

CAUSE NO. CR-05-333  
CR-05-334  
CR-05-335  
CR-05-336  
CR-05-337

RECEIVED  
SEP 25 2009  
AQUINO TELLEZ  
COURT ADMINISTRATION

THE STATE OF TEXAS                   §       IN THE DISTRICT COURT OF  
VS.                                           §       RUSK COUNTY, TEXAS  
DARNELL HARTSFIELD                   §       4<sup>TH</sup> JUDICIAL DISTRICT

**COURT'S CHARGE**

LADIES AND GENTLEMEN OF THE JURY:

The defendant, Darnell Hartsfield, stands charged by indictment with the offenses of capital murder, alleged to have been committed in Rusk County, Texas, on or about the 23<sup>rd</sup> day of September, 1983. The defendant has pleaded not guilty.

I.

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

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

II.

A person commits a robbery if, in the course of committing theft, as defined hereinafter, and with intent to obtain or maintain control of the property, he (a) intentionally, knowingly, or recklessly causes bodily injury to another; or (b) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

The offense is aggravated robbery if the person committing robbery (a) causes bodily injury

to another; or (b) uses or exhibits a deadly weapon.

### III.

“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.

“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.

“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 causing death or serious bodily injury, or anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

### IV.

“Theft” as used herein is the unlawful appropriation of the corporeal personal property of another, with the intent to deprive such other person of said property.

“Appropriation” and “appropriate,” as those terms are used herein, means 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.

“Property” as used herein means tangible or intangible personal property or documents,

including money, that represents or embodies anything of value.

“Deprive” means to withhold property from the owner permanently.

“Effective consent” means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner. Consent is not effective if induced by deception or coercion.

“Owner” means a person who has title to the property, possession of the property, or a greater right to possession of the property than the person charged. “Possession” means actual care, custody, control or management of the property.

#### V.

A person commits the offense of kidnapping if he intentionally or knowingly abducts another person.

The term “abduct” means to restrain a person with intent to prevent his liberation by (A) secreting or holding him in a place where he is not likely to be found or (B) using or threatening to use deadly force.

The term “restrain” means to restrict a person’s movements without consent, so as to interfere substantially with his liberty, by moving him from one place to another or by confining him.

Restraint is “without consent” if it is accomplished by force, intimidation, or deception.

#### VI.

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.

## VII.

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 solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense. Mere presence alone will not constitute one a party to an offense.

## VIII.

If, in an 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. Capital murder, murder, aggravated robbery, robbery, attempted robbery, kidnapping, and attempted kidnapping are all felonies.

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 the acts of the parties.

## IX.

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, if

any, 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.

X.

You are instructed that if there is any testimony before you in this case regarding the Defendant's having committed offenses 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 other offenses, and even then you may only consider the same in determining the identity of the defendant in connection with the offense alleged against him in the indictment in this case, and for no other purpose.

XI.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 23<sup>rd</sup> day of September, 1983, in Rusk County, Texas, the defendant, Darnell Hartsfield, did then and there, acting alone or as a party as that term has been previously defined, intentionally cause the deaths of the following individuals, namely Opie Hughes, David Maxwell, Mary Tyler, Montgomery Landers, and/or Joseph Johnson by shooting them with a firearm, and the said defendant was then and there either in the course of committing or attempting to commit the offense of robbery of Opie Hughes, David Maxwell, Mary Tyler, Montgomery Landers, and/or Joseph Johnson, as the term robbery has been defined herein, or in the course of committing or attempting to commit the offense of kidnapping of Opie Hughes, David Maxwell, Mary Tyler, Montgomery Landers, and/or Joseph Johnson, as the term kidnapping has been defined herein, then you will find the defendant guilty of capital murder.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you

will acquit the defendant of capital murder and then consider whether or not the Defendant is guilty of the lesser included offense of aggravated robbery.

XII.

If you find from the evidence beyond a reasonable doubt that at the time and place, and on the occasion herein before mentioned, the defendant, Darnell Hartsfield, did then and there, acting alone or as a party as that term has been previously defined, while in the course of committing theft of property and with intent to obtain or maintain control of said property, intentionally or knowingly threaten or place Opie Hughes, David Maxwell, Mary Tyler, Montgomery Landers, and/or Joseph Johnson in fear of imminent bodily injury or death, and the defendant did then and there use or exhibit a deadly weapon, to-wit: a firearm, but you have a reasonable doubt as to whether the defendant did then and there cause the death of the said Opie Hughes, David Maxwell, Mary Tyler, Montgomery Landers, and/or Joseph Johnson, either alone or as a party as that term has been previously defined, then you will find the defendant guilty of aggravated robbery, but not capital murder.

XIII.

If you should find from the evidence beyond a reasonable doubt that the defendant, Darnell Hartsfield, is either guilty of capital murder or aggravated robbery, but you have a reasonable doubt as to which offense he is guilty, then you should resolve that doubt in the defendant's favor, and in such event, you will find the defendant guilty of the lesser offense of aggravated robbery.

If you find from the evidence that defendant is guilty of neither capital murder nor aggravated robbery, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not Guilty."

#### XIV.

A defendant in a criminal case is not bound by law to testify in his own behalf, but the failure of any defendant to so testify shall not be taken as a circumstance against him nor shall the same be alluded to nor commented upon by the jury, and you must not refer to, mention, comment upon or discuss the failure of the defendant to testify in this case, and any juror doing so may be guilty of contempt of court. If any juror starts to mention the defendant's failure to testify in this case, then it is the duty of the other jurors to stop him at once.

#### XV.

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 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.

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. 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."

#### XVI.

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 must be governed by you shall receive in these written instructions.

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.

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 before you. In determining the guilt or innocence of the defendant, you shall not discuss or consider the punishment, if any, which may be assessed against the defendant in the event he is found guilty beyond a reasonable doubt.

It is your duty, as jurors, to consult with one another and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide

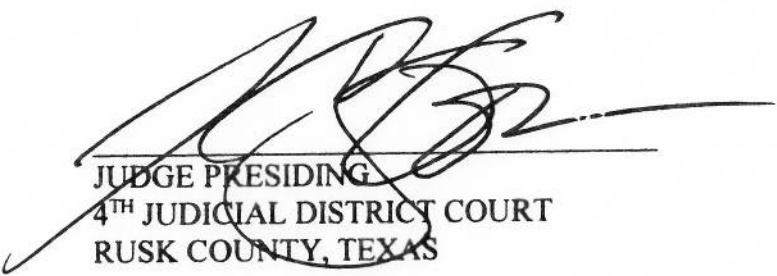


the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to reexamine your own views and change your opinions if convinced they are erroneous. But do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

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 Presiding Juror will certify thereto by filling in the appropriate form attached to this Charge and signing his or her name as Presiding Juror.

SIGNED this 30<sup>th</sup> day of September, 2008.

FILED  
In the District Court of  
Rusk County, Texas  
on this the 30 day of Sept 2008  
at 10:48 o'clock A M.  
JEAN HODGES, CLERK  
By J. Vinsal Deputy

  
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JUDGE PRESIDING  
4<sup>TH</sup> JUDICIAL DISTRICT COURT  
RUSK COUNTY, TEXAS

CAUSE NO. CR-05-334

THE STATE OF TEXAS

§ IN THE DISTRICT COURT OF

VS.

§ RUSK COUNTY, TEXAS

DARNELL HARTSFIELD

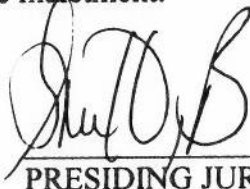
§ 4<sup>TH</sup> JUDICIAL DISTRICT

VERDICT OF THE JURY

(use only one)

WE, THE JURY, find the defendant, Darnell Hartsfield "guilty" of the offense of Capital Murder of David Maxwell as charged in the Indictment.

FILED  
In the District Court of  
Rusk County, Texas  
on this the 30 day of Sept 2008  
at 5:11 o'clock P. M.  
JEAN HODGES, CLERK  
By J. Kinson Deputy



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PRESIDING JUROR

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WE, THE JURY, find the defendant, Darnell Hartsfield "guilty" of the lesser included offense of Aggravated Robbery of David Maxwell.

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PRESIDING JUROR

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WE, THE JURY, find the defendant, Darnell Hartsfield, "not guilty."

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PRESIDING JUROR