

NO. 96425-CR

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| THE STATE OF TEXAS | § | IN THE 412th DISTRICT COURT |
| VS. | § | OF |
| JOSEPH ANTHONY LEE MOORE | § | BRAZORIA COUNTY, TEXAS |

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, JOSEPH ANTHONY LEE MOORE, stands charged by indictment with the offense of Capital Murder, alleged to have been committed in Brazoria County, Texas on or about the 27th day of June, 2022. To this charge the defendant has pleaded not guilty.

SPECIFIC INSTRUCTIONS

Our law provides that a person commits the offense of Murder if he intentionally or knowingly causes the death of any individual; OR intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual; OR commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, the person commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

Our law further provides that a person commits the offense of Capital Murder when such person intentionally commits Murder in the course of committing or attempting to commit the offense of an Aggravated Robbery.

Our law provides that a person commits the offense of Aggravated Robbery if he commits robbery and intentionally or knowingly causes serious bodily injury to another or uses or exhibits a deadly weapon.

Our law provides that a person commits the offense of Robbery if, in the course of committing theft and with intent to obtain or maintain control of property, he intentionally, knowingly or recklessly causes bodily injury to another or intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

Our law provides that a person commits the offense of Theft if he unlawfully appropriates property with intent to deprive the owner of property.

Our law provides that a person commits the offense of Capital Murder when such person intentionally commits Murder in the course of committing or attempting to commit the offense of Burglary of a Habitation.

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

“Act” means a bodily movement, whether voluntary or involuntary.

“Actor” means a person whose criminal responsibility is in issue in a criminal action.

“Another” means a person other than the actor.

“Appropriation” and “appropriate,” as those terms are used herein, means 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.

“Conduct” means an act and its accompanying mental state.

“Consent” means assent in fact, whether express or apparent.

“Deadly weapon” means a firearm OR anything manifestly designed, made or adapted for the purpose of inflicting death or serious bodily injury OR anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

“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; or to dispose of property in a manner that makes recovery of the property by the owner unlikely.

“Effective consent” means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner.

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

“Felony” means an offense so designated by law or punishable by death or confinement in a penitentiary.

“Habitation” means a structure that is adapted for the overnight accommodation of persons and includes each separately secured or occupied portion of the structure and each structure appurtenant to or connected to the structure.

“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.

“Individual” means a human being who is alive.

“Owner” means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the person charged.

“Person” means an individual.

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

“Property” means tangible or intangible personal property or a document, including money, which represents or embodies anything of value.

“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 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.

A person acts recklessly or is reckless intent with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur.

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.

Each party to an offense may be charged with the commission of the offense.

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.

If, in the attempt to carry out a conspiracy to commit a 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 alone will not constitute one a party to an offense.

CAPITAL MURDER

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that the defendant, JOSEPH ANTHONY LEE MOORE, either acting alone or as a party, on or about the 27th day of June of 2022, in the County of Brazoria, State of Texas, as alleged in the indictment, did then and there intentionally cause the death of an individual, namely, Cory Bayless, by shooting Cory Bayless with a firearm, and the defendant was then and there in the course of committing or attempting to commit the offense of Aggravated Robbery against Toby Bayless, then you will find the Defendant guilty of Capital Murder as charged in the indictment;

OR

If you believe from the evidence beyond a reasonable doubt, that the defendant, JOSEPH ANTHONY LEE MOORE, either acting alone or as a party, on or about the 27th day of June of 2022, in the County of Brazoria, State of Texas, as alleged in the indictment, did then and there intentionally cause the death of an individual, namely, Cory Bayless, by shooting Cory Bayless with a firearm, and the defendant was then and there in the course of committing or attempting to commit the offense of Burglary of a Habitation owned by Jamie Bayless, then you will find the Defendant guilty of Capital Murder as charged in the indictment;

OR

If you believe from the evidence beyond a reasonable doubt, that the defendant, JOSEPH ANTHONY LEE MOORE, either acting alone or as a party, on or about the 27th day of June of 2022, in the County of Brazoria, State of Texas, as alleged in the indictment, did then and there intentionally cause the death of an individual, namely, Cory Bayless, by shooting Cory Bayless with a firearm, and the defendant was then and there in the course

of committing or attempting to commit the offense of Burglary of a Habitation owned by Cory Bayless, then you will find the Defendant guilty of Capital Murder as charged in the indictment;

But unless you do so believe 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 lesser included offense of Murder.

LESSER: MURDER

If you believe from the evidence beyond a reasonable doubt, that the defendant, JOSEPH ANTHONY LEE MOORE, either acting alone or as a party, on or about the 27th day of June of 2022, in the County of Brazoria, State of Texas, did then and there intentionally or knowingly cause the death of an individual, namely, Cory Bayless, by shooting Cory Bayless with a firearm, then you will find the Defendant guilty of Murder.

OR

If you believe from the evidence beyond a reasonable doubt, that the defendant, JOSEPH ANTHONY LEE MOORE, either acting alone or as a party, on or about the 27th day of June of 2022, in the County of Brazoria, State of Texas, did then and there intended to cause serious bodily injury and commits an act clearly dangerous to human life that caused the death of an individual, namely, Cory Bayless, by shooting Cory Bayless with a firearm, then you will find the Defendant guilty of Murder.

OR

If you believe from the evidence beyond a reasonable doubt, that the defendant, JOSEPH ANTHONY LEE MOORE, either acting alone or as a party, on or about the 27th day of June of 2022, in the County of Brazoria, State of Texas, did then and there commit

or attempt to commit a felony, to wit: Aggravated Robbery or Burglary of Habitation, and in the course of and in furtherance of the commission, or in immediate flight from the commission of said felony, he committed or attempted to commit an act clearly dangerous to human life, to wit: caused the death of an individual, namely, Cory Bayless, by shooting Cory Bayless with a firearm, then you will find the Defendant guilty of Murder.

But unless you do so believe 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 lesser included offense of Aggravated Robbery.

LESSER: AGGRAVATED ROBBERY

If you believe from the evidence beyond a reasonable doubt, that the defendant, JOSEPH ANTHONY LEE MOORE, either acting alone or as a party, on or about the 27th day of June of 2022, in the County of Brazoria, State of Texas, did then and there while in the course of committing theft of property owned by Toby Bayless, and with intent to obtain or maintain control of said property, intentionally or knowingly cause serious bodily injury to Toby Bayless by shooting the said Toby Bayless with a firearm or did use or exhibit a deadly weapon, namely a firearm, then you will find the defendant guilty of the offense of Aggravated Robbery.

But unless you do so believe from the evidence beyond a reasonable doubt or if you have a reasonable doubt thereof, you will acquit the defendant of Aggravated Robbery and say by your verdict "Not Guilty."

GENERAL PRINCIPLES

Presumption of Innocence

All persons are presumed to be innocent and no person may be convicted unless each element of an offense is proved beyond a reasonable doubt. The fact that a defendant has been arrested, confined, or indicted for, or otherwise 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 the evidence in the case.

Burden of Proof

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."

Defendant's Right to Remain Silent

In a criminal case the law permits a defendant to testify in his own behalf but he is not compelled to do so, and the same law provides that the fact that a defendant does not testify shall not be considered as a circumstance against him. You will, therefore, not

consider the fact that the defendant did not testify as a circumstance against him; and you will not in your retirement to consider your verdict allude to, comment on, or in any manner refer to the fact that the defendant has not testified.

Evidence

You are limited in your deliberations upon a verdict to the consideration and discussion of such facts and circumstances only as were admitted in evidence, or as are reasonably deducible from the evidence, and no juror is permitted to communicate to any other juror anything she or he may have heard regarding the case, or any witness therein, from any source other than the witness stand. In deliberating on the case 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.

Your deliberations at this time are solely limited to the guilt or innocence of the defendant. You are not authorized to pass upon the punishment, if any, to be imposed.

You are further instructed that you must not mention nor consider any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence.

During your deliberations you are instructed that you should not consider the remarks, rulings or actions of the judge presiding during this trial as any indication of the Court's opinion as to the existence or nonexistence of any fact or as an indication of the Court's opinion as to the guilt or innocence of the defendant.

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 you and be governed thereby.

You are instructed that there is testimony before you in this case regarding that the

defendant committed alleged criminal acts, other than the offense alleged against him in the indictment in this case. These are called extraneous offenses.

You cannot consider testimony of extraneous offenses for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed any such extraneous offense. Even then you may only consider the same as it relates to the [the motive of the defendant OR the opportunity of the defendant OR preparation of the defendant OR the plan of the defendant OR knowledge of the defendant OR the identity of the defendant OR absence of mistake by the defendant OR lack of accident by the defendant OR the rebuttal of a defensive theory OR same-transaction contextual evidence OR facts and circumstances surrounding the killing and the previous relationship existing between the accused and the deceased OR facts and circumstances going to show the condition of the mind of the accused at the time of the offense, if any, in connection with the offense alleged against the defendant in the indictment in this case and for no other purpose.

Juror Notes

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 share your notes with the other jurors and you should not permit the other jurors to share their notes with you. You may not use your notes as authority to persuade your fellow jurors. 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 the 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.

Occasionally, during jury deliberations, a dispute arises as to the testimony presented. If this should occur in this case, you shall inform the Court and request that the Court read the portion of disputed testimony to you from the official transcript. 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 official transcript, for it is the official transcript, rather than any juror's notes, upon which you must base your determination of the facts and, ultimately, your verdict in the case.

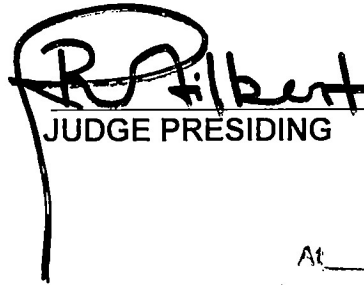
RULES THAT CONTROL DELIBERATIONS

After argument of counsel, you will retire and select one of your members as your presiding juror. It is her or his duty 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 the forms attached hereto by having your presiding juror sign her or his name. Your presiding juror will sign one form only.

After you have retired to consider your verdict, no one has the authority to communicate with you except the officer, bailiff of the Court, who has you in charge.

In the event you desire to communicate with the Court on any matter in connection with your deliberations, your presiding juror will notify the bailiff, who will inform the Court thereof. After you have retired, any communications to the Court must be in writing. If you have any questions or requests, you should reduce them to writing on a full and complete sheet of paper, noting the date and time, have the presiding juror sign them, and present them to the bailiff.

After you have reached a verdict, or if you desire to communicate with the Court at any time, please knock on the door and the bailiff will respond.


JUDGE PRESIDING

FILED
At _____ o'clock _____ M.

JAN 29 2024

Carmona Jiquin
Clerk of District Court Brazoria Co., Texas
BY _____ DEPUTY

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VERDICT

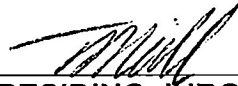
We, the jury, find the defendant, JOSEPH ANTHONY LEE MOORE, guilty of the offense of Capital Murder as charged in the indictment.

PRESIDING JUROR

| | | |
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| JOSEPH ANTHONY LEE MOORE | § | BRAZORIA COUNTY, TEXAS |

VERDICT

We, the jury, find the defendant, JOSEPH ANTHONY LEE MOORE, not guilty of the offense of Capital Murder as charged in the indictment, but find the defendant guilty of the lesser offense of Murder.



PRESIDING JUROR

FILED

At _____ o'clock _____ M.

JAN 29 2024

Carmen A. Jiquin
Clerk of District Court Brazoria Co., Texas
BY _____ DEPUTY

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VERDICT

We, the jury, find the defendant, JOSEPH ANTHONY LEE MOORE, not guilty of the offense of Capital Murder as charged in the indictment, and not guilty of the lesser offense of Murder, but find the defendant guilty of the lesser offense of Aggravated Robbery.

PRESIDING JUROR

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VERDICT

We, the jury, find the defendant, JOSEPH ANTHONY LEE MOORE, not guilty of the offense of Capital Murder as charged in the indictment, and not guilty of the lesser offense of Murder, and not guilty of the lesser offense of Aggravated Robbery.

PRESIDING JUROR