

P22

CAUSE NO. 1362106

THE STATE OF TEXAS § IN THE 208TH DISTRICT COURT
VS. § OF HARRIS COUNTY, TEXAS
HAROLD BROWN § JANUARY TERM, A. D., 2014

Members of the Jury:

The defendant, Harold Brown, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 2nd day of September, 2012, in Harris County, Texas. The defendant has pleaded not guilty.

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 intentionally or knowingly commits an act clearly dangerous to human life that causes the death of an individual.

A person commits the offense of capital murder if he intentionally commits murder, as hereinbefore defined in paragraph (1), and the person intentionally or knowingly causes the death of more than one person during the same criminal transaction.

"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.

"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 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.

Voluntary intoxication does not constitute a defense to the commission of a crime. "Intoxication" means disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

You are instructed that it is your duty to consider the evidence of all relevant facts and circumstances surrounding the deaths and the previous relationship, if any, existing between the accused and Gilbert Kibble, III and the accused and Curtis Steward, III together with all relevant facts and circumstances going to show the condition of the mind of the defendant at the time of the alleged offense.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 2nd day of September, 2012, in Harris County, Texas, the defendant, Harold Brown, did then and there unlawfully, during the same criminal transaction, intentionally

or knowingly cause the death of Gilbert Kibble, III by shooting Gilbert Kibble, III with a deadly weapon, namely, a firearm, and intentionally or knowingly cause the death of Curtis Steward, III by shooting Curtis Steward, III with a deadly weapon, namely, a firearm, then you will find the defendant guilty of capital murder, as charged in the indictment.

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, or to protect a third person if, under the circumstances as he reasonably believes them to be, such person would be justified in using force to protect himself against the unlawful force of another which he reasonably believes to be threatening the third person he seeks to protect, provided he also reasonably believes that his intervention is immediately necessary to protect the third person. The use of force against another is not justified in response to verbal provocation alone.

A person is justified in using deadly force against another if he would be justified in using force against the other in the first place, as above set out, and when he reasonably believes that such deadly force is immediately necessary to protect himself or a third person against the other person's use or attempted use of unlawful deadly force.

A person who has a right to be present at the location where the deadly force is used, who has not provoked the person against

whom the deadly force is used, and who is not engaged in criminal activity at the time the deadly force is used is not required to retreat before using deadly force. You are not to consider whether the defendant failed to retreat.

The defendant is not required to prove self-defense. Rather, the state must prove, beyond a reasonable doubt, that self-defense does not apply to the defendant's conduct.

By the term "reasonable belief" as used herein is meant a belief that would be held by an ordinary and prudent person in the same circumstances as the defendant.

By the term "deadly force" as used herein is meant force that is intended or known by the persons using it to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.

When a person, or the third person, is attacked with unlawful deadly force, or he reasonably believes he, or the third person, is under attack or attempted attack with unlawful deadly force, and there is created in the mind of such person a reasonable expectation or fear of death or serious bodily injury to himself or the third person, then the law excuses or justifies such person in resorting to deadly force by any means at his command to the degree that he reasonably believes immediately necessary, viewed from his standpoint at the time, to protect himself or the third person from such attack or attempted attack. And it is not necessary that there be an actual attack or attempted attack, as a person has a right to defend his life and person, or the life and person of the third person, from apparent danger as fully and

to the same extent as he would had the danger been real, provided that he acted upon a reasonable apprehension of danger, as it appeared to him from his standpoint at the time, and that he reasonably believed such deadly force was immediately necessary to protect himself, or the third person, against the other person's use or attempted use of unlawful deadly force.

You are instructed, in connection with the right of self-defense, that if the defendant was acting in self-defense when he shot at Gilbert Kibble, III, then he would have a right to continue firing his firearm at Gilbert Kibble, III so long as it reasonably appeared to him, at the time, as viewed from his standpoint alone, that all danger had not passed.

You are instructed, in connection with the right of self-defense, that if the defendant was acting in self-defense when he shot at Curtis Steward, III, then he would have a right to continue firing his firearm at Curtis Steward, III so long as it reasonably appeared to him, at the time, as viewed from his standpoint alone, that all danger had not passed.

In determining the existence of real or apparent danger, you should consider all the facts and circumstances in the case in evidence before you, the previous relationship existing between the parties, if any, together with all relevant facts and circumstances going to show the condition of the mind of the defendant at the time of the occurrence in question, and in considering such circumstances, you should place yourselves in the defendant's position at that time and view them from his standpoint alone.

Therefore, if you find from the evidence beyond a reasonable doubt that the defendant, Harold Brown, did cause the death of Gilbert Kibble, III by shooting Gilbert Kibble, III with a deadly weapon, namely, a firearm, and/or did cause the death of Curtis Steward, III by shooting Curtis Steward, III with a deadly weapon, namely, a firearm, as alleged, but you further find from the evidence, as viewed from the standpoint of the defendant at the time, that from the words or conduct, or both of Gilbert Kibble, III and/or Curtis Steward, III it reasonably appeared to the defendant that his life or person, or the life or person of Allen Brown or another, was in danger and there was created in his mind a reasonable expectation or fear of death or serious bodily injury to himself or Allen Brown or another from the use of unlawful deadly force at the hands of Gilbert Kibble, III and/or Curtis Steward, III, and that acting under such apprehension and reasonably believing that the use of deadly force on his part was immediately necessary to protect himself or Allen Brown or another against Gilbert Kibble, III and/or Curtis Steward, III's use or attempted use of unlawful deadly force, he shot Gilbert Kibble, III and/or Curtis Steward, III, then you should acquit the defendant on the grounds of self-defense or defense of a third person; or if you have a reasonable doubt as to whether or not the defendant was acting in self-defense or in defense of Allen Brown or another 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.

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 or Allen Brown or another was in danger of death or serious bodily injury, or that the defendant, under the circumstances as viewed by him 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 or Allen Brown or another against Gilbert Kibble, III and/or Curtis Steward, III's use or attempted use of unlawful deadly force, then you should find against the defendant on the issue of self-defense and on the issue of defense of a third person.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, or if you are unable to agree, you will next consider whether the defendant is guilty of the lesser offense of murder.

Therefore, if you find from the evidence beyond a reasonable doubt that on or about the 2nd day of September, 2012, in Harris County, Texas, the defendant, Harold Brown, did then and there unlawfully, intentionally or knowingly cause the death of Gilbert Kibble, III, by shooting Gilbert Kibble, III with a deadly weapon, namely, a firearm; or

If you find from the evidence beyond a reasonable doubt that on or about the 2nd day of September, 2012, in Harris County, Texas, the defendant, Harold Brown, did then and there unlawfully intend to cause serious bodily injury to Gilbert Kibble, III, and did cause the death of Gilbert Kibble, III by intentionally or knowingly committing an act clearly dangerous to human life,

namely by shooting Gilbert Kibble, III with a deadly weapon, namely, a firearm; or

If you find from the evidence beyond a reasonable doubt that on or about the 2nd day of September, 2012, in Harris County, Texas, the defendant, Harold Brown, did then and there unlawfully, intentionally or knowingly cause the death of Curtis Steward, III, by shooting Curtis Steward, III with a deadly weapon, namely, a firearm; or

If you find from the evidence beyond a reasonable doubt that on or about the 2nd day of September, 2012, in Harris County, Texas, the defendant, Harold Brown, did then and there unlawfully intend to cause serious bodily injury to Curtis Steward, III, and did cause the death of Curtis Steward, III by intentionally or knowingly committing an act clearly dangerous to human life, namely by shooting Curtis Steward, III with a deadly weapon, namely, a firearm, then you will find the defendant guilty of murder.

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either capital murder on the one hand or murder on the other hand, but you have a reasonable doubt as to which of said offenses he is guilty, then you must resolve that doubt in the defendant's favor and find him guilty of the lesser offense of murder.

If you have a reasonable doubt as to whether the defendant is guilty of any offense defined in this charge you will acquit the defendant and say by your verdict "Not Guilty."

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, or to protect a third person if, under the circumstances as he reasonably believes them to be, such person would be justified in using force to protect himself against the unlawful force of another which he reasonably believes to be threatening the third person he seeks to protect, provided he also reasonably believes that his intervention is immediately necessary to protect the third person. The use of force against another is not justified in response to verbal provocation alone.

A person is justified in using deadly force against another if he would be justified in using force against the other in the first place, as above set out, and when he reasonably believes that such deadly force is immediately necessary to protect himself or a third person against the other person's use or attempted use of unlawful deadly force.

A person who has a right to be present at the location where the deadly force is used, who has not provoked the person against whom the deadly force is used, and who is not engaged in criminal activity at the time the deadly force is used is not required to retreat before using deadly force. You are not to consider whether the defendant failed to retreat..

The defendant is not required to prove self-defense. Rather, the state must prove, beyond a reasonable doubt, that self-defense does not apply to the defendant's conduct.

By the term "reasonable belief" as used herein is meant a belief that would be held by an ordinary and prudent person in the same circumstances as the defendant.

By the term "deadly force" as used herein is meant force that is intended or known by the persons using it to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.

When a person, or the third person, is attacked with unlawful deadly force, or he reasonably believes he, or the third person, is under attack or attempted attack with unlawful deadly force, and there is created in the mind of such person a reasonable expectation or fear of death or serious bodily injury to himself or the third person, then the law excuses or justifies such person in resorting to deadly force by any means at his command to the degree that he reasonably believes immediately necessary, viewed from his standpoint at the time, to protect himself or the third person from such attack or attempted attack. And it is not necessary that there be an actual attack or attempted attack, as a person has a right to defend his life and person, or the life and person of the third person, from apparent danger as fully and to the same extent as he would had the danger been real, provided that he acted upon a reasonable apprehension of danger, as it appeared to him from his standpoint at the time, and that he reasonably believed such deadly force was immediately necessary

to protect himself, or the third person, against the other person's use or attempted use of unlawful deadly force.

You are instructed, in connection with the right of self-defense, that if the defendant was acting in self-defense when he shot at Gilbert Kibble, III, then he would have a right to continue firing his firearm at Gilbert Kibble, III so long as it reasonably appeared to him, at the time, as viewed from his standpoint alone, that all danger had not passed.

You are instructed, in connection with the right of self-defense, that if the defendant was acting in self-defense when he shot at Curtis Steward, III, then he would have a right to continue firing his firearm at Curtis Steward, III so long as it reasonably appeared to him, at the time, as viewed from his standpoint alone, that all danger had not passed.

In determining the existence of real or apparent danger, you should consider all the facts and circumstances in the case in evidence before you, the previous relationship existing between the parties, if any, together with all relevant facts and circumstances going to show the condition of the mind of the defendant at the time of the occurrence in question, and in considering such circumstances, you should place yourselves in the defendant's position at that time and view them from his standpoint alone.

Therefore, if you find from the evidence beyond a reasonable doubt that the defendant, Harold Brown, did cause the death of Gilbert Kibble, III by shooting Gilbert Kibble, III with a deadly weapon, namely, a firearm, and/or did cause the death of Curtis

Steward, III by shooting Curtis Steward, III with a deadly weapon, namely, a firearm, as alleged, but you further find from the evidence, as viewed from the standpoint of the defendant at the time, that from the words or conduct, or both of Gilbert Kibble, III and/or Curtis Steward, III it reasonably appeared to the defendant that his life or person, or the life or person of Allen Brown or another, was in danger and there was created in his mind a reasonable expectation or fear of death or serious bodily injury to himself or Allen Brown or another from the use of unlawful deadly force at the hands of Gilbert Kibble, III and/or Curtis Steward, III, and that acting under such apprehension and reasonably believing that the use of deadly force on his part was immediately necessary to protect himself or Allen Brown or another against Gilbert Kibble, III and/or Curtis Steward, III's use or attempted use of unlawful deadly force, he shot Gilbert Kibble, III and/or Curtis Steward, III, then you should acquit the defendant on the grounds of self-defense or defense of a third person; or if you have a reasonable doubt as to whether or not the defendant was acting in self-defense or in defense of Allen Brown or another 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.

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 or Allen Brown or another was in danger of death or serious bodily injury, or that the defendant, under the circumstances as viewed by him 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 or Allen Brown or another against Gilbert Kibble, III and/or Curtis Steward, III's use or attempted use of unlawful deadly force, then you should find against the defendant on the issue of self-defense and on the issue of defense of a third person.

You are further instructed that if there is any evidence before you in this case regarding the defendant's committing an alleged offense or offenses other than the offense alleged against him in the indictment in this case, you cannot consider such evidence for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offense or offenses, if any, and even then you may only consider the same in determining the motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident of the defendant, if any, in connection with the offense, if any, alleged against him in the indictment and for no other purpose.

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a right 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 to or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against him.

You are further instructed that any evidence that any witness has been convicted in any case or cases was admitted before you for the purpose of aiding you, if it does aid you, in passing upon the credibility of the witness and the weight to be given his or her testimony, and you will not consider the same for any other purpose.

A Grand Jury indictment is the means whereby a defendant is brought to trial in a felony prosecution. It is not evidence of guilt nor can it be considered by you in passing upon the question of guilt of the defendant. The burden of proof in all criminal cases rests upon the State throughout the trial and never shifts to 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 he 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 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 the law you shall receive in these written instructions, and you must be governed thereby.

After you retire to the jury room, you should select one of your members as your Foreperson. 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 Foreperson.

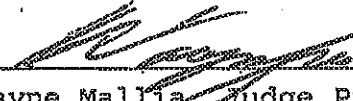
During your deliberations in this case, you must not consider, discuss, nor relate any matters not in evidence before you. You should not consider nor mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence.


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 Foreperson 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.


Wayne Mallia, Judge Presiding
208th District Court
Harris County, TEXAS

FILED
Chris Daniel
District Clerk
Time: FEB 14 2014 12:10
By: 
Harris County, Texas
Deputy

CAUSE NO. 1362106

THE STATE OF TEXAS

§ IN THE 208TH DISTRICT COURT

VS.

§ OF HARRIS COUNTY, TEXAS

HAROLD BROWN

§ JANUARY TERM, A. D., 2014

CHOOSE ONLY ONE

"We, the Jury, find the defendant, Harold Brown, not guilty."

Foreperson of the Jury

(Please Print) Foreperson

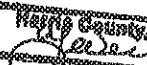
"We, the Jury, find the defendant, Harold Brown, guilty of capital murder, as charged in the indictment."



Foreperson of the Jury

Jeff Irwin

(Please Print) Foreperson

FILED
Chris Daniel
District Clerk
FEB 14 2014
1614
Harris County, Texas
By 
Deputy

"We, the Jury, find the defendant, Harold Brown, guilty of murder of Gilbert Kibble, III."

Foreperson of the Jury

(Please Print) Foreperson

"We, the Jury, find the defendant, Harold Brown, guilty of murder of Curtis Steward, III."

Foreperson of the Jury


(Please Print) Foreperson

MEMBERS OF THE JURY:

In view of your request for certain testimony, I instruct you as follows:

"If the jury disagrees as to the statement of any witness, they may, upon applying to the Court, have read to them from the court reporter's notes that part of such witness' testimony, or the particular point in dispute, and no other."

In accordance with this rule, you are instructed that a request to have the court reporter's notes read cannot be complied with unless the jury disagrees as to the statement of a witness. Therefore, it will be necessary for you to certify that you are in disagreement as to the statement of a witness, and you should request that part of the witness' statement or point in dispute and only that part or point which is in dispute. Please fill in the form below and have your foreman sign the same.


Judge Presiding

Name of witness whose statement is subject to disagreement: Allen Brown


Lawyer questioning witness at time of statement: Female DA

Statement in dispute:

Testimony of Allen Brown regarding his struggle specifically with Curtis Steward. Sequence of events regarding only this struggle.

FILED
Chris Darlak
District Clerk
FEB 14 2014

Time: _____
Harris County, Texas
By _____
Deputy


Foreman