

194TH JUDICIAL DISTRICT COURT
DALLAS COUNTY, TEXAS

FILED

2008 AUG 18 AM 10:53

THE STATE OF TEXAS
VS
RONDEL ALLEN

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CAUSE NO. F06-66793-M

GARY S. SUTTONS
DISTRICT CLERK
DALLAS COUNTY, TEXAS
DEPUTY

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, RONDEL ALLEN, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 6th day of June, A.D., 2006, in Dallas County, Texas.

To this charge, the Defendant has pled not guilty.

Our law provides that a person commits murder if he intentionally or knowingly causes the death of an individual; or intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual.

A person commits capital murder when such person intentionally causes the death of an individual while in the course of committing the offense of robbery.

A person acts intentionally, or with intent, with the respect to the nature of his conduct or 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 the nature of his conduct when he is aware of the nature of his conduct. 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, 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.

The term "individual" means a human being who has been born and is alive.

"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.

"Deadly weapon" as used herein means anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

A "firearm" is a deadly weapon.

"Exhibited a deadly weapon" means that the weapon was consciously shown or displayed during the commission of the offense, if any.

"Used" means any employment of a deadly weapon, including its simple possession, if such possession facilitates the associated felony offense, if any.

A person commits the offense of robbery if, in the course of committing theft and with intent to obtain or maintain control of the property he intentionally, knowingly, or recklessly causes bodily injury to another.

A person commits the offense of theft if the person unlawfully appropriates property with intent to deprive the owner of property.

"Appropriate" means to acquire or otherwise exercise control over property other than real property.

Appropriation of property is unlawful if the person obtains or exercises control over the property without the owner's effective consent.

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

"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.

"Consent" means assent in fact, whether express or apparent.

"Effective consent" includes consent by a person legally authorized to act for the owner. Consent is not effective if induced by force, threat, fraud, deception or coercion, or given by a person the actor knows is not legally authorized to act for the owner.

"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 defendant.

"While 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.

In all criminal cases, the burden of proof is on the State. 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 a 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 the defendant and say by your verdict "not guilty."

You are instructed that witnesses may be impeached by showing that they have made other and different statements out of court from those made before you in the trial. You may consider such impeaching evidence, if any, as it may tend to affect the weight to be given the testimony of the witnesses so impeached, if it does do so, and their credibility; but such impeaching evidence, if any, is not to be considered by you as tending to establish the alleged guilt of the defendant, or any fact in the case.

You are instructed that certain evidence was admitted in evidence before you in regard to the defendant having committed the offense of using marijuana.

You cannot consider said testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed the offense of using marijuana, if such offense was committed, and even then you may only consider the same in determining the intent of the defendant, if any, in connection with the offense, if any, alleged against the defendant in the indictment in this case.

All persons are parties to an offense who are guilty of acting together in the commission of an 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 by 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 encourages, aids, or attempts to aid the other person to commit the offense. Mere presence alone will not make a person a party to an offense.

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.

By the term "conspiracy," as used in these instructions, is meant 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.

You are instructed that an "accomplice," as the term is hereinafter used, means any person connected with the crime charged, as a party thereto, and includes all persons who are connected with the crime, as such parties, by unlawful act or omission on their part transpiring either before or during the time of 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 by both. Mere presence alone, however, will not constitute one a party to an offense.

The witness, ROYAL WAYNE COLA, and the witness, NATHANIEL ALLEN, are accomplices, if any offense was committed, and you cannot convict the Defendant upon said testimony unless you first believe that said testimony is true and shows that the Defendant is guilty as charged, and then you cannot convict the Defendant upon said testimony unless you further believe that there is other testimony in the case, outside of the evidence of the said ROYAL WAYNE COLA and NATHANIEL ALLEN tending to connect the Defendant with the offense

committed, if you find that an offense was committed, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must 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.

Our law provides that 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 the Defendant.

Now, if you find from the evidence beyond a reasonable doubt that the defendant, RONDEL ALLEN, on or about the 6th day of June, A.D., 2006, in the County of Dallas and State of Texas, did unlawfully then and there intentionally cause the death of an individual, PATRICK GRAHAM, by shooting PATRICK GRAHAM 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 said PATRICK GRAHAM,

OR

If you find from the evidence beyond a reasonable doubt that on or about the 6th day of June, A.D., 2006, in Dallas County, Texas, the Defendant, RONDEL ALLEN, acting as a party with the intent to promote or assist NATHANIEL ALLEN or ROYAL COLA in the commission of the offense, if any, the defendant solicited, encouraged, directed, aided, or attempted to aid NATHANIEL ALLEN or ROYAL COLA to then and there intentionally cause the death of an individual, PATRICK GRAHAM, by shooting PATRICK GRAHAM 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 said PATRICK GRAHAM,

OR

If you find from the evidence beyond a reasonable doubt that on or about the 6th day of June, A.D., 2006, in Dallas County, Texas, the Defendant, RONDEL ALLEN, entered into a conspiracy with ROYAL COLA and NATHANIEL ALLEN to commit the felony offense of robbery of PATRICK GRAHAM, and that in the attempt to carry out this conspiracy, if any, ROYAL COLA or NATHANIEL ALLEN did intentionally cause the death of PATRICK GRAHAM by shooting PATRICK GRAHAM with a firearm, a deadly weapon, and if you further find that intentionally causing the death of PATRICK GRAHAM was committed in furtherance of the unlawful purpose to commit the robbery of PATRICK GRAHAM,

and that intentionally causing the death of PATRICK GRAHAM was an offense that should have been anticipated as a result of carrying out the conspiracy to commit robbery, whether or not the defendant had the intent to cause the death of PATRICK GRAHAM, then you will find the Defendant, RONDEL ALLEN, guilty of capital murder as charged in the indictment, and you will make no finding in your verdict as to punishment.

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 the defendant and say by your verdict "not guilty."

You are instructed that you may consider all relevant facts and circumstances surrounding the killing, if any, and the previous relationship existing between the accused and the deceased, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the offense, if any.

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

You are the exclusive judges of the facts proved, of the credibility of the witnesses and the weight to be given their testimony, but the law you shall receive in these written instructions, and you must be governed thereby.

After you retire to the jury room, you should select one of your members as your Presiding Juror. It is his or her duty to preside at your deliberations, vote with you, and when you have unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form attached hereto and signing the same as Presiding Juror.

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.

No one has any authority to communicate with you except the officer who has you in charge. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the Court, or anyone else concerning any questions you may have.

Your sole duty at this time is to determine the guilt or innocence of the defendant under the indictment in this cause and restrict your deliberations solely to the issue of guilt or innocence of the defendant.

Following the arguments of counsel, you will retire to consider your verdict.

A handwritten signature in black ink, appearing to read "Ernest B. White, III", written over a horizontal line.

ERNEST B. WHITE, III, Judge Presiding

VERDICT FORMS

We, the Jury, find beyond a reasonable doubt that the Defendant,
RONDEL ALLEN, is guilty of the offense of capital murder as
charged in the indictment.



PRESIDING JUROR

Steven C Hollis

(PRINTED NAME)

OR

We, the Jury, find the Defendant, RONDEL ALLEN, not guilty.

PRESIDING JUROR

(PRINTED NAME)