

FILED
THOMAS A WILDER, DIST. CLERK
TARRANT COUNTY TEXAS
MAY 24 2012
TIME _____
BY CLX 1:36 PM
DEPUTY

NO. 1242262D

THE STATE OF TEXAS | IN THE 371ST JUDICIAL
VS. | DISTRICT COURT OF
DUANE ALLEN HALEY | TARRANT COUNTY, TEXAS

COURT'S CHARGE

MEMBERS OF THE JURY:

The Defendant, Duane Allen Haley, stands charged by Indictment with the offense of capital murder, alleged to have been committed in Tarrant County, Texas, on or about the 25th day of December, 2010. To this charge, the Defendant has pled not guilty.

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

A person commits the offense of capital murder if he commits murder, as hereinabove defined, and the person intentionally commits the murder in the course of committing or attempting to commit robbery.

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

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

"Deadly weapon" means 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.

"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.

The term "in the course of committing or attempting to commit the offense of robbery" means conduct that occurs in an attempt to commit, during the commission of, or in the immediate flight after the attempt or commission of robbery.

The term "in the course of committing theft" means conduct that occurs in an attempt to commit, during the commission, or in the immediate flight after the attempt or commission of theft.

"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.

"Theft" means to unlawfully appropriate property with the intent to deprive the owner of property.

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

"Property" means tangible or intangible personal property or documents, 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 to the owner.

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

"Possession" means actual care, custody, control, or management of property.

"Effective consent" means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner. Consent is not effective if induced by force or threats.

All persons are parties to an offense who are guilty of acting together in the commission of an offense. 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 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 constitute one a party to an offense.

You are instructed and charged as the law in this case that the State is not bound to prove the exact date alleged in the indictment, but may prove the offense, if any, to have been committed at any time prior to the presentment of the indictment so long as said offense, if any, occurred during the period governed by the Statute of Limitations for said alleged offense. You are instructed that the Court has taken judicial notice that the indictment in this case was presented on the 27th day of June 2011, and that there is no statute of limitations for the offense charged in the indictment.

The jury is further instructed that it may, but is not required to accept as conclusive, the fact judicially noticed.

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.

A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. This risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

Now, therefore, if you find and believe from the evidence beyond a reasonable doubt, that the Defendant, Duane Allen Haley, in Tarrant County, Texas, on or about the 25th day of December, 2010, either acting alone or with another or others as a party to the offense, as that term has heretofore been defined, did then and there intentionally cause the death of an individual, Hamadi Swei, by cutting or stabbing him with a box cutter or knife and the said Defendant was then and there in the course of committing or attempting to commit the offense of robbery of Hamadi Swei, as charged in the Indictment, then you will find the Defendant guilty of capital murder.

Unless you so find and believe from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of capital murder and say by your verdict, "Not guilty."

In a criminal case the law permits the 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 during your deliberations allude to, comment on, or in any manner refer to the fact that the Defendant has not testified.

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 the Defendant and say by your verdict, "Not guilty."

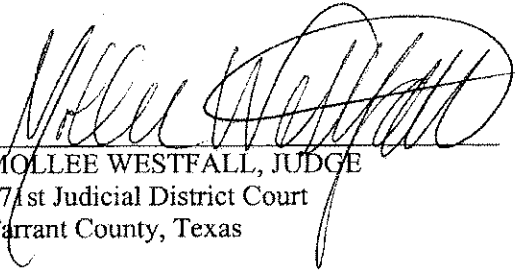
You are instructed that the Indictment in this case is no evidence whatsoever of the guilt of the Defendant. It is a mere pleading necessary in order to bring this case into court for trial, and you will consider it for no purpose.

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

After you retire to the jury room, you will select one of your members as your Presiding Juror. 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 signing the same as Presiding Juror.

You are instructed that 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, neither shall you separate from each other, nor talk with anyone not of your jury.

If the jury wishes to communicate with the Court pertaining to this case, such communication must be in writing and signed by the Presiding Juror and handed to the Bailiff.



MOLLEE WESTFALL, JUDGE
37th Judicial District Court
Tarrant County, Texas

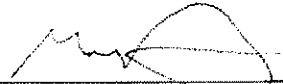
VERDICT FORMS

We, the Jury, find the Defendant, Duane Allen Haley, guilty of the offense of capital murder as charged in the Indictment.

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

MAY 24 2012

TIME 3:40 pm
BY CS DEPUTY



PRESIDING JUROR

- OR -

We, the Jury, find the Defendant, Duane Allen Haley, not guilty.

PRESIDING JUROR