NUMBER THREE OF  
FILED

JOEMAR JACKSON

THOMAS A. WILDER, DIST. CLERK  
TARRANT COUNTY, TEXAS  
TARRANT COUNTY, TEXAS

COURT'S CHARGE

JAN 12 2009

TIME 8:44 AM  
BY EB DEPUTY

MEMBERS OF THE JURY:

The Defendant, JOEMAR JACKSON, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 23<sup>rd</sup> day of June, 2007 in Tarrant County, Texas. To this charge, the Defendant, JOEMAR JACKSON, 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 he intentionally or knowingly causes the death of an individual.

A person commits the offense of capital murder if he intentionally causes the death of an individual in the course of committing or attempting to commit robbery.

A person commits robbery if, in the course of committing theft, and with intent to obtain and maintain control of the property, he intentionally causes bodily injury to another or intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

II.

“Deadly weapon” means a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury; or anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

A firearm is a deadly weapon.

"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.

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

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

"Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

"Theft" as used herein is the unlawful appropriation of the property of another with the intent to deprive the owner of said property.

"Appropriation" and "appropriate" as those terms are used, means to acquire or otherwise exercise control over personal property. The appropriation of property is unlawful if it is without the owner's effective consent.

"Property" includes tangible personal property, including money, that represents or embodies anything of value.

"Deprive" means to withhold property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the property is lost.

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.

"Attempt" to commit an offense occurs if, with specific intent to commit an offense, a

person does an act amounting to more than mere preparation that tends, but fails, to effect the commission of the offense intended.

“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.

### III.

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.

### IV.

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.

A person is criminally responsible for an offense committed by the conduct of another if:

- (a) 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; or
- (b) 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.

"Conspiracy" is committed if, with intent that a felony be committed, a person agrees with one or more persons that they or one or more of them engage in conduct that would constitute the offense and he or one or more of them performs an overt act in pursuance of the agreement.

An agreement constituting a conspiracy may be inferred from acts of the parties.

You are instructed that capital murder, murder, robbery, and aggravated robbery are felony offenses in the State of Texas.

Each party to an offense may be charged with the commission of the offense.

Mere presence alone will not constitute one a party to an offense.

V.

#### CAPITAL MURDER

Now, bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that the defendant, JOEMAR JACKSON, either acting alone or as a party thereto as hereinbefore defined, in Tarrant County, Texas, on or about the 23<sup>rd</sup> day of June, 2007 did then and there intentionally cause the death of an individual, Eric Witt, by shooting him with a deadly weapon, to-wit: a firearm, and the said Defendant was then and there in the course of committing or attempting to commit the offense of robbery of Eric Witt, then you will find the defendant guilty of capital murder as charged in the indictment.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of capital murder and next consider whether he is guilty of the offense of aggravated robbery.

VI.

AGGRAVATED ROBBERY

A person commits the offense of robbery if, in the course of committing theft, as that term is hereinafter defined, and with intent to obtain or maintain control of property of another, he intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

A person commits the offense of aggravated robbery if he commits the offense of robbery as defined above and he uses or exhibits a deadly weapon.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that on or about the 23<sup>rd</sup> day of June, 2007, in Tarrant County, Texas, the Defendant, JOEMAR JACKSON, either acting alone or as a party thereto as hereinbefore defined, did then and there intentionally or knowingly, while in the course of committing theft of property and with intent to obtain or maintain control of said property, threaten or place Eric Witt in fear of imminent bodily injury or death, and the Defendant used or exhibited a deadly weapon, to-wit: a firearm, then you will find the Defendant guilty of the offense of aggravated robbery with a deadly weapon.

Unless you so find and believe from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, then you will acquit the Defendant of aggravated robbery with a deadly weapon, and say by your verdict, "not guilty".

VII.

In a criminal case the law permits a defendant to testify in his own behalf but he is not compelled to do so, and the same law provides that the fact that a defendant does not testify shall not be considered as a circumstance against him. You will, therefore, not consider the fact that the

defendant did not testify as a circumstance against him; and you will not, in your retirement to consider your verdict, allude to, comment on, consider, or in any manner refer to the fact that the defendant has not testified.

#### VIII.

You are instructed that if there is any testimony before you in this case regarding the Defendant's having committed offenses wrongs or acts other than the offense alleged against him in the indictment in this case, you cannot consider said testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such offenses, if any were committed, and even then you may only consider the same in determining the motive, opportunity, intent, knowledge, or identity for this defendant now on trial before you, and for no other purpose.

#### IX.

The indictment in this case is no evidence whatsoever of the guilt of the Defendant. It is a written instrument necessary in order to bring this case into court for trial, and you will not consider the indictment as any evidence in this case or as any circumstance whatsoever against the Defendant.

#### X.

All persons are presumed 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 her trial. The law does not require a Defendant to prove her 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 the Defendant and say by your verdict "not guilty".

#### XI.

Your verdict must be by a unanimous verdict 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.

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 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 act to indicate any opinion respecting any matter of fact involved in this case, nor to indicate any desire respecting its outcome

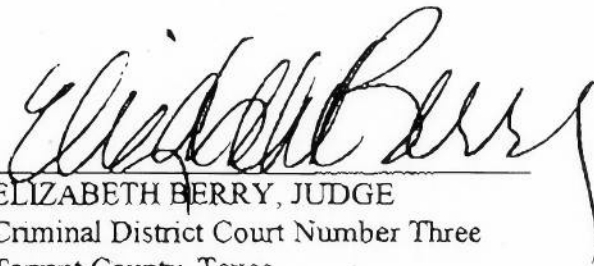
During your deliberations in this case, you shall not consider, discuss, nor relate any matters not in evidence before you. You must not consider nor mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by

the evidence. You shall not consult law books or anything not in evidence.

After you retire to the jury room, you should select one of your number as your foreperson. Any member of the jury may be selected by you to serve as foreperson. It is the foreperson'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 foreperson.

Any further communication must be in writing and signed by the Foreperson and handed to the Bailiff. Please ring the buzzer in the jury room and wait for the Bailiff who will be in attendance.

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.



ELIZABETH BERRY, JUDGE  
Criminal District Court Number Three  
Tarrant County, Texas



Verdict of the Jury

We, the Jury, find the defendant, JOEMAR JACKSON, guilty of the offense of capital murder as charged in the indictment.

BAC  
FOREPERSON

-OR-

We, the Jury, find the defendant, JOEMAR JACKSON, guilty of the offense of aggravated robbery.

FILED  
THOMAS A WILDER, DIST. CLERK  
TARRANT COUNTY, TEXAS

JAN 12 2009  
TIME 12:07 pm  
BY [Signature] DEPUTY

FOREPERSON

-OR-

We, the jury, find the Defendant, JOEMAR JACKSON, not guilty.

FOREPERSON