

CR25152

THE STATE OF TEXAS
VS.
CURTIS ROBINSON, JR.

IN THE DISTRICT COURT OF
LIBERTY COUNTY, TEXAS
253RD JUDICIAL DISTRICT

LADIES AND GENTLEMEN OF THE JURY:

The defendant, CURTIS ROBINSON, JR., stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 9th day of September, 2004, in Liberty County, Texas. To this charge the defendant has pled not guilty.

Our law requires that I submit the following Charge to you in this case. This Charge contains all of the law necessary to enable you to reach a verdict. If any evidence was presented to raise an issue, the law on that issue must be and is provided.

You will note that the Indictment charges that the offense was committed "on or about" a certain date. The proof need not establish with certainty the exact date of the alleged offense. It is sufficient if the evidence in the case establishes beyond a reasonable doubt that the offense was committed before November 3, 2004.

You will also note that the indictment alleges that the offense was committed in a certain county. It is sufficient if the evidence in the case establishes beyond a reasonable doubt that the alleged county is where the injury occurred which caused the death, or where the death occurred or where the dead body was found.

A person commits the offense of murder if the person intentionally or knowingly causes the death of an individual.

A person commits the offense of capital murder if the person intentionally commits the murder in the course of committing or attempting to commit robbery.

"Individual" means a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.

"In the course of committing" means conduct occurring in an attempt to commit, during the commission, or in the immediate flight after the attempt or commission of the offense.

A person commits a criminal attempt if, with specific intent to commit an offense, he does an act amounting to more than mere preparation that tends but fails to effect the commission of the offense intended.

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, the person 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.

"In the course of committing theft" means conduct that occurs in an attempt to commit, during the commission, or in immediate flight after the commission of theft.

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

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

Appropriation of property is unlawful if it is without the owner's effective consent.

"Effective consent" includes consent by a person legally authorized to act for the owner. Consent is not effective if induced by coercion.

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

"Coercion" means a threat, however communicated to commit an offense.

"Bodily injury" means physical pain, illness, or any impairment of physical condition.

"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.

"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 the property.

With regard to the offense of capital murder, 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 intentionally, or with intent, with 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 or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. 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 respect to the offense of robbery, a person acts recklessly with respect to a 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.

If you find from the evidence beyond a reasonable doubt that on or about the 9th day of September, 2004, in Liberty County, Texas, the defendant, CURTIS ROBINSON, JR., did then and there intentionally cause the death of an individual, namely, DANIEL TEBO, by cutting the neck of DANIEL TEBO, and CURTIS ROBINSON, JR. was then and there in the course of committing the offense of robbery of DANIEL TEBO, then you will find the defendant guilty of Capital Murder as charged in the indictment.

If you do not so find, or if you have a reasonable doubt thereof, you will find the Defendant not guilty of Capital Murder and consider the lesser included offense of Murder.

If you find from the evidence beyond a reasonable doubt that on or about the 9th day of September, 2004, in Liberty County, Texas, the defendant, CURTIS ROBINSON, JR., did then and there intentionally or knowingly cause the death of an individual, namely, DANIEL TEBO, by cutting the neck of DANIEL TEBO, then you will find the defendant guilty of the lesser included felony offense of Murder.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt as to whether the defendant is guilty of the lesser included felony offense of Murder, then you will find him not guilty.

If you find from the evidence beyond a reasonable doubt that defendant is either guilty of capital murder or guilty of murder, under the instructions herein given you, but you have a reasonable doubt as to which of said offenses he is guilty, then you should resolve that doubt in defendant's favor and find him guilty of only the lesser included offense of murder.

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.

You are further instructed that if there is any evidence before you in this case regarding the defendant's committing an alleged offense or offenses other than the offense alleged against him in the indictment in this case, you cannot consider such evidence for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offense or offenses, if any, and even then you may only consider the same in showing the defendant's determining the motive, opportunity, intent, preparation, plan, knowledge, and/or identity, in connection with the offense, if any, alleged against him in the indictment and for no other purpose.

The Indictment is simply the description of the charge made by the State against the defendant and is the means by which a defendant is brought to trial in a felony prosecution. It is not evidence of his guilt nor can it be considered by you in passing on the 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 he has been arrested, confined, or indicted for, or otherwise charged with the offense gives rise to no inference of guilt at his trial. If you have a reasonable doubt as to the defendant's guilt after considering all the evidence before you, and these instructions, you will find the defendant "not guilty."

While you should consider only the evidence in the case, you are permitted to draw such reasonable inferences from the testimony and exhibits as you feel are justified in the light of common experience. You may make deductions and reach conclusions which reason and common sense lead you to draw from the facts which have been established by the testimony and evidence in the case.

You may also consider either direct or circumstantial evidence. "Direct evidence" is the testimony of one who asserts actual knowledge of a fact, such as an eyewitness. "Circumstantial evidence" is proof of a chain of facts and circumstances indicating either the guilt or innocence of the defendant. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It requires only that you weigh all of the evidence and be convinced of the defendant's guilt beyond a reasonable doubt before he can be convicted.

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 Foreperson. 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 dating and signing the same as Foreperson.

No one has any authority to communicate with you except the officer who has you in charge. 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.

After you have retired, you may communicate with this court in writing through 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 question you may have. After you have reached a unanimous verdict, the Foreperson will certify thereto by filling in the appropriate form attached to this charge and dating and signing his or her name as Foreperson. You may retire to consider your verdict after the argument of counsel.

SIGNED this 17th day of November, 2008.


JUDGE PRESIDING

FILED

at 3:15 O'clock p M.

NOV 17 2008

MELODY GILMORE
Clerk, District Court, Liberty County, Tex
By: Rebecca Rogard Deputy

7

CERTIFIED
COPY

STATE OF TEXAS
COUNTY OF LIBERTY
I, Melody Gilmore, District Clerk of Liberty County, Texas, do hereby certify that the foregoing is a true and correct copy of the original record, now in my lawful custody and possession, filed on 11-17-2008 as appears of record in my office.

Witness my official hand and seal of office, this

01-13-2009

MELODY GILMORE DISTRICT CLERK
Liberty County, Texas
By: Kristi Jennings Deputy

YOU WILL FIND ONE AND ONLY ONE OF THE FOLLOWING VERDICTS:

NO. CR25152

THE STATE OF TEXAS

IN THE DISTRICT COURT OF

VS.

LIBERTY COUNTY, TEXAS

CURTIS ROBINSON, JR.

253RD JUDICIAL DISTRICT

WE, THE JURY, find the defendant CURTIS ROBINSON, JR., guilty of the offense of Capital Murder as alleged in the indictment.

Date: Nov. 17, 2008

Tommy Lipscomb
FOREPERSON OF THE JURY

FILED
at 4:55 o'clock P M

NOV 17 2008

MELODY GILMORE
Clerk, District Court, Liberty, TX
Melody Gilmore

STATE OF TEXAS
COUNTY OF LIBERTY
I, Melody Gilmore, District Clerk of Liberty County, Texas, do hereby certify that the foregoing is a true and correct copy of the original record now in my lawful custody and possession, filed on 11-17-2008, as appears of record in my office.

Witness my official hand and seal of office, this

01-13-2009

MELODY GILMORE DISTRICT CLERK
Liberty County, Texas
By *Kusti Jennings* Deputy

9
CERTIFIED
COPY

NO. CR25152

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IN THE DISTRICT COURT OF

VS.

LIBERTY COUNTY, TEXAS

CURTIS ROBINSON, JR.

253RD JUDICIAL DISTRICT

WE, THE JURY, find the defendant CURTIS ROBINSON, JR., guilty of the lesser included felony offense of Murder.

Date: _____

FOREPERSON OF THE JURY

10

CERTIFIED

COPY

NO. CR25152

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VS.

CURTIS ROBINSON, JR.

IN THE DISTRICT COURT OF

LIBERTY COUNTY, TEXAS

253RD JUDICIAL DISTRICT

WE, THE JURY, find the defendant, CURTIS ROBINSON, JR., not guilty.

Date: _____

FOREPERSON OF THE JURY

11

CERTIFIED

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