

FILED

CAUSE NO. F06-68002

THE STATE OF TEXAS

-vs.-

TRANDY GERMAINE CREW

§ IN THE CRIMINAL DISTRICT 3:34
 §
 § COURT NO. 2
 §
 § DALLAS COUNTY, TEXAS
 § DEPUTY

COURT'S CHARGE TO THE JURY

MEMBERS OF THE JURY:

The defendant, Trandy Germaine Crew, stands charged by indictment with the offense of capital murder alleged to have been committed in Dallas County, Texas, on or about July 8, 2006.

The defendant has pleaded not guilty to this charge.

OFFENSE DEFINITIONS

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 he intentionally causes the death of an individual in the course of committing or attempting to commit robbery, burglary, or retaliation.

A person commits **robbery** if, in the course of committing theft 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.

A person commits the offense of **burglary**, a felony, if, without the effective consent of the owner, the person intentionally or knowingly enters a building or habitation and commits or

attempts to commit a felony, theft, or an assault.

A person commits **retaliation**, a felony, if the person intentionally or knowingly harms or threatens to harm another by (1) an unlawful act in retaliation for or on account of the service or status of another as a (a) public servant, witness, prospective witness, or informant; or (b) person who has reported or who the actor knows intends to report the occurrence of a crime; or (2) to prevent or delay the service of another as a (a) public servant, witness, prospective witness, or informant; or (b) person who has reported or who the actor knows intends to report the occurrence of a crime.

TERM 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.

“**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. A firearm is a deadly weapon.

“**Public servant**” means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if he has not yet qualified for office or assumed his duties (a) an officer, employee, or agent of government; (b) a juror or grand juror; or (c) an arbitrator, referee, or other person who is authorized by law or private written agreement to hear or determine a

cause or controversy; or (d) an attorney at law or notary public when participating in the performance of a governmental function; or (e) a candidate for nomination or election to public office; or (f) a person who is performing a governmental function under a claim of right although he is not legally qualified to do so.

“Informant” means a person who has communicated information to the government in connection with any governmental function.

“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.

“Theft” means the unlawfully appropriation of personal property with the intent to deprive the owner of said property.

“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.

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

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

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

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

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

“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.

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

MENTAL STATE DEFINITIONS

With regard to the offense of **murder**, the following definitions apply:

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.

With regard to the offense of **capital murder**, a person acts **intentionally**, or with **intent**, with respect to the result of his conduct when it is his conscious objective or desire to cause the result.

CAPITAL MURDER CHARGE

(1) Now, considering all the law contained in the court’s charge, if you find and believe from the evidence beyond a reasonable doubt that on or about July 8, 2006, in Dallas County, Texas, the defendant, Trandy Germaine Crew, unlawfully then and there intentionally caused the death of Elizabeth Avery, an individual, hereinafter called deceased, by shooting deceased with a firearm, a deadly weapon, and the defendant was then and there in the course of committing or attempting to commit the offense of robbery of Nichols Early, or burglary of the habitation of said deceased, or

retaliation of said deceased, then you will find the defendant, Trandy Germaine Crew guilty of capital murder as charged in the indictment.

If you do not so believe, or if you have a reasonable doubt thereof, you will acquit the defendant of capital murder and proceed to consider whether the defendant is guilty of the lesser included offense of murder.

MURDER CHARGE

Now, considering all the law contained in the court's charge, if you find and believe from the evidence beyond a reasonable doubt that on or about July 8, 2006, in Dallas County, Texas, the defendant, Trandy Germaine Crew, unlawfully then and there intentionally or knowingly caused the death of Elizabeth Avery, an individual, hereinafter called deceased, by shooting the deceased with a firearm, a deadly weapon, you shall find the defendant guilty of murder as charged in the indictment.

If you do not so believe, or if you have a reasonable doubt thereof, you will acquit the defendant of murder by finding him not guilty.

CONCLUDING INSTRUCTIONS

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.

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

defendant.

If you find that there is evidence in this case regarding the defendant having committed offenses and acts other than the offense for which he is on trial, you cannot consider such evidence, if any, for any purpose unless you first find and believe that the state has proved such offenses or acts, if any, beyond a reasonable doubt.

All persons are presumed 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 does not give rise to the inference of guilt at this 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 element as charged beyond a reasonable doubt, and if it fails to do so, you must acquit the defendant. However, it is not required that the prosecution prove guilt beyond all possible doubt; it is only required that the prosecution's proof exclude all reasonable doubt concerning the defendant's guilt.

You are instructed that any statements of counsel made during the course of the trial or during argument, not supported by the evidence, or statements of law made by counsel not in harmony with the law as stated to you by the court in these instructions are to be wholly disregarded.

During your deliberation 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 may have about any fact or person connected with this case which is not shown by the evidence, nor shall you in deciding your verdict discuss the punishment which may be assessed in the event that the defendant is found guilty.

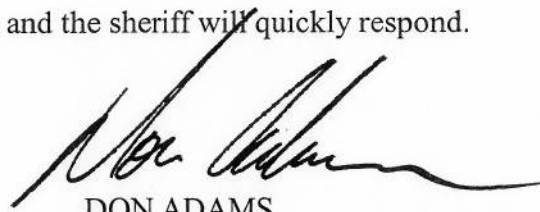
Your verdict must be unanimous and shall be arrived at by due deliberation and not by majority vote or by any method of chance.

You are the exclusive judges of the facts proved, the credibility of the witnesses, and the weight to be given to the testimony. However, you must receive and follow the law provided to you by the court.

After argument of counsel, you will retire to consider your verdict in this case. You should begin by selecting one of your members as presiding juror. It is the duty of the presiding juror to preside at your deliberations, to vote equally as any other juror in arriving at a verdict, and to sign the verdict on behalf of the jury.

Any communications with the court must be in writing, signed by the presiding juror through the bailiff who has you in their charge. No one has any authority to communicate with you except the bailiff who has you in his or her charge. Do not attempt to talk to the bailiff, 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, turn on the red light and the sheriff will quickly respond.



DON ADAMS
State District Judge

VERDICT FORM

We, the jury, find the defendant, Trandy Germaine Crew, GUILTY of capital murder, as charged in the indictment.

PRESIDING JUROR (*Signature*)

Becky Flockery

(*Printed name*)

BECKY FLOCKERY

OR

We, the jury, find the defendant, Trandy Germaine Crew, GUILTY of murder, as included in the indictment.

PRESIDING JUROR (*Signature*)

(*Printed name*)

OR

We, the jury, find the defendant, Trandy Germaine Crew, NOT GUILTY.

PRESIDING JUROR (*Signature*)

(*Printed name*)