

CAUSE NO. 1195093

THE STATE OF TEXAS) (IN THE CRIMINAL DISTRICT
VS.) (COURT NUMBER FOUR OF
TYWRON PIERRE THOMAS) (TARRANT COUNTY, TEXAS

COURT'S CHARGE

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

OCT 29 2013

TIME 12:42
BY AMS DEPUTY

LADIES AND GENTLEMEN OF THE JURY:

The defendant, TYWRON PIERRE THOMAS, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 23rd day of March, 2010, in Tarrant County, Texas. 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 Capital Murder if he Murders an individual during the course of committing or attempting to commit a robbery.

A person commits 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.

A person commits Aggravated Robbery if the person commits robbery as defined above, and uses or exhibits a deadly weapon or causes serious bodily injury.

A person commits theft if he unlawfully appropriates property with intent to deprive the owner of property.

Appropriation of property is unlawful if it is without the owner's effective consent; the

property is stolen and the actor appropriates the property knowing it was stolen by another.

"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.

"Property" means tangible or intangible personal property including anything severed from land; or a document, including money, that represents or embodies anything of value.

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

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

"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 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.

As to Aggravated Robbery, 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.

As to Aggravated Robbery, a person acts recklessly, or is reckless, with respect to the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the result will occur. The 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.

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

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

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.

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, or if, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, then 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.

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

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

“Conspiracy” is an agreement between two or more persons that a felony be committed and that 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 the acts of the parties.

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

You are instructed that an “accomplice,” as the term is here used, means anyone connected with the crime charged, as a party thereto, and includes all persons who are connected with the crime by unlawful act or omission on their part transpiring either before or during the time of the commission of the offense, and whether or not they were present and participated in the commission of the crime. 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.

You are further instructed that a conviction cannot be had upon the testimony of an accomplice unless the jury first believes that the accomplice's evidence is true and that it shows the defendant is guilty of the offense charged against him, and even then you cannot convict unless the accomplice's testimony is corroborated by other evidence tending to connect the defendant with the offense charged, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must tend to connect the defendant with its commission.

You are instructed that Chance Smith is an accomplice to this offense, if any, and you cannot convict on his testimony unless you first believe that Chance Smith's evidence is true and that it shows the defendant is guilty of the offense charged against him, and even then you cannot convict unless Chance Smith's testimony is corroborated by other evidence tending to connect the defendant with the offense charged.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 23rd day of March, 2010, in Tarrant County, Texas, the defendant, TYWRON PIERRE THOMAS, acting either alone or as a party, did then and there intentionally cause the death of an individual, Daniel Rojas, by shooting him with a firearm, and the said defendant was then and there in the course of committing or attempting to commit the offense of robbery of Daniel Rojas; then you will find the defendant guilty of the offense of Capital Murder as charged in the indictment.

Unless you so find and believe beyond a reasonable doubt, or if you have a reasonable doubt thereof, or if you are unable to agree, you will next consider whether he is guilty of the lesser-included offense of Aggravated Robbery.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 23rd

day of March, 2010, in Tarrant County, Texas, the defendant, TYWRON PIERRE THOMAS, acting either alone or as a party, did then and there in the course of committing theft and with intent to obtain or maintain control of the property, he: intentionally, knowingly, or recklessly cause bodily injury to Daniel Rojas; or intentionally or knowingly threatened or placed Daniel Rojas in fear of imminent bodily injury or death and the defendant did use or exhibit a deadly weapon during the course of the robbery, then you will find the defendant guilty of the lesser included offense of Aggravated Robbery.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt as to whether defendant is guilty of capital murder or aggravated robbery, you will acquit the defendant and say by your verdict "not guilty."

You are instructed that if there is testimony before you regarding the defendant having committed offenses, wrongs, or acts other than the offense charged in the indictment in this case, now on trial before you, you cannot consider said testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such conduct, if any were committed, and even then you may only consider the same in determining the motive, opportunity, intent, preparation, plan, knowledge, identity, or consciousness of guilt, if any, of this defendant now on trial before you, and for no other purpose. Unless you find and believe beyond a reasonable doubt that the defendant committed such conduct, if any, you shall disregard said testimony.

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 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".

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 at all.

It is your duty to consult with one another and to deliberate in an effort to reach a verdict based on these instructions if you can do so. Each of you must decide the case for yourself! but only after an impartial consideration of the evidence with your fellow jurors. During your deliberations, do not hesitate to reexamine your own opinions and change your mind if convinced that you were wrong. But do not give up your honest beliefs as to the weight or effect of the evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

Remember at all times, you are the judges of the facts. Your sole duty is to decide whether the State has proved the Defendant guilty beyond a reasonable doubt.

You are instructed that your verdict must be unanimous.

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 given herein, and be governed thereby.

You must decide the issues in the case solely on the testimony and exhibits admitted into evidence before you. You must not consider any fact or evidence learned by you outside the courtroom. You also may not consider any fact or evidence that you were instructed to disregard during trial.

You must not tell other jurors matters of your own personal or professional knowledge or those of other persons, nor relate to them any special knowledge you may have about any facts or person connected with this case that is not a part of the evidence you heard during the trial.

You must not be influenced in any degree by any personal feeling of sympathy for or prejudice against the state or the defendant in this case, for each is entitled to the same fair and impartial consideration.

After you retire to the jury room, you should 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 reached a unanimous verdict, to certify to your verdict by using one of the attached forms and signing the same as your Presiding Juror.

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. 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.



MIKE THOMAS, PRESIDING JUDGE

VERDICT FORMS

We, the jury, find the defendant, TYWRON PIERRE THOMAS, guilty of the offense of Capital Murder as charged in the indictment.


PRESIDING JUROR

-OR-

We, the jury, find the defendant, TYWRON PIERRE THOMAS, guilty of the lesser included offense of Aggravated Robbery.

PRESIDING JUROR

-OR-

We, the jury, find the defendant not guilty.

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

OCT 30 2013

TIME 2:35 pm
BY MW DEPUTY

PRESIDING JUROR