

CAUSE NO. 44650

THE STATE OF TEXAS

IN THE DISTRICT COURT OF

V.

FORT BEND COUNTY, TEXAS

TAMINA HAMID

434TH JUDICIAL DISTRICT

CHARGE OF THE COURT

Ladies and Gentlemen of the Jury:

The defendant, Tamina Hamid, stands charged by indictment with the offense of Attempted Capital Murder of a Peace Officer, Michael Waller, alleged to have been committed in Fort Bend County, Texas, on or about June 2, 2006. To this charge the defendant has pleaded not guilty.

I.

Our law provides that a person commits capital murder of a peace officer if they murder a peace officer who is acting in the lawful discharge of an official duty and who the person knows is a peace officer. ~~a peace officer is a peace officer.~~

he or she

A person commits murder if ~~they~~ intentionally or knowingly cause the death of an individual.

II.

A person commits an offense if, with specific intent to commit an offense, they do an act amounting to more than mere preparation that tends, but fails, to effect the commission of the offense intended. This is an attempt to commit an offense.

A person commits the offense of Deadly Conduct if they knowingly discharge a firearm at or in the direction of one or more individuals, a habitation, a building, or a vehicle, and was reckless as to whether the habitation, building, or vehicle was occupied.

III.

A person acts intentionally, or with intent, with respect to the result of their conduct when it is their conscious objective or desire to cause the result.

A person acts knowingly, or with knowledge, with respect to the result of their conduct when they are aware that their conduct is reasonably certain to cause the result.

A person acts recklessly, or is reckless with respect to the result of her conduct when she is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or 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. Recklessness and danger are presumed if the actor knowingly pointed a firearm at or in the direction of another whether or not the actor believed the firearm to be loaded.

IV.

Voluntary intoxication does not constitute a defense to the commission of crime.

V.

In order to find the defendant guilty of attempted capital murder of a peace officer, you must find from the evidence beyond a reasonable doubt that

- (1) the defendant intentionally attempted to cause the death of Michael Waller by intentionally or knowingly shooting at him with a gun, and
- (2) that at the time of the shooting, if there was such, Michael Waller was then and there a peace officer, and
- (3) that Michael Waller, at the time and place in question, was acting in the lawful

- discharge of an official duty as such peace officer, and
- (4) that the defendant then and there knew at the very time of the shooting, if any, that Michael Waller was a peace officer.

If you should have a reasonable doubt as to the existence of any of the foregoing elements, then you cannot convict the defendant of attempted capital murder

VI.

A person is criminally responsible as a party to an offense if the offense is committed by their own conduct, by the conduct of another for which they are criminally responsible, or by both.

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

A person is criminally responsible for the offense committed by the conduct of another if, acting with intent to promote or assist the commission of the offense, they solicit, encourage, direct, aid, or attempt to aid the other person to commit the offense.

Mere presence alone will not constitute one a party to the offense.

VII.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt, that on or about the June 2, 2006, in Fort Bend County, Texas, the defendant, Tamina Hamid, acting alone or as a party (as herein defined), did then and there intentionally, with the specific intent to commit the offense of Capital Murder of Michael Waller, a peace officer in the lawful discharge of an official duty, by doing an act, to wit: by shooting at the said Michael Waller with a firearm, knowing at the time that the said Michael Waller was a peace officer, which amounted to more than mere preparation that tended to but failed to effect the commission of the offense intended, then you will find the defendant "Guilty" as ^{alleged} charged in the

of the offense of a peace officer Michael Waller, of Attempted Capital Murder

indictment.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant "Not Guilty" of the offense of Attempted Capital Murder of Mike Waller, a Peace Officer, and go on to consider whether the defendant is guilty of the lesser included offense of Deadly Conduct.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt, that on or about the June 2, 2006, in Fort Bend County, Texas, the defendant, Tamina Hamid, acting alone or as a party (as herein defined), did then and there knowingly discharge a firearm at or in the direction of one or more individuals, a habitation, a building, or a vehicle, and was reckless as to whether the habitation, building, or vehicle was occupied, then you will find the defendant, Tamina Hamid, guilty of the lesser included offense of Deadly Conduct.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant "Not Guilty".

VIII.

You are instructed that if there is testimony before you in this case regarding the Defendant having committed other acts other than the offense alleged against her in the indictment in this case, you cannot consider such other acts, if any, unless you first find and believe beyond a reasonable doubt that the Defendant committed such acts, if any were committed, and even then you may only consider the same in determining the intent, identity, system, design or scheme of the defendant, if any, in connection with the offense, if any, alleged against her in the indictment in this case, and for no other purpose.

You are instructed that certain evidence was admitted in evidence before you in regard to the

defendant having been charged and convicted of offenses other than the one for which she is now on trial. Such evidence cannot be considered by you against the defendant as any evidence of guilt in this case. Said evidence was admitted before you for the purpose of aiding you, if it does aid you, in passing upon the weight you will give the defendant's testimony, and you will not consider the same for any other purpose.

IX.

Our law provides that a defendant may testify in his or her own behalf if he or she elects to do so. This, however, is a privilege accorded a defendant, and in the event he or she elects not to testify, that fact cannot be taken as a circumstance against them. 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.

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. 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 her trial. The law does not require a defendant to prove her 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.

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.

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. You cannot legally and must not consider nor discuss any fact or circumstance not thus in evidence or reasonably deducible from the evidence. Nor may a juror relate to any of the others any fact or circumstance of which he may have or claim to have knowledge or information, that was not introduced in evidence. Neither may any of the jurors lawfully discuss anything else, so far as the evidence is concerned, other than the evidence introduced by the parties and admitted by the Court.

You will not talk about this case with anyone not of your jury, and even among yourselves, only when you are all together in the jury room prior to being discharged by the court.

Your deliberations at this time are limited solely to the issue of guilt or innocence of the Defendant of the offense charged and you are not authorized to pass upon punishment, if any, to be imposed.

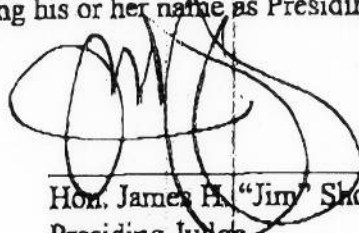
Do not let bias, prejudice, or sympathy play any part in your deliberations

X.

After argument of counsel, you will retire to the jury room and you should select one of your members as your presiding juror. It is his or her duty to preside at your deliberations and to vote with you in arriving at your verdict. Your verdict must be unanimous.

After you have retired, you may communicate with this court in writing through the officer who has you in charge. Any communication relative to the cause must be written and prepared by the presiding juror and shall be submitted to the court through this officer. Do not attempt to talk to the officer who has you in charge, the attorneys, or the court, or anyone else concerning any questions you may have.

After you have reached a unanimous verdict, the presiding juror will certify thereto by filling in the appropriate form attached to this charge and signing his or her name as Presiding Juror



Hon. James H. "Jim" Shoemaker
Presiding Judge
434th District Court

FILED

JUL 24 2008
AT 6:36 PM
[Signature]
Clerk District Court, Fort Bend Co., TX

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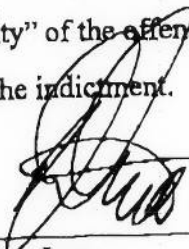
FORT BEND COUNTY, TEXAS

TAMINA HAMID

434TH JUDICIAL DISTRICT

VERDICT - GUILTY- ATTEMPTED CAPITAL MURDER

We, the Jury, find the defendant, Tamina Hamid, "Guilty" of the offense of Attempted Capital Murder of a Peace Officer, Michael Waller, as alleged in the indictment.



Presiding Juror

VERDICT - GUILTY- DEADLY CONDUCT

We, the Jury, find the defendant, Tamina Hamid, "Guilty" of the lesser included offense of Deadly Conduct.

Presiding Juror

VERDICT - NOT GUILTY

We, the Jury, find the defendant, Tamina Hamid, "Not Guilty" of the offense of Attempted Capital Murder of a Peace Officer, Michael Waller, as alleged in the indictment.

Presiding Juror