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CAUSE NO. 1223224

THE STATE OF TEXAS	§	IN THE 180TH DISTRICT COURT
VS.	§	OF HARRIS COUNTY, TEXAS
RT HARDGE	§	NOVEMBER TERM, A. D., 2011

Members of the Jury:

The defendant, RT Hardge, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 31st day of October, 2008, in Harris County, Texas. The defendant has pleaded not guilty.

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

A person commits the offense of capital murder if he intentionally commits murder, as hereinbefore defined, in the course of committing or attempting to commit the offense of aggravated sexual assault. Aggravated sexual assault is a felony offense.

"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.

A person commits the offense of aggravated sexual assault if the person intentionally or knowingly causes the sexual organ of another person, without that person's consent, to contact the sexual organ of another person, including the defendant; and if the victim is an elderly individual.

An aggravated sexual assault is without the consent of the other person if the defendant compels the other person to submit or participate by the use of physical force or violence.

"Elderly individual" means a person 65 years of age or older.

The definition of intentionally relative to the offense of capital murder is as follows:

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.

The definitions of intentionally and knowingly relative to the offense of aggravated sexual assault are as follow:

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.

Before you would be warranted in finding the defendant guilty of capital murder, you must find from the evidence beyond a reasonable doubt not only that on the occasion in question the defendant was in the course of committing or attempting to commit the felony offense of aggravated sexual assault of Luz Marti, as alleged in this charge, but also that the defendant specifically intended to cause the death of Luz Marti by striking Luz Marti with or against an unknown object or by compression of the neck with an unknown object, and unless you so find, then you cannot convict the defendant of the offense of capital murder.

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Now, if you find from the evidence beyond a reasonable doubt that on or about the 31st day of October, 2008, in Harris County, Texas, the defendant, RT Hardge, did then and there unlawfully, while in the course of committing or attempting to commit the aggravated sexual assault of Luz Marti, intentionally cause the death of Luz Marti by striking Luz Marti with or against an unknown object or by compression of the neck with an unknown object, then you will find the defendant guilty of capital murder, as charged in the indictment.

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 aggravated sexual assault.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 31st day of October, 2008, in Harris County, Texas, the defendant, RT Hardge, did then and there unlawfully, intentionally or knowingly cause the sexual organ of Luz Marti, an elderly individual, to contact the sexual organ of the defendant, without the consent of Luz Marti, namely, the defendant compelled Luz Marti to submit or participate by the use of physical force or violence, then you will find the defendant guilty of aggravated sexual assault.

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either capital murder on the one hand or aggravated sexual assault 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

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find him guilty of the lesser offense of aggravated sexual assault.

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."

You are further instructed that the State is not bound by the specific date which the offense, if any, is alleged in the indictment to have been committed, but that a conviction may be had upon proof beyond a reasonable doubt that the offense, if any, was committed at any time prior to the filing of the indictment which is within the period of limitations.

There is no limitation period applicable to the offense of capital murder.

The limitation period applicable to the offense of aggravated sexual assault is ten years prior to July 7, 2009, the date of the filing of the indictment.

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.

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 Foreman. 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 Foreman.

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 Foreman 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.



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Marc Brown, Judge  
180th District Court  
Harris County, TEXAS

**FILED**

Chris Daniel  
District Clerk

DEC 12 2011

Time:

10:00 AM

By

  
Deputy

Harris County, Texas

CAUSE NO. 1223224

THE STATE OF TEXAS  
VS.  
RT HARDGE

§ IN THE 180TH DISTRICT COURT  
§ OF HARRIS COUNTY, TEXAS  
§ NOVEMBER TERM, A. D., 2011

CHOOSE ONE

"We, the Jury, find the defendant, RT Hardge, not guilty."

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Foreman of the Jury

\_\_\_\_\_  
(Please Print) Foreman

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

**FILED**

Chris Daniel  
District Clerk

DEC 12 2011

Time: \_\_\_\_\_

By \_\_\_\_\_

Harris County, Texas

*Richard M. Ostermire*  
\_\_\_\_\_  
Foreman of the Jury

*Richard M. Ostermire*  
\_\_\_\_\_  
(Please Print) Foreman

"We, the Jury, find the defendant, RT Hardge, guilty of aggravated sexual assault."

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Foreman of the Jury

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(Please Print) Foreman