

NO. 2009-CR-7696

THE STATE OF TEXAS                   §           IN THE DISTRICT COURT  
VS.                                       §           379TH JUDICIAL DISTRICT  
JAMES MORRISON                       §           BEXAR COUNTY, TEXAS

CHARGE OF THE COURT

## MEMBERS OF THE JURY:

The defendant, James Morrison, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 18th Day of April, 2009, in Bexar County, Texas. The defendant has pleaded not guilty.

## I.

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

A person commits capital murder when such person murders more than one person during different criminal transactions but the murders are committed pursuant to the same scheme or course of conduct.

## II.

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

"Deadly weapon" means a firearm.

"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.

## III.

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.

## IV.

Upon the law of self defense, you are instructed that a person is justified in using force against another when and to the degree that he reasonably believes the force is immediately necessary to protect himself against the other person's use or attempted use of unlawful force.

A person is justified in using deadly force against another if he would be justified in using force against the other in the first place, as above set out, and when he reasonably believes that such deadly force is immediately necessary to protect himself against the other person's use or attempted use of unlawful deadly force.

By the term "reasonable belief" as used herein is meant a belief that would be held by an ordinary and prudent person in the same circumstances as defendant.

By the term "deadly force" as used herein is meant force that is intended or known by the person using it to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.

A person who has a right to use deadly force to defend himself against one alleged attacker also has a right to use deadly force to defend himself against a second or subsequent perceived attacker who is with the first attacker if he reasonably believes that he is in immediate danger of death or serious bodily injury at the hands of either the first attacker or the second or subsequent attacker.

When a person is attacked with unlawful deadly force, or he reasonably believes he is under attack or attempted attack with unlawful force by one or more persons, and there is created in the mind of such person a reasonable expectation or fear of death or serious bodily injury at the hands of one or more of the assailants, then the law excuses or justifies such person in resorting to deadly force by any means at his command to the degree that he reasonably believes immediately necessary, viewed from his standpoint at the time, to protect himself from such attack or attempted attack. It is not necessary that there be an actual attack or attempted attack, as a person has a right to defend his life and person from apparent danger as fully and to the same extent as he would had the danger been real, provided that he acted upon a reasonable apprehension of danger, as it appeared to him from his standpoint at the time, and that he reasonably believed such deadly force was immediately necessary to protect himself against the use or attempted use of unlawful deadly force by one or more of the assailants.

In determining the existence of real or apparent danger, you should consider all the facts and circumstances in the case in evidence before you, together with all relevant facts and circumstances, and the previous relationship existing between the Defendant and the alleged deceased party or parties, going to show the condition of the mind of the defendant at the time of the occurrence in question, and in considering such circumstances, you should place yourselves in defendant's

position at that time and view them from his standpoint alone.

However, if you find from the evidence beyond a reasonable doubt that at the time and place in question the defendant did not reasonably believe that he was in danger of death or serious bodily injury at the hands of both Laura Moten and Krystle Moten, and possibly also Candace Moten, or that James Morrison, under the circumstances as viewed by him from his standpoint at the time, did not reasonably believe that the degree of force actually used by him was immediately necessary to protect himself against Laura Moten's, and Krystle Moten's, and possibly also Candace Moten's use or attempted use of unlawful deadly force, then you may consider whether the issue of self defense applies as to either Laura Moten or Krystle Moten.

Now, if you find from the evidence beyond a reasonable doubt that on the occasion in question the defendant, James Morrison, did cause the death of Laura Moten and Krystle Moten by shooting Laura Moten and Krystle Moten with a firearm, but you further find from the evidence, as viewed from the standpoint of the defendant at the time, that from the words or conduct, or both, of Krystle Moten, it reasonably appeared to James Morrison that his life or person was in danger and there was created in his mind a reasonable expectation or fear of death or serious bodily injury from the use of unlawful deadly force at the hands of Krystle Moten, and that acting under such apprehension and reasonably believing that the use of deadly force on his part was immediately necessary to protect himself against Krystle Moten's use or attempted use of unlawful deadly

force, he shot Krystle Moten, then you should not find the defendant guilty of capital murder, as charged in the indictment, but you may consider whether the defendant is guilty of the lesser included offense of the murder of Laura Moten; or if you have a reasonable doubt as to whether or not the defendant was acting in self defense as to Krystle Moten on said occasion and under the circumstances, then you should give the defendant the benefit of that doubt and do not find the defendant guilty as to capital murder, but you may proceed to Paragraph VII, but do not consider Paragraphs VI, XII and XIII.

However, if you find from the evidence beyond a reasonable doubt that at the time and place in question the defendant did not reasonably believe that he was in danger of death or serious bodily injury at the hands of Krystle Moten, or that James Morrison, under the circumstances as viewed by him from his standpoint at the time, did not reasonably believe that the degree of force actually used by him was immediately necessary to protect himself against Krystle Moten's use or attempted use of unlawful deadly force, then you may consider whether the issue of self defense applies as to Laura Moten.

Now, if you find from the evidence beyond a reasonable doubt that on the occasion in question the defendant, James Morrison, did cause the death of Laura Moten and Krystle Moten by shooting Laura Moten and Krystle Moten with a firearm, but you further find from the evidence, as viewed from the standpoint of the defendant at the time, that from the words or

conduct, or both, of Laura Moten, it reasonably appeared to James Morrison that his life or person was in danger and there was created in his mind a reasonable expectation or fear of death or serious bodily injury from the use of unlawful deadly force at the hands of Laura Moten, and that acting under such apprehension and reasonably believing that the use of deadly force on his part was immediately necessary to protect himself against Laura Moten's use or attempted use of unlawful deadly force, he shot Laura Moten, then you should not find the defendant guilty of capital murder, as charged in the indictment, but you may consider whether the defendant is guilty of the lesser included offense of the murder of Krystle Moten; or if you have a reasonable doubt as to whether or not the defendant was acting in self defense as to Laura Moten on said occasion and under the circumstances, then you should give the defendant the benefit of that doubt and do not find the defendant guilty as to capital murder, but you may proceed to Paragraph XII, and do not consider Paragraphs VI, VII, or XI.

However, if you find from the evidence beyond a reasonable doubt that at the time and place in question the defendant did not reasonably believe that he was in danger of death or serious bodily injury at the hands of Laura Moten, or that James Morrison, under the circumstances as viewed by him from his standpoint at the time, did not reasonably believe that the degree of force actually used by him was immediately necessary to protect himself against Laura Moten's use or attempted use of



unlawful deadly force, then you will find against the defendant  
on the issue of self defense, and proceed on to Paragraph VI.

## V.

Now, if you find from the evidence beyond a reasonable doubt that on the occasion in question the defendant, James Morrison, did cause the death of Laura Moten and Krystle Moten by shooting Laura Moten and Krystle Moten with a firearm, as alleged in the indictment, but you further find from the evidence, as viewed from the standpoint of the defendant at the time, that from the words or conduct, or both, of Laura Moten and Krystle Moten and possibly also Candace Moten, it reasonably appeared to James Morrison that his life or person was in danger and there was created in his mind a reasonable expectation or fear of death or serious bodily injury from the use of unlawful deadly force at the hands of Laura Moten, and Krystle Moten, and possibly also Candace Moten and that acting under such apprehension and reasonably believing that the use of deadly force on his part was immediately necessary to protect himself against Laura Moten's, and Krystle Moten's, and possibly also Candace Moten's, use or attempted use of unlawful deadly force, he shot Laura Moten and Krystle Moten, then you should acquit the defendant on the grounds of self defense; or if you have a reasonable doubt as to whether or not the defendant was acting in self defense on said occasion and under the circumstances, then you should give the defendant the benefit of that doubt and say by your verdict "not guilty" and do not consider Paragraphs VI through XIII.

## VI.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 18th Day of April, 2009, in Bexar County, Texas, the defendant, James Morrison, did intentionally or knowingly cause the death of an individual, namely, Krystle Moten, by shooting Krystle Moten with a deadly weapon, namely, a firearm, and on the 18th Day of April, 2009, did intentionally or knowingly cause the death of another individual, namely: Laura Moten, by shooting Laura Moten with a deadly weapon, namely, a firearm, and both murders were committed pursuant to the same scheme or course of conduct, but during different criminal transactions, then you will find the defendant guilty of capital murder as charged in the indictment, and do not consider Paragraphs VII through XIII.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, or if you are unable to agree, you will next consider whether the defendant is guilty of the lesser included offense of murder.

## VII.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 18th Day of April, 2009, in Bexar County, Texas, the defendant, James Morrison, did intentionally or knowingly cause the death of an individual, namely, Laura Moten, by shooting Laura Moten with a deadly weapon, namely, a firearm, then you will find the defendant guilty of the offense of the murder of Laura Moten, and do not consider Paragraphs VIII through XIII.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, or if you are unable to agree, you will next consider Paragraph VIII, whether the defendant is guilty of the lesser included offense of aggravated assault of Laura Moten.

## VIII.

Our law provides that a person commits an assault if the person intentionally, knowingly, or recklessly causes bodily injury to another.

A person commits aggravated assault if the person commits an assault, as defined above, and uses or exhibits a deadly weapon during the commission of the assault.

## IX.

"Deadly weapon," as defined in Paragraph II, applies and has the same meaning here.

"Bodily injury" means physical pain, illness, or any 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.

X.

"Intentionally" and "knowingly," as defined in Paragraph III, apply and have the same meaning here.

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.

## XI.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 18th Day of April, 2009, in Bexar County, Texas, the defendant, James Morrison, did use or exhibit a deadly weapon, namely: a firearm, and James Morrison, did intentionally, knowingly, or recklessly cause bodily injury to Laura Moten with said deadly weapon, then you will find the defendant guilty of aggravated assault of Laura Moten, and do not consider Paragraphs XII and XIII.

If you do not so find from the evidence beyond a reasonable doubt or if you have a reasonable doubt thereof, or if you are unable to agree, you will next consider whether the defendant is guilty of the offense of the murder of Krystle Moten.

## XII.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 18th Day of April, 2009, in Bexar County, Texas, the defendant, James Morrison, did intentionally or knowingly cause the death of an individual, namely, Krystle Moten, by shooting Krystle Moten with a deadly weapon, namely, a firearm, then you will find the defendant guilty of the offense of the murder of Krystle Moten, and do not consider Paragraph XIII.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, or if you are unable to agree, you will next consider whether the defendant is guilty of the offense of aggravated assault of Krystle Moten.



## XIII.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 18th Day of April, 2009, in Bexar County, Texas, the defendant, James Morrison, did use or exhibit a deadly weapon, namely: a firearm, and James Morrison, did intentionally, knowingly, or recklessly cause bodily injury to Krystle Moten with said deadly weapon, then you will find the defendant guilty of the offense of aggravated assault of Krystle Moten.

If you do not so find from the evidence beyond a reasonable doubt or if you have a reasonable doubt thereof, you will find the defendant "not guilty."

You are instructed that if there is any testimony before you in this case regarding the defendant's having committed acts of misconduct other than the offense alleged against him in the indictment in this case, you cannot consider said testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such acts of misconduct, if any were committed, and even then you may only consider the same in determining the context of the alleged offense, if any, or to rebut a defensive theory and for no other purpose.

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In this case evidence has been introduced that the defendant has committed an act or acts of misconduct other than that for which he is now on trial. In this connection, you are charged that the court permitted this evidence to be introduced for the purpose of aiding you, if it does aid you, in determining the previous relationship existing between the defendant and the deceased, together with all relevant facts and circumstances to show the condition of the mind of the defendant at the time of the instant offense; and you are charged that you cannot consider evidence of such other act or acts of misconduct unless you first find and believe beyond a reasonable doubt that the defendant committed such other act or acts of misconduct, and even then you cannot consider such evidence for any purpose other than to aid you, if it does so, in determining the condition of the mind of the defendant at the time of the instant offense.

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

Written statements made by a witness or police reports made by officers and tendered by the attorneys to opposing counsel for purposes of cross-examination are not part of the evidence unless introduced in evidence. Many times statements and reports may be marked with an exhibit number but are neither offered nor received in evidence. Therefore, I can send only statements and reports received in evidence to the jury room.

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, 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.

You are instructed that you are not to let bias, prejudice, or sympathy play any part in reaching a verdict in this case.

The burden of proof in all criminal cases rests upon the State throughout the trial, and never shifts to 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 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.

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."

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given the testimony but the law of the case you must receive from the Court as contained in these instructions, and be governed thereby. You must disregard any comment or statement made by the Court during the trial or in these instructions which may seem to indicate an opinion with respect to any fact, item of evidence or verdict to be reached in this case. No such

indication was intended.

After argument of counsel, you will retire to the jury room, select your own Foreman and proceed with your deliberations. After you have reached a unanimous verdict the Foreman will certify thereto by filling in the appropriate forms attached to this charge and signing his or her name as Foreman. The forms are not intended to suggest to you what your verdict should be.

Your sole duty at this time is to determine whether the defendant is guilty under the indictment in this cause; and restrict your deliberations to the issue of whether the defendant is guilty or not guilty, and nothing else. If the Jury wishes to communicate with the Court, they shall notify the bailiff.

Any communication relative to the case must be written, prepared by the Foreman and shall be submitted to the Court through the bailiff.

Respectfully submitted,



JUDGE RON RANGEL  
379th Judicial District  
Bexar County, Texas

**FILED**  
O'CLOCK M

OCT 12 2012

DONNA KAY MCKINNEY  
District Clerk, Bexar County, Texas

BY \_\_\_\_\_ DEPUTY





NO. 2009-CR-7696

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
VS.	§	379TH JUDICIAL DISTRICT
JAMES MORRISON	§	BEXAR COUNTY, TEXAS

VERDICT FORM

We, the Jury, find the defendant, James Morrison, not guilty.

\_\_\_\_\_  
FOREMAN

OR

VERDICT FORM

We, the Jury, find the defendant, James Morrison, guilty of capital murder as charged in the indictment.

*Melvin D. Swin*  
\_\_\_\_\_  
FOREMAN

OR

VERDICT FORM

We, the Jury, find the defendant, James Morrison, guilty of of the murder of Laura Moten.

\_\_\_\_\_  
FOREMAN

OR

VERDICT FORM

We, the Jury, find the defendant, James Morrison, guilty of of aggravated assault of Laura Moten.

\_\_\_\_\_  
FOREMAN

OR

VERDICT FORM

We, the Jury, find the defendant, James Morrison, guilty of of the murder of Krystle Moten.

\_\_\_\_\_  
FOREMAN

OR

VERDICT FORM

We, the Jury, find the defendant, James Morrison, guilty of of aggravated assault of Krystle Moten.

\_\_\_\_\_  
FOREMAN