

Original

CAUSE NO. CR-12-24098

STATE OF TEXAS

v.

THOMAS TAUNTON

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IN THE DISTRICT COURT  
336<sup>th</sup> JUDICIAL DISTRICT OF  
FANNIN COUNTY, TEXAS

FILED FOR RECORD  
FANNIN COUNTY, TEXAS  
2014 AUG 13 PM 6:13  
NANCY MOORE  
DISTRICT CLERK  
BY [Signature] DEPUTY

CHARGE OF THE COURT

**MEMBERS OF THE JURY:**

The defendant, Thomas Taunton, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about January 15, 2012, in Fannin County, Texas. To this charge, the defendant has pleaded not guilty.

General Instructions

Do not 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 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 think is the Court's opinion upon any matter of fact in this case, you must wholly disregard it.

Both the prosecution and the defendant have a right to expect that you will conscientiously consider and weigh the evidence, apply the law given to you by the Court and reach a just verdict, regardless of the consequences.

You must base your decision on the facts and the law. You must determine the facts from the evidence received in the trial and not from any other source. You must accept and follow the law as stated by the Court, whether or not you agree with the law. If anything concerning the law is said by the attorneys in their arguments or at any other time during the trial which conflicts with the Court's instructions on the law, you must follow the Court's instructions.

Statements made by attorneys during the trial are not evidence. If an objection was sustained to a question, do not guess what the answer might have been, and do not speculate as to the reason for the objection. Do not assume to be true any insinuation

suggested by a question asked of a witness. A question is not evidence, and may be considered only as it enables you to understand the answer. Do not consider for any purpose any offer of evidence that was stricken by the court. You must treat it as though you had never heard it.

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 your presiding juror, and present them to the Court.

If you disagree as to the statement of any witness, you may apply to have the court reporter's notes read relating to that part of such witness's testimony on the point in dispute. Under Texas law, 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, if you desire to hear any portion of the testimony of any witness, for you to first certify in writing that you are in disagreement as to the statement of a witness, and then specifically request that part of the testimony on the point in dispute, and only on that point which is in dispute.

The Grand Jury indictment is not evidence of guilt. It is the means whereby a Defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered by you in passing upon whether the Defendant is guilty or not guilty.

During your deliberations in this case, you must not consider, discuss, or relate any matters not in evidence before you. You should not consider or mention any personal knowledge or information you think you may have about any fact or person connected with this case, which is not shown by the evidence.

"Presiding Juror", as used in this charge, is used in a generic sense. Both male and female members of the jury are, of course, eligible to serve as presiding juror.

After you have retired to your jury room, you should elect one of your members as your presiding juror. It is that person's duty to preside at your deliberations, to vote with you, and, when you have unanimously agreed upon a verdict, to certify your verdict by signing the same as presiding juror.

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 the law from the Court, which is herein given to you and be governed thereby.

When words are used in this charge in a sense, which vary from the meaning commonly understood, you will be given a proper legal definition, which you are bound to accept in place of any other meaning. Words, which are not defined for you in the Court's charge, should be given the meaning as they are commonly used and understood.

### **Burden of Proof**

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 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.

"Element of offense" means (a) the forbidden conduct; (b) the required culpability; and (c) any required result.

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".

## Definitions

Our law provides that a person commits the offense of Capital Murder if the person intentionally or knowingly causes the death of an individual and the person murders more than one person during the same criminal transaction.

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

A person acts intentionally, or with intent, with respect 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 a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

“Individual” means a human being who is alive.

“Firearm” means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

You are instructed that while the indictment alleges that the offense was committed on or about the 15<sup>th</sup> day of January, 2012, you are not bound to find that the offense, if any, took place on that specific date, it being sufficient if such time is approximately accurate, and occurring prior to April 5, 2012, the date of the return of the indictment for said offense in this case, and is not barred by the statute of limitations.

You are further instructed that the offense of Capital Murder has no statute of limitations.

### Application of Law to the Facts - Capital Murder

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about January 15, 2012, in Fannin County, Texas, the defendant, Thomas Taunton, did then and there intentionally or knowingly cause the death of an individual, namely, Harold Harpst, by shooting him with a firearm, and did then and there intentionally or knowingly cause the death of another individual, namely, Regina Taunton, by shooting her with a firearm, and both murders were committed during the same criminal transaction, then you will find the defendant guilty as charged in the

indictment.

However, if you do not so find, or if you have a reasonable doubt thereof, then you shall acquit the defendant of Capital Murder and next consider the lesser included offense of Murder.

**Application of the Law to the Facts - Lesser Included Offense - Murder**

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about January 15, 2012, in Fannin County, Texas, the defendant, Thomas Taunton, did then and there intentionally or knowingly cause the death of an individual, namely, Harold Harpst, by shooting him with a firearm, then you will find the defendant guilty of the lesser included offense of murder.

However, if you do not so find, or if you have a reasonable doubt thereof, then you shall acquit the defendant and say by your verdict "not guilty."

USE THE ATTACHED VERDICT FORM to reflect your decision.

**Instruction**

The State has introduced evidence of extraneous bad acts other than the offense charged in the indictment in this case. You may not consider said testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other bad act, if any were committed, and even then you may only consider the same in determining the motive, opportunity, intent, preparation, plan, knowledge, or absence of mistake or accident, if any, in connection with the offense, if any, alleged against him in the indictment in this case, and for no other purpose.

**Conclusion**

A suitable form for your verdict is 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 solely to that issue.

Signed this 12<sup>th</sup> day of August 2014.

A handwritten signature in cursive script, appearing to read "Laurine J. Blake", written above a horizontal line.

**Laurine J. Blake, Judge Presiding  
336<sup>th</sup> District Court  
Fannin County, Texas**

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FANNIN COUNTY, TEXAS

**VERDICT FORM**

We, the Jury, find the Defendant, Thomas Taunton, **GUILTY** of the offense Capital Murder as charged in the indictment.

  
\_\_\_\_\_  
*Presiding Juror, signature*

*Leslie Scott Hazlewood*  
\_\_\_\_\_  
**Presiding Juror, printed name**

**OR,**

We, the Jury, find the Defendant, Thomas Taunton, **GUILTY** of the lesser included offense Murder.

\_\_\_\_\_  
*Presiding Juror, signature*

\_\_\_\_\_  
**Presiding Juror, printed name**

**OR,**

We, the Jury, find the Defendant, **NOT GUILTY**.

\_\_\_\_\_  
*Presiding Juror, signature*

\_\_\_\_\_  
**Presiding Juror, printed name**