

FILED
THOMAS A. WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS
JUN 11 2012
11:01
BY _____ DEPUTY

NO. 1282469R

THE STATE OF TEXAS § IN THE 372ND JUDICIAL DISTRICT COURT OF
VS. § DISTRICT COURT OF
RASHAD ELAY GLENN § TARRANT COUNTY, TEXAS

COURT'S CHARGE

MEMBERS OF THE JURY:

The Defendant, Rashad Elay Glenn, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 21st day of August 2010, in Tarrant County, Texas. To this charge the Defendant has pleaded not guilty.

A person commits the offense of capital murder if he murders more than one person during the same criminal transaction.

A person commits the offense of murder if he:

- (1) intentionally or knowingly causes the death of an individual; OR
- (2) intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual.

"Individual" means a human being who is alive.

"Act" means a bodily movement, whether voluntary or involuntary, and includes speech.

"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.

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.

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.

Our law provides a defendant may testify in his own behalf if he elects to do so. This, however, is a privilege accorded to the defendant, and in the event he does not testify, that fact cannot be taken as a circumstance against him. In this case the Defendant has not testified, 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.

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.

CAPITAL MURDER

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that the Defendant, Rashad Elay Glenn, on the 21st day of August 2010, in Tarrant County, Texas, did then and there intentionally or knowingly cause the death of an individual, Richard Hawkins, by shooting him with a deadly weapon, to-wit: a firearm, and did then and there intentionally or knowingly cause the death of an individual, Charles Govan, by shooting him with a deadly weapon, to-wit: a firearm, and both murders were committed during the same criminal transaction, then you will find the Defendant, Rashad Elay Glenn, guilty of the offense of capital murder, as charged in Count One of the indictment. Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of the offense of capital murder and only then individually consider whether the Defendant is guilty of the offense of murder as alleged in Count Two and Count Three of the indictment.

COUNT TWO

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that the Defendant, Rashad Elay Glenn, on the 21st day of August 2010, in Tarrant County, Texas, did then and there intentionally or knowingly cause the death of an individual, Richard Hawkins, by shooting him with a deadly weapon, to-wit: a firearm; OR

If you find from the evidence beyond a reasonable doubt that the Defendant, Rashad Elay Glenn, on the 21st day of August 2010, in Tarrant County, Texas, did then and there intentionally, with the intent to cause serious bodily injury to Richard Hawkins, commit an act clearly dangerous to human life, namely, shooting Richard Hawkins with a deadly weapon, to-wit: a firearm, which caused the death of Richard Hawkins, then you will find the Defendant, Rashad Elay Glenn, guilty of the offense of murder, as charged in Count Two of the indictment.

Unless you so find from the evidence beyond a reasonable doubt or if you have a reasonable doubt thereof, then you will acquit the Defendant and say by your verdict "Not Guilty" as to Count Two.

COUNT THREE

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that the Defendant, Rashad Elay Glenn, on the 21st day of August 2010, in Tarrant County, Texas, did then and there intentionally or knowingly cause the death of an individual, Charles Govan, by shooting him with a deadly weapon, to-wit: a firearm; OR

If you find from the evidence beyond a reasonable doubt that the Defendant, Rashad Elay Glenn, on the 21st day of August 2010, in Tarrant County, Texas, did then and there intentionally, with the intent to cause serious bodily injury to Charles Govan, commit an act clearly dangerous to human life, namely, shooting Charles Govan with a deadly weapon, to-wit: a firearm, which caused the death of Charles Govan, then you will find the Defendant, Rashad Elay Glenn, guilty of the offense of murder, as charged in Count Three of the indictment.

Unless you so find from the evidence beyond a reasonable doubt or if you have a reasonable doubt thereof, then you will acquit the Defendant and say by your verdict "Not Guilty" as to Count Three.

SELF DEFENSE

Upon the law of self defense, you are instructed that a person is justified in using force against another when and to the degree he reasonably believes the force is immediately necessary to protect himself against the other person's use or attempted use of unlawful force.

The use of force against another is not justified in response to verbal provocation alone, if the actor consented to the exact force used or attempted by the other, or if the actor provoked the other's use or attempted use of unlawful force, unless the actor abandons the encounter, or clearly communicated to the other his intent to do so reasonably believing he cannot safely abandon the encounter, and the other nevertheless continues or attempts to use unlawful force against the actor, or if the actor sought an explanation from or discussion with the other person concerning the actor's differences with the other person while the actor was carrying a weapon in violation of Section 46.02 of the Penal Code.

Section 46.02 states that a person commits an offense if the person intentionally or knowingly carries on or about his person a handgun if the person is not: (1) on the person's own premises or premises under the person's control, or (2) inside or directly en route to a motor vehicle that is owned by the person or under the person's control.

"Handgun" means a firearm that is designed, made or adapted to be fired with one hand.

A person is justified in using deadly force against another:

(1) if he would be justified in using force against the other in the first place, as above set out; AND

(2) when and to the degree he reasonably believes the deadly force is immediately necessary to protect himself against the other person's use or attempted use of unlawful deadly force.

"Reasonable belief" means a belief that would be held by an ordinary and prudent person in the same circumstances as the defendant.

"Deadly force" means force that is intended or known by the person using it to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.

A person has the right to defend from apparent danger to the same extent as he would had the danger been real, provided he acted upon a reasonable apprehension of danger as it appeared to him from his standpoint at the time.

SELF DEFENSE AND CAPITAL MURDER

Now, if you find from the evidence beyond a reasonable doubt that on the occasion in question the Defendant, Rashad Elay Glenn, committed the offense of capital murder, but you further find from the evidence, or have a reasonable doubt thereof, that the Defendant reasonably believed, as viewed from his standpoint at the time, that from the words or conduct, or both, of Richard Hawkins and/or Charles Govan, it reasonably appeared to the Defendant that his life or person was in danger and there was created in his mind a reasonable expectation or fear of death or serious bodily injury from the use of unlawful deadly force at the hands of Richard Hawkins and/or Charles Govan, and that acting under such apprehension and reasonably believing that the use of deadly force on his part was immediately necessary to protect himself against Richard Hawkins' and/or Charles Govan's use or attempted use of unlawful deadly force, he shot Richard Hawkins and/or Charles Govan with a deadly weapon, to-wit: a firearm, that in the manner of its use or intended use was capable of causing death or serious bodily injury, then you should acquit the Defendant on the grounds of self defense; or if you have a reasonable doubt as to whether or not the Defendant was acting in self defense on said occasion and under the circumstances, then you should give the Defendant the benefit of that doubt and say by your verdict "Not Guilty" to the offense of capital murder.

However, if you find from the evidence beyond a reasonable doubt that at the time and place in question the Defendant did not reasonably believe that he was in danger of death or serious bodily injury; or if you find from the evidence beyond a reasonable doubt that the Defendant, under the circumstances, and viewed from his standpoint at the time, did not reasonably believe that the degree of force actually used by him was immediately necessary to protect himself against either Richard Hawkins' or Charles Govan's use or attempted use of unlawful deadly force, or if you believe the Defendant provoked the use or attempted use of the unlawful force by either Richard Hawkins or Charles Govan or both and the Defendant did not abandon the encounter and did not clearly communicate to Richard Hawkins and/or Charles Govan his intent to do so and did not reasonably believe he could not safely abandon said encounter, or if you believe that the Defendant sought an explanation from or discussion with Richard Hawkins and/or Charles Govan concerning the actor's differences with Richard Hawkins and/or Charles Govan while the actor was carrying a weapon in violation of Section 46.02 of the Penal Code, then you will find against the Defendant on the issue of self defense as to the offense of capital murder.

As to the law of self defense, only if you find for the Defendant on the issue of self defense and acquit him of the offense of capital murder do you next individually consider the applicability of self defense law to the allegations of murder in Count Two and Count Three. If you find against the Defendant on the issue of self defense as to the offense of capital murder, then Count Two and Count Three may not be considered.

SELF DEFENSE AND MURDER (COUNT TWO)

Now, if you find from the evidence beyond a reasonable doubt that on the occasion in question the Defendant, Rashad Elay Glenn, committed the offense of murder as alleged in Count Two of the indictment, but you further find from the evidence, or have a reasonable doubt thereof, that the Defendant reasonably believed, as viewed from his standpoint at the time, that from the words or conduct, or both, of Richard Hawkins, it reasonably appeared to the Defendant that his life or person was in danger and there was created in his mind a reasonable expectation or fear of death or serious bodily injury from the use of unlawful deadly force at the hands of Richard Hawkins ~~and that acting under such~~ ^{Saw} and that acting under such apprehension and reasonably believing that the use of deadly force on his part was immediately necessary to protect himself against Richard Hawkins' use or attempted use of unlawful deadly force, he shot Richard Hawkins with a deadly weapon, to-wit: a firearm, that in the manner of its use or intended use was capable of causing death or serious bodily injury, then you should acquit the Defendant on the grounds of self defense; or if you have a reasonable doubt as to whether or not the Defendant was acting in self defense on said occasion and under the circumstances, then you should give the Defendant the benefit of that doubt and say by your verdict "Not Guilty" as to Count Two.

However, if you find from the evidence beyond a reasonable doubt that at the time and place in question the Defendant did not reasonably believe that he was in danger of death or serious bodily injury; or if you find from the evidence beyond a reasonable doubt that the Defendant, under the circumstances, and viewed from his standpoint at the time, did not reasonably believe that the degree of force actually used by him was immediately necessary to protect himself against ~~the~~^{the} Richard Hawkins' use or attempted use of unlawful deadly force, or if you believe the Defendant provoked the use or attempted use of the unlawful force by Richard Hawkins and the Defendant did not abandon the encounter and did not clearly communicate to Richard Hawkins his intent to do so and did not reasonably believe he could not safely abandon said encounter, or if you believe that the Defendant sought an explanation from or discussion with ~~the~~^{the} Richard Hawkins concerning the actor's differences with Richard Hawkins while the actor was carrying a weapon in violation of Section 46.02 of the Penal Code, then you will find against the Defendant on the issue of self defense as to of the offense of murder as alleged in Count Two of the indictment.

SELF DEFENSE AND MURDER (COUNT THREE)

Now, if you find from the evidence beyond a reasonable doubt that on the occasion in question the Defendant, Rashad Elay Glenn, committed the offense of capital murder, but you further find from the evidence, or have a reasonable doubt thereof, that the Defendant reasonably believed, as viewed from his standpoint at the time, that from the words or conduct, or both, of Charles Govan, it reasonably appeared to the Defendant that his life or person was in danger and there was created in his mind a reasonable expectation or fear of death or serious bodily injury from the use of unlawful deadly force at the hands of Charles Govan, and that acting under such apprehension and reasonably believing that the use of deadly force on his part was immediately necessary to protect himself against Charles Govan's use or attempted use of unlawful deadly force, he shot Charles Govan with a deadly weapon, to-wit: a firearm, that in the manner of its use or intended use was capable of causing death or serious bodily injury, then you should acquit the Defendant on the grounds of self defense; or if you have a reasonable doubt as to whether or not the Defendant was acting in self defense on said occasion and under the circumstances, then you should give the Defendant the benefit of that doubt and say by your verdict "Not Guilty".

However, if you find from the evidence beyond a reasonable doubt that at the time and place in question the Defendant did not reasonably believe that he was in danger of death or serious bodily injury; or if you find from the evidence beyond a reasonable doubt that the Defendant, under the circumstances, and viewed from his standpoint at the time, did not reasonably believe that the degree of force actually used by him was immediately necessary to protect himself against Charles Govan's use or attempted use of unlawful deadly force, or if you believe the Defendant provoked the use or attempted use of the unlawful force by Charles Govan and the Defendant did not abandon the encounter and did not clearly communicate to Charles Govan his intent to do so and did not reasonably believe he could not safely abandon said encounter, or if you believe that the Defendant sought an explanation from or discussion with Charles Govan concerning the actor's differences with Charles Govan while the actor was carrying a weapon in violation of Section 46.02 of the Penal Code, then you will find against the Defendant on the issue of self defense as to of the offense of murder as alleged in Count Three of the indictment.

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.

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 charged that it is only in open court 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 seen or heard regarding the case or any witness therein, from any source other than in open court.

Your verdict must be by a unanimous vote of all members of the jury. In your deliberations you shall consider the charge as a whole and you must not refer to or discuss any matters not in evidence.

At times throughout the trial the Court may have been called upon to rule on the question of whether or not certain offered evidence might properly be admitted. You are not to concern yourselves with the reasons for the Court's ruling nor draw any inferences therefrom. Whether offered evidence is admissible is a question of law and in admitting evidence to which an objection is made, the Court does not determine what weight should be given such evidence; nor does the Court pass on the credibility of the witness. You must not consider any evidence offered that has been rejected by the Court. As to any question to which an objection was sustained, you must not engage in conjecture as to what the answer might have been or as to the reason for the objection.

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.

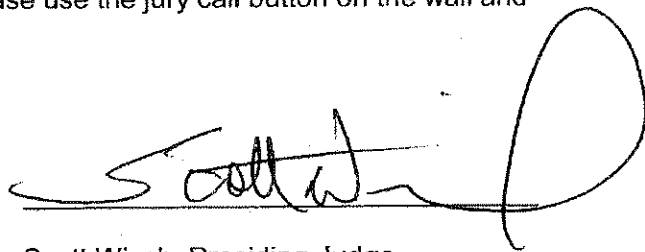
After you retire to the jury room, you should select one of your members as your Presiding Juror. Any member of the jury may serve as Presiding Juror. It is that person's duty to preside at your deliberations, vote with you, and when you have unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form and signing the same as your Presiding Juror.

At this time you will confine your deliberations solely to the issue of whether the Defendant is guilty or not guilty of the offenses set forth in this charge.

Should the jury desire to have any or all of the admitted exhibits delivered to you for your deliberations, your Presiding Juror shall so notify the Court in writing and the requested exhibits will be delivered.

After you have retired, you may communicate with the Court in writing through the bailiffs who have you in charge. Your written communications must be signed by the Presiding Juror. Do not attempt to talk to the bailiffs, the attorneys, or the Court regarding any question you may have concerning the trial of the case.

After you have reached a unanimous verdict or if you desire to communicate with the Court, please use the jury call button on the wall and one of the bailiffs will respond.

A handwritten signature in black ink, appearing to read "Scott Wisch", with a large, stylized flourish extending to the right.

Scott Wisch, Presiding Judge
372nd Judicial District Court
Tarrant County, Texas

VERDICT FORMS
CAPITAL MURDER

We, the Jury, find the Defendant, Rashad Elay Glenn, not guilty.

PRESIDING JUROR

- OR -

We, the Jury, find the Defendant, Rashad Elay Glenn, guilty of the offense of capital murder, as charged in Count One of the indictment.

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

JUN 14 2012

TIME 3:56
BY af DEPUTY



PRESIDING JUROR

If you find the Defendant guilty of capital murder, as charged in Count One of the indictment, you will stop at this portion of the Court's Charge.

If you find the Defendant not guilty of capital murder, as charged in Count One of the indictment, you will proceed to the verdict forms for Count Two and Count Three.

VERDICT FORMS - CONTINUED

COUNT TWO

[Richard Hawkins]

We, the Jury, find the Defendant, Rashad Elay Glenn, not guilty.

PRESIDING JUROR

- OR -

We, the Jury, find the Defendant, Rashad Elay Glenn, guilty of the offense of murder, as charged in Count Two of the indictment.

PRESIDING JUROR

VERDICT FORMS - CONTINUED

COUNT THREE

[Charles Govan]

We, the Jury, find the Defendant, Rashad Elay Glenn, not guilty.

PRESIDING JUROR

- OR -

We, the Jury, find the Defendant, Rashad Elay Glenn, guilty of the offense of murder, as charged in Count Three of the indictment.

PRESIDING JUROR