

Original

NO. 2012-435,942

THE STATE OF TEXAS

§ IN THE DISTRICT COURT  
FILED

VS.

§ OF LUBBOCK COUNTY, TEXAS  
TIME 8:45 A.M.

THOMAS DIXON

§ 140TH JUDICIAL DISTRICT, 201  
DATE 11-18-2015

COURT'S CHARGE

*John B. Swannell*  
CLERK OF DISTRICT COURT

MEMBERS OF THE JURY:

The defendant, THOMAS DIXON, stands charged by indictment with the offense of capital murder, alleged to have been committed in Lubbock County, Texas, on or about July 10, 2012. The defendant has entered a plea of not guilty to the indictment which was read to you.

You are instructed that you will consider only the guilt or innocence of the defendant from the evidence admitted before you and from the law as given to you in charge by the Court.

You are instructed that the law applicable to this case is as follows:

1.

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 the person commits the murder for remuneration or the promise of remuneration or employs another to commit the murder for remuneration or the promise of remuneration.

2.

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

3.

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.

4.

You are instructed that an “accomplice,” as the term is hereinafter used, means any person connected with the crime charged, as a party thereto, and includes all persons who are connected with the crime, as such parties, by unlawful act or omission on their part transpiring either before or during the time of the commission of the 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 both. Mere presence alone, however, will not constitute one a party to an offense.

Now, if you find from the evidence that Paul Reynolds was an accomplice, then you are further instructed that you cannot convict the Defendant upon Paul Reynold's testimony, unless you first believe that his testimony is true and shows the guilt of the Defendant as charged in the indictment, and then you cannot convict the Defendant unless Paul Reynold's testimony is corroborated by other evidence tending to connect the Defendant with the offense charged. The corroboration is not sufficient if it merely shows the commission of an offense, but it must tend to connect the Defendant with its commission, and then from all the evidence, you must believe beyond a reasonable doubt that the Defendant is guilty of the offense charged against him, or if you have a reasonable doubt thereof, you will acquit the defendant.

5.

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

6.

You are instructed that in considering your verdict you may consider all relevant facts and circumstances surrounding the killing, if any, and the previous relationship existing between the accused and the deceased, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the alleged killing, if any.

7.

You will now consider count I of the indictment.

8.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about July 10, 2012, in Lubbock County, Texas, THOMAS DIXON, did then and there, intentionally or knowingly cause the death of an individual, namely Joseph Sonnier, III, by employing David Shepard to murder the said Joseph Sonnier, III for remuneration or the promise of remuneration, from the Defendant, and pursuant to said agreement, the said David Shepard did then and there intentionally or knowingly cause the death of the said Joseph Sonnier, III by shooting the said Joseph Sonnier, III and by stabbing the said Joseph Sonnier, III, 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, you will acquit the defendant of the offense of capital murder and next consider whether the defendant is guilty of the offense of murder.

9.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about July 10, 2012, in Lubbock County, Texas, THOMAS DIXON acting with intent to promote or assist the commission of the offense of murder by David Shepard, by encouraging, directing, aiding or attempting to aid David Shepard, to commit the offense of murder, if any, by his own actions and conduct during the commission of said offense, did then and there, intentionally or knowingly cause the death of an individual, namely Joseph Sonnier, III, by shooting the said Joseph Sonnier, III and by stabbing the said Joseph Sonnier, III, then you will find the defendant guilty of murder.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of the offense of murder and next consider whether the defendant is guilty of the offense of manslaughter.

10.

A person commits the offense of manslaughter if he recklessly causes the death of an individual.

11.

“Individual” has been defined for you in numbered Paragraph 2 and has the same meaning here.

12.

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.

13.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about July 10, 2012, in Lubbock County, Texas, THOMAS DIXON, acting with intent to promote or assist the commission of the offense of manslaughter by David Shepard, by encouraging, directing, aiding or attempting to aid David Shepard, to commit the offense of manslaughter, if any, by his own actions and conduct during the commission of

said offense, did recklessly cause the death of an individual, namely Joseph Sonnier, III, by shooting the said Joseph Sonnier, III and by stabbing the said Joseph Sonnier, III, then you will find the defendant guilty of manslaughter.

14.

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either the offense of capital murder, on the one hand, or the offense of 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 defendant's favor and find him guilty of the lesser offense of murder, and so say by your verdict.

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either the offense of murder, on the one hand, or the offense of manslaughter, 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 defendant's favor and find him guilty of the lesser offense of manslaughter, and so say by your verdict.

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

15.

You will next consider Count II of the indictment.

16.

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

A person commits capital murder when such person intentionally commits the murder in the course of committing or attempting to commit the offense of burglary of a habitation.

17.

“Individual” has been defined for you in numbered Paragraph 2 and has the same meaning here.

“Enter” means to intrude any part of the body; or any physical object connected with the body.

A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct, when it is his conscious objective or desire to engage in the conduct or 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.

A “habitation” is a structure or vehicle that is adapted for the overnight accommodation of persons, and includes: (a) each separately secured or occupied



portion of the structure or vehicle and (b) each structure appurtenant to or connected with the structure or vehicle.

A person attempts to commits an offense if, with specific intent to commit an offense, he does an act amounting to more than mere preparation that tends but fails to effect the commission of the offense intended.

18.

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

Our law provides that a person commits the offense of burglary of a habitation, if, without the effective consent of the owner, he enters a habitation with intent to commit a felony, theft or assault.

A person commits an assault if the person intentionally, knowingly, or recklessly causes bodily injury to another, or intentionally or knowingly threatens another with imminent bodily injury;

A person commits aggravated assault by intentionally or knowingly threatening another with imminent bodily injury while using or exhibiting a

deadly weapon.

A firearm is a deadly weapon.

Aggravated assault is a felony offense.

19.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about July 10, 2012, in Lubbock County, Texas, THOMAS DIXON, acting with intent to promote or assist the commission of the offense of burglary of a habitation by David Shepard, by encouraging, directing, aiding or attempting to aid David Shepard, to commit the offense, if any, by his own actions and conduct during the commission of said offense of burglary, did then and there intentionally cause the death of an individual, namely Joseph Sonnier, III, by shooting the said Joseph Sonnier, III and by stabbing the said Joseph Sonnier, III, and the defendant was then and there in the course of committing or attempting to commit the offense of burglary of a habitation of Joseph Sonnier, III, who was the owner of said habitation, then you will find the defendant guilty of capital murder in Count II as charged in the indictment, and so say by your verdict as to Count II of the indictment.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of the offense of capital murder in Count II of the indictment, and next consider whether the

defendant is guilty of the offense of murder.

20.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about July 10, 2012, in Lubbock County, Texas, THOMAS DIXON, acting with intent to promote or assist the commission of the offense of murder by David Shepard, by encouraging, directing, aiding or attempting to aid David Shepard, to commit the offense of murder, if any, by his own actions and conduct during the commission of said offense of murder, did then and there intentionally or knowingly cause the death of an individual, namely Joseph Sonnier, III, by shooting the said Joseph Sonnier, III and by stabbing the said Joseph Sonnier, III, but you have a reasonable doubt as to whether the defendant was then and there in the course of committing or attempting to commit the offense of burglary of a habitation of Joseph Sonnier, III, at the time of the shooting and stabbing, if any, then you will find the defendant guilty of murder in Count II of the indictment, and so say by your verdict as to Count II of the indictment.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of the offense of murder in Count II of the indictment, and next consider whether the defendant is guilty of the offense of burglary of a habitation.

21.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about July 10, 2012, in Lubbock County, Texas, THOMAS DIXON, acting with intent to promote or assist the commission of the offense of burglary of habitation by David Shepard, by encouraging, directing, aiding or attempting to aid David Shepard, to commit the offense of burglary, if any, by his own actions and conduct during the commission of said offense of burglary, did then and there intentionally or knowingly enter a habitation, without the effective consent of Joseph Sonnier, III, the owner thereof, committed or attempted to commit aggravated assault, then you will find the defendant guilty of burglary of a habitation in Count II, and so say by your verdict as to Count II of the indictment.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of the offense of burglary of a habitation in Count II of the indictment, and next consider whether the defendant is guilty of the offense of criminal trespass.

22.

A person commits the offense of criminal trespass of a habitation if he enters or remains on or in property of another without effective consent, and he had notice that the entry was forbidden.

23.

“Entry” means the intrusion of the entire body.

“Notice” means fencing or other enclosure obviously designed to exclude intruders or to contain livestock.

“Effective consent” means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner. Consent is not effective if induced by force, threats, deception or coercion.

24.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about July 10, 2012, in Lubbock County, Texas, THOMAS DIXON, acting with intent to promote or assist the commission of the offense of criminal trespass by David Shepard, by encouraging, directing, aiding or attempting to aid David Shepard, to commit the offense, if any, by his own actions and conduct during the commission of said offense, entered or remained on or in the property of Joseph Sonnier, III, without effective consent, and the said THOMAS DIXON had notice that the entry was forbidden, then you will find the defendant guilty of the offense of criminal trespass of a habitation in Count II, and so say by your verdict as to Count II of the indictment.

25.

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either the offense of capital murder in Count II, on the one hand, or the offense of murder in Count II, 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 defendant's favor and find him guilty of the lesser offense of murder in Count II, and so say by your verdict as to Count II.

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either the offense of murder in Count II, on the one hand, or the offense of burglary of a habitation in Count II, 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 defendant's favor and find him guilty of the lesser offense of burglary of a habitation in Count II, and so say by your verdict as to Count II.

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either the offense of burglary of a habitation in Count II, on the one hand, or the offense of criminal trespass of a habitation in Count II, 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 defendant's favor and find him guilty of the lesser offense of criminal trespass of a habitation in Count II, and so say by your verdict as to Count II.

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

26.

You are further charged that if there is any evidence before you in this case tending to show that the defendant herein may have committed crimes, wrongs, or acts other than the offense alleged against him in the indictment, you cannot consider said testimony for any purpose unless you find and believe, beyond a reasonable doubt, that the defendant may have committed such other crimes, wrongs, or acts, if any were committed; and if you find and believe beyond a reasonable doubt from such testimony that other offenses were committed, you may then consider the same in determining the motive, intent, preparation, plan, knowledge, or absence of mistake or accident and for no other purpose.

27.

Our law provides that prior to the commencement of the trial a defendant must elect whether the Jury or the Judge shall determine any punishment to be assessed in the event that the defendant is found guilty of an offense. The defendant has made the election for the Jury to assess any punishment. The fact that the defendant has made the election required cannot be taken as a circumstance against him. 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.

28.

You have been permitted to take notes during the testimony in this case. In the event any of you took notes, you may rely on your notes during your deliberations. However, you may not allow other jurors to read your notes, and you should not permit the other jurors to give you their notes. You may, however, discuss the contents of your notes with the other jurors. You shall not use your notes as authority to persuade your fellow jurors if there is a dispute as to that testimony.

In your deliberations, give no more and no less weight to the views of a fellow juror just because that juror did or did not take notes. Your notes are not official transcripts. They are personal memory aids, just like the notes of the judge and notes of the lawyers. Notes are valuable as a stimulant to your memory. On the other hand, you might make an error in observing or you might make a mistake in recording what you have seen or heard. Therefore, you are not to use your notes as authority to persuade fellow jurors of what the evidence was during the trial if there is a dispute as to that testimony.

Occasionally, during jury deliberations, a dispute arises as to the testimony of a particular witness. If this should occur in this case, you shall inform the Court



in writing and request that the Court read the portion of disputed testimony to you from the court reporter's notes. You shall not rely on your notes to resolve the dispute because those notes, if any, are not official transcripts.

The dispute must be settled by the court reporter's notes, for it is the official record, rather than any juror's notes, upon which you must base your determination of the facts and, ultimately, your verdicts in this case.

29.

In your deliberations, you will consider this charge as a whole. You are instructed that Count I and Count II of the indictment in this case is of itself a mere accusation or charge against this defendant, and is not any evidence of the defendant's guilt; no juror in this case should permit himself/herself to be to any extent influenced against this defendant because of, or on account of, Count I and/or Count II of said indictment.

30.

During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as a telephone, cell phone, smart phone, iPhone, Blackberry or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, My Space, LinkedIn, You Tube or Twitter, to communicate to anyone any

information about this case or to conduct any research about this case until I accept your verdict in Count I and Count II.

31.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, and no juror is permitted to communicate to any other juror anything he/she may have heard regarding the case from any source other than the witness stand.

32.

In deliberating on the cause you are not to refer to or discuss any matter or issue not in evidence before you; nor talk about this case to anyone not of your jury; and after the reading of this Charge you shall not separate from each other until you have reached a verdict in Count I of the indictment and Count II of the indictment.

33.

Your verdict in Count I of the indictment, if any, and your verdict in Count II of the indictment, if any, will be by unanimous vote.

34.

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, 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 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" as to that Count or those Counts.

35.

When the jury wishes to communicate with the Court, it shall so notify the Bailiff, who shall inform the Court thereof. Any communication relative to the cause must be written, signed by the Foreman, and shall be submitted to the Court through the Bailiff.


36.

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 herein given you, and be governed thereby.

37.

After argument of counsel, you will retire and select one of your members as your Foreman. It is his/her duty to preside at your deliberations and to vote with you in arriving at a verdict in Count I of the indictment and Count II of the indictment. Your verdict in each count, if any, must be unanimous; and after you have arrived at your verdict in each count, you may use one of the forms attached hereto by having your Foreman sign his/her name to the particular form that conforms to your verdict in Count I of the indictment and to the particular form that conforms to your verdict in Count II of the indictment.

The above and foregoing is the Charge in this case, and the same is hereby signed and certified by the Court, this the 18 day of November, 2015.

  
Judge Presiding

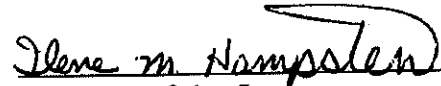
**VERDICT AS TO COUNT I OF THE INDICTMENT**

NO. 2012-435,942

THE STATE OF TEXAS                    § IN THE DISTRICT COURT  
VS.    § OF LUBBOCK COUNTY, TEXAS  
THOMAS DIXON                            § 140TH JUDICIAL DISTRICT

**VERDICT**

We, the jury, find from the evidence beyond a reasonable doubt the defendant is guilty of the offense of capital murder, as charged in Count I of the indictment.

  
Foreman of the Jury

**OR**

**VERDICT**

We, the jury, find from the evidence beyond a reasonable doubt the defendant is guilty of the lesser offense of murder.

\_\_\_\_\_  
Foreman of the Jury

**OR**

**VERDICT**

We, the jury, find from the evidence beyond a reasonable doubt the defendant is guilty of the lesser offense of manslaughter.

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Foreman of the Jury

**OR**

**VERDICT**

We, the jury, find the defendant not guilty in Count I of the indictment.

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Foreman of the Jury

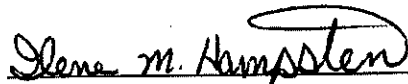
**VERDICT AS TO COUNT II OF THE INDICTMENT**

NO. 2012-435,942

THE STATE OF TEXAS                    § IN THE DISTRICT COURT  
VS.    § OF LUBBOCK COUNTY, TEXAS  
THOMAS DIXON                            § 140TH JUDICIAL DISTRICT

**VERDICT**

We, the jury, find from the evidence beyond a reasonable doubt the defendant is guilty of the offense of capital murder, as charged in Count II of the indictment.

  
Foreman of the Jury

**OR**

**VERDICT**

We, the jury, find from the evidence beyond a reasonable doubt the defendant is guilty of the lesser offense of murder.

\_\_\_\_\_  
Foreman of the Jury

**OR**

**VERDICT**

We, the jury, find from the evidence beyond a reasonable doubt the defendant is guilty of the lesser offense of burglary of a habitation.

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Foreman of the Jury

**OR**

**VERDICT**

We, the jury, find from the evidence beyond a reasonable doubt the defendant is guilty of the lesser offense of criminal trespass of a habitation.

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Foreman of the Jury

**OR**

**VERDICT**

We, the jury, find the defendant not guilty in Count II of the indictment.

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Foreman of the Jury