

***In The 296th Judicial District Court
Collin County, Texas***

Honorable John R. Roach, Jr., Presiding

Cause No. 296-80895-2013

STATE OF TEXAS

VS.

CLARENCE DANIEL DUNNINGTON

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, **CLARENCE DANIEL DUNNINGTON**, stands charged by indictment with the offense of Capital Murder. The offense is alleged to have been committed in Collin County, Texas on or about the 14th day of December, 2011. To this charge the defendant has pleaded not guilty.

Our law provides that a person commits the offense of Murder if the person intentionally or knowingly causes the death of an individual or intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual.

Our law provides that a person commits the offense of Capital Murder if the person commits murder, and the person intentionally commits the murder in the course of committing or attempting to commit retaliation.

Our law provides that a person commits the offense of retaliation if he intentionally or knowingly harms or threatens to harm another by an unlawful act:

1. in retaliation for or on account of the service or status of another as a:
 - a. public servant, witness, prospective witness, or informant; or

- b. person who has reported or who the actor knows intends to report the occurrence of a crime; or
- 2. to prevent or delay the service of another as a:
 - a. public servant, witness, prospective witness, or informant; or
 - b. person who has reported or who the actor knows intends to report the occurrence of a crime.

“Informant” means a person who has communicated information to the government in connection with any governmental function.

“Individual” means a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.

“Bodily injury” means physical pain, illness, or 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 the 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 the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. 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.

You are instructed that while the indictment alleges that the offense was committed on or about the 14th day of December, 2011, you are not bound to find that the offense, if any, took place on that specific date. It is sufficient if the alleged date is approximately accurate, and you find that the offense, if any, occurred prior to April 16, 2013, the date of the return of the indictment in this case and is not barred by the statute of limitation.

You are further instructed that there is no statute of limitations for the offense of Capital Murder.

You are instructed that 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. Each party to an offense may be charged with commission of the offense.

A person is a party to an offense and 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.

If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, 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 or even knowledge of an offense does not make one a party to an offense. Acts committed after the offense is complete cannot make one a party to an offense.

NOW, if you find from the evidence beyond a reasonable doubt that on or about the 14th day of December, 2011, in Collin County, Texas, the defendant, **CLARENCE DANIEL DUNNINGTON**, did then and there intentionally cause the death of an individual, namely, Jessica Velasquez, by shooting Jessica Velasquez with a firearm, and the defendant was then and there in the course of committing or attempting to commit the offense of retaliation against Jessica Velasquez, or if you find from the evidence beyond a reasonable doubt that on or about the 14th day of December, 2011, in Collin County, Texas, the defendant, **CLARENCE DANIEL DUNNINGTON**, acting with intent to promote or assist the commission of the offense of retaliation, solicited, encouraged, directed, aided or attempted to aid an unknown person to intentionally, with specific intent to commit the offense of murder of Jessica Velasquez, do an act, to-wit: shooting Jessica Velasquez with a firearm, then you will find the defendant guilty of the offense of Capital Murder as charged in the indictment.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will next consider the lesser included offense of murder.

NOW, if you find from the evidence beyond a reasonable doubt that on or about the 14th day of December, 2011, in Collin County, Texas, that **CLARENCE DANIEL DUNNINGTON**, did then and there intentionally cause the death of an individual, namely, Jessica Velasquez, by shooting Jessica Velasquez with a firearm, or if you find from the evidence beyond a reasonable doubt that on or about the 14th day of December, 2011, in Collin County, Texas, the defendant, **CLARENCE DANIEL DUNNINGTON**, solicited, encouraged, directed, aided or attempted to aid an unknown person to intentionally, with specific intent to commit the offense of murder of Jessica Velasquez, do an act, to-wit: shooting Jessica Velasquez with a firearm, then you will find the defendant guilty of the lesser included offense of Murder. Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty.

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.

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 charged with an 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 of 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 they fail to do so, you must acquit the defendant.

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 its outcome. The Court has not intended to express any opinion upon any matter of fact in this case, and if you have observed anything which you have or may interpret as the

Court's opinion upon any matter of fact in this case, you must wholly disregard it.

You are instructed that any statements of counsel made during the course of the trial or during argument not supported by the evidence, or statements of law made by counsel not in harmony with the law as stated to you by the Court in these instructions, are to be wholly disregarded.

You are further instructed that you should not question the Bailiff concerning the testimony or the law of the case, nor should you discuss the case in his presence. If you have any questions, you should reduce them to writing, to be signed by the presiding juror, and present them to the Court.

If the Jurors disagree 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 portion of such witness' testimony, and only that portion, on the point in dispute.

You are instructed that the indictment is the means whereby a defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered as such when passing upon whether the defendant is guilty or not guilty.

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.

After you retire to the jury room, you should select one of your members as your presiding juror. It is their duty to preside at your deliberations and vote with you. Your verdict must be unanimous and signed by the presiding juror.

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 receive in these written instructions.

Suitable forms for your verdict are attached hereto. Your verdict must be in writing and signed by your presiding juror. Your sole duty at this time is to determine whether the defendant is guilty or not guilty under the indictment in this cause and you are to restrict your deliberations to that issue.


Signed this the 16th day of January, 2014.

A handwritten signature in black ink, appearing to read "John R. Roach, Jr.", written over a horizontal line.

John R. Roach, Jr.
Judge Presiding

VERDICT FORM

We, the Jury, find the defendant guilty of Capital Murder as charged in the indictment.

(signature) 

(printed name) JAMES ORR
PRESIDING JUROR

OR,

We, the Jury, find the defendant guilty of Murder.

(signature) _____

(printed name) _____
PRESIDING JUROR

OR,

We, the Jury, find the defendant not guilty.

(signature) _____

(printed name) _____
PRESIDING JUROR