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AUG 28 2018

CAUSE NO. F16-76714-S

OFFICE OF  
COURT ADMINISTRATION

THE STATE OF TEXAS                   §       IN THE 282<sup>ND</sup> JUDICIAL  
  
V.   §       DISTRICT COURT OF  
  
ANTHONY RASHAD GEORGE           §       DALLAS COUNTY, TEXAS

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**COURT'S INSTRUCTIONS TO THE JURY**

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**MEMBERS OF THE JURY:**

The defendant, Anthony George, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about November 27, 2016, in Dallas County, Texas. To this charge the defendant has entered a plea of not guilty.

**OFFENSE DEFINITIONS**

Our law provides that a person commits murder if he intentionally or knowingly causes the death of an individual.

A person commits the offense of capital murder if the person commits murder, as defined above, and the person intentionally commits the murder in the

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course of committing or attempting to commit robbery. Robbery is a felony offense.

A person commits robbery if, in the course of committing theft, as that term is herein defined, and with intent to obtain and maintain control of property of another, he intentionally or knowingly (a) causes bodily injury to another or (b) threatens or places another in fear of imminent bodily injury or death.

“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.

A person commits “theft” if he unlawfully appropriates personal property with the intent to deprive the owner of said property.

### DEFINITIONS

“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.

“Appropriation” and “appropriate” mean to acquire or otherwise exercise control over property other than real property. Appropriation of property is unlawful if it is without the owner’s effective consent.

“Bodily injury” means physical pain, illness, or any impairment of physical condition.

“Deprive” means to withhold property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the property is lost to the owner.

“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 deception, coercion, threats, force, or fraud.

An “indictment” is the charging instrument and is no evidence of guilt. Therefore, you shall not consider the indictment in this case as any evidence of guilt.

“Individual” means a human being who has been born and is alive.

“Owner” means a person who has title to the property, possession of the property, or a greater right to possession of the property than the person charged.

“Possession” means actual care, custody, control, or management of property.

“Property” means tangible or intangible personal property including anything severed from the land, or a document, including money, that represents or embodies anything of value.

## **DEFINITIONS OF CULPABLE MENTAL STATES**

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.

## **CRIMINAL RESPONSIBILITY FOR CONDUCT OF ANOTHER**

All persons are parties to an offense who are guilty of acting together in 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.

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.

“Conspiracy” means an agreement between two or more persons, with intent that a felony be committed, that they, or one or more of them, engage in conduct that would constitute the offense. An agreement constituting a conspiracy may be inferred from acts of the parties.

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. Capital murder, robbery, attempted robbery, and aggravated robbery are felony offenses.

### ACCOMPLICE WITNESS TESTIMONY

You are instructed that an "accomplice," as the term is herein used, means anyone connected with the crime charged as a party thereto and includes all persons who are connected with the crime by unlawful act or commission on their part transpiring either before or during or immediately after the time of the commission of the offense, and whether or not they were present and participated in the commission of the crime.

You are further instructed that a conviction cannot be had upon the testimony of an accomplice alone unless the jury first believes that the accomplice's evidence is true and that it shows the defendant is guilty as charged. Even then you cannot convict on the accomplice's testimony unless the accomplice'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 the offense; it must also tend to connect the defendant with its commission.

Mere presence of the defendant with an accomplice before, during or after the commission of a crime is not sufficient corroboration of an accomplice witness' testimony to convict the defendant.

The witnesses Jessica Ontiveros and Rachel Burden are accomplices as a matter of law, if an offense was committed, and you cannot convict the defendant upon the testimony of Jessica Ontiveros and Rachel Burden alone unless you first believe that their testimony is true and shows that the defendant is guilty as charged. Even then you cannot convict the defendant upon the testimony of Jessica Ontiveros and Rachel Burden alone unless you further believe that there is other evidence in the case, outside of their testimony, tending to connect the defendant with the offense committed, if you find that an offense was committed. The corroboration is not sufficient if it merely shows the commission of the offense. It must also tend to connect the defendant with its commission and then from all of the evidence you must believe beyond a reasonable doubt that the defendant is guilty of the offense charged against him.

You are further instructed that one or more accomplices cannot corroborate each other. Such corroborative evidence, if any, must be from some source other than the accomplices.

### CONSTITUTIONAL RIGHTS

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 issue of guilt of 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 you 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. This burden rests upon the State throughout the trial and never shifts to the defendant. If the State fails to meet its burden, you must acquit the defendant. It is not required that the prosecution proves 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."

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a privilege afforded 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.

### **APPLICATION OF THE LAW AND FACTS**

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that on or about November 27, 2016, in Dallas County, Texas, the defendant, Anthony George, acting alone or as a party, intentionally caused the death of Brian Sample, an individual, by striking Brian Sample with a hand, or kicking Brian Sample, or suffocating Brian Sample with a pillow, or squeezing Brian Sample's neck with a hand or arm, and the defendant was then and there in the course of committing or attempting to commit the offense of robbery of Brian Sample;

OR

if you believe from the evidence beyond a reasonable doubt, that on or about November 27, 2016, in Dallas County, Texas, the defendant, Anthony George, entered into a conspiracy with one or more of the following persons: Jessica Ontiveros or Rachel Burden, hereinafter referred to as "the others," to commit the felony offense of robbery, and that in the attempt to carry out this conspiracy, if



any, one or more of the others did intentionally cause the death of Brian Sample, an individual, by striking Brian Sample with a hand, or kicking Brian Sample, or suffocating Brian Sample with a pillow, or squeezing Brian Sample's neck with a hand or arm, and if you further find beyond a reasonable doubt that intentionally causing the death of Brian Sample was committed in furtherance of the unlawful purpose to commit robbery and should have been anticipated as a result of carrying out the conspiracy to commit robbery, whether or not the defendant, Anthony George, had the intent to cause the death of Brian Sample, then you will find the defendant, Anthony George, guilty of capital murder as alleged in the indictment.

If you do not so believe, or if you have a reasonable doubt thereof, or if you are unable to agree, you will next go on to consider whether the defendant is guilty of the offense of murder as included in the indictment.

Bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that on or about November 27, 2016, in Dallas County, Texas, the defendant, Anthony George, acting alone or as a party, as that term has been defined, intentionally or knowingly caused the death of Brian Sample, an individual, by striking Brian Sample with a hand, or kicking Brian Sample, or suffocating Brian Sample with a pillow, or squeezing Brian Sample's neck with a hand or arm, then you will find the defendant, Anthony George, guilty of murder as included in the indictment.

If you do not so believe, or if you have a reasonable doubt thereof, or if you are unable to agree, you will next go on to consider whether the defendant is guilty of the offense of manslaughter as included in the indictment.

Our law provides that a person commits the offense of manslaughter if he recklessly causes the death of an individual.

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 as viewed from the defendant's standpoint.

If you unanimously find and believe from the evidence beyond a reasonable doubt that on or about November 27, 2016, in Dallas County, Texas, the defendant, Anthony George, acting alone or as a party, as that term has been defined, recklessly caused the death of Brian Sample, an individual, by striking Brian Sample with a hand, or kicking Brian Sample, or suffocating Brian Sample with a pillow, or squeezing Brian Sample's neck with a hand or arm, then you will find the defendant, Anthony George, guilty of manslaughter as included in the indictment.

If you do not so find, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not Guilty."

If you should find from the evidence beyond a reasonable doubt that the defendant is either guilty of capital murder or murder, but you have a reasonable doubt as to which offense he is guilty of, then you should resolve that doubt in the defendant's favor and find the defendant guilty of the lesser included offense of murder.

If you should find from the evidence beyond a reasonable doubt that the defendant is either guilty of capital murder, murder, or manslaughter but you have a reasonable doubt as to which offense he is guilty of, then you should resolve that doubt in the defendant's favor and find the defendant guilty of the lesser included offense of manslaughter.

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 instructed that if there is any testimony before you in this case regarding the defendant having committed offenses or acts other than the offense alleged against him in the indictment in this case, you cannot consider such testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offenses or acts, if any were committed. Even then, you may only consider the same in determining the motive, opportunity, intent, plan, identity, knowledge or absence of mistake or accident, of the defendant and for no other purpose.

### **EVIDENTIARY RULINGS**

At times throughout the trial, the Court has been called upon to pass on the question of whether or not certain offered evidence might properly be admitted. Do not be concerned with the reasons for such rulings and draw no inferences from them. Whether offered evidence is admissible is purely a question of law. In admitting evidence to which an objection is made, the Court does not determine what weight should be given such evidence; nor does it pass on the credibility of

the witness. As to any offer of evidence that has been rejected by the Court, you of course must not consider the same. As to any question to which an objection was sustained, you must not conjecture as to what the answer might have been or as to the reason for the objection.

### JURY GUIDELINES

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 may have heard regarding the case from any source other than the witness stand.

In deliberating on this case, you are not to refer to or discuss any matter or issue not in evidence before you, and you are not to talk about this case to anyone not of your jury.

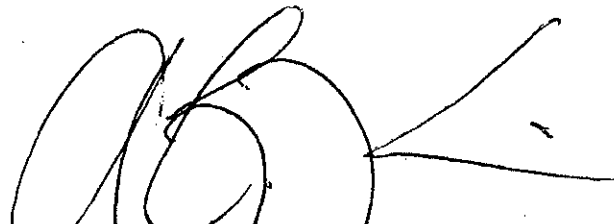
Mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feeling is to play no part in your deliberations.

You are the exclusive judges of the facts proved, of the credibility of the witnesses, and of the weight to be given to the testimony. But you are bound to receive and be governed by the law from the Court, which is herein given you.

After argument of counsel, you will retire and select one of your members as your presiding juror. It is the duty of your presiding juror to preside at your deliberations and to vote with you in arriving at a verdict. Your verdict must be unanimous, and after you have arrived at your verdict, you may use one of the

forms attached hereto by having your presiding juror sign the particular form that conforms to your verdict.

After you have retired to consider the verdict, no one has any authority to communicate with you except the officer who has you in charge. You may communicate with this Court in writing, signed by your presiding juror, through the officer who has you in charge. Do not attempt to talk to the officer, the attorneys, or the Court concerning any question you may have. You may deliberate as long as you need. There is no time limit. If you have a verdict, or if you wish to have a break, push the red button on the wall and the sheriff will quickly respond.

A handwritten signature in black ink, appearing to read 'Amber Givens-Davis', written over a horizontal line.

**HON. JUDGE AMBER GIVENS-DAVIS  
282<sup>ND</sup> JUDICIAL DISTRICT COURT  
DALLAS COUNTY, TEXAS**

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VERDICT FORMS

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We, the jury, unanimously find the defendant, Anthony George, guilty of capital murder, as charged in the indictment.

*M. Moman*

\_\_\_\_\_  
Presiding Juror (Signature)

Michelle Moman

\_\_\_\_\_  
Presiding Juror (Print Name)

OR

We, the jury, unanimously find the defendant, Anthony George, guilty of murder as included in the indictment.

\_\_\_\_\_  
Presiding Juror (Signature)

\_\_\_\_\_  
Presiding Juror (Print Name)

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VERDICT FORMS

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OR

We, the jury, unanimously find the defendant, Anthony George, guilty of manslaughter as included in the indictment.

\_\_\_\_\_  
Presiding Juror (Signature)

\_\_\_\_\_  
Presiding Juror (Print Name)

OR

We, the jury, unanimously find the defendant, Anthony George, not guilty.

\_\_\_\_\_  
Presiding Juror (Signature)

\_\_\_\_\_  
Presiding Juror (Print Name)