

CAUSE NO. 1195090D

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

THE STATE OF TEXAS

IN THE CRIMINAL DISTRICT

VS.

DEC 10 2012

COURT NUMBER FOUR OF

RANDY KEITH SEIBEL

TIME 1130  
BY MK DEPUTY

TARRANT COUNTY, TEXAS

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The defendant, RANDY KEITH SEIBEL, 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.

1.

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, or if 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.

2.

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. 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 serious 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.

3.

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.

“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. Robbery and Aggravated Robbery are felonies.

4.

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, RANDY KEITH SEIBEL, 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, RANDY KEITH SEIBEL, 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, 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."

It is an affirmative defense to prosecution that the person charged engaged in the proscribed conduct because he was compelled to do so by the threat of imminent death or serious bodily injury to himself or another. Such compulsion exists only if the threat of force is such as would render a person of reasonable firmness incapable of resisting the pressure.

The defense of duress is unavailable if the actor intentionally, knowingly, or recklessly

placed himself in a situation in which it was probable that he would be subjected to compulsion.

You are instructed that the terms "intentionally," "knowingly," and "recklessly" have been previously defined on Page 2 of the charge.

The burden of proof of the affirmative defense of duress rests upon the defendant; to establish such defense, the defendant must prove it by a preponderance of the evidence. By the term "preponderance of the evidence" is meant the greater weight and degree of the credible evidence in the case.

Now, therefore, if you find from the evidence beyond a reasonable doubt that the defendant did commit the offense of capital murder or aggravated robbery, as alleged in the indictment, but you further find by a preponderance of the evidence that Kwame Rockwell had threatened to kill <sup>or</sup> ~~of~~ cause serious bodily injury to the defendant if he did not participate in said robbery, and that his threats were threats of force as would render a person of reasonable firmness incapable of resisting the pressure, and that the defendant was in fear of imminent loss of his life or serious bodily injury at the hands of Kwame Rockwell if he did not participate in the robbery and that so believing, he did participate therein, then you will acquit the defendant and say by your verdict "not guilty."

If, however, you do not find by a preponderance of the evidence that defendant's participation in the offense, if any, was compelled by such threat of imminent death or serious bodily injury at the hands of Kwame Rockwell as would render a person of reasonable firmness incapable of resisting the pressure thereof, or you find that the defendant did intentionally, knowingly, or recklessly placed himself in a situation in which it was probable that he would be subjected to compulsion then you will find against the defendant on his defense of duress.

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 further instructed that accomplice witnesses cannot corroborate each other.

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.

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.

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

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.

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.

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.

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.

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."

You are the exclusive judges of the facts proved, of the credibility of the witnesses, and the weight to be given their testimony, but you must be governed by the law you shall receive in these written instructions.

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 unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form attached hereto and signing the same as Presiding Juror.

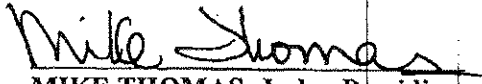
You are instructed that your verdict must be unanimous.

During your deliberations in this case, you must not consider, discuss, nor relate any matters not in evidence before you. You should 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.

No one has any authority to communicate with you except the officer who has you in charge. After you have retired, you may communicate with this Court in writing through this officer. Any communication relative to the cause must be written, prepared and signed by the Presiding Juror and shall be submitted to the Court through this officer. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the Court, or anyone else concerning any questions you may have.

Your sole duty at this time is to determine the guilt or innocence of the defendant under the indictment in this cause and restrict your deliberations solely to the issue of guilt or innocence of the defendant.

Following the arguments of counsel, you will retire to consider your verdict.

  
MIKE THOMAS, Judge Presiding  
Criminal District Court No. Four  
Tarrant County, Texas

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

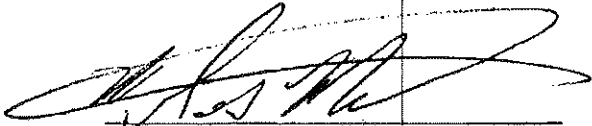
DEC 10 2012

TIME 11:30  
BY NW DEPUTY



VERDICT FORMS

We, the jury, find the defendant, RANDY KEITH SEIBEL, guilty of the offense of Capital Murder as charged in the indictment.



\_\_\_\_\_  
PRESIDING JUROR

*Michael Morales*

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

DEC. 10 2012

TIME 1:43  
BY DWL DEPUTY

-OR-

We, the jury, find the defendant, RANDY KEITH SEIBEL, guilty of the lesser included offense of Aggravated Robbery.

\_\_\_\_\_  
PRESIDING JUROR

-OR-

We, the jury, find the defendant not guilty.

\_\_\_\_\_  
PRESIDING JUROR