

NO. 1283854R

THE STATE OF TEXAS § IN THE 372ND JUDICIAL
VS. § DISTRICT COURT OF
JAMES WESLEY BROOKS JACKSON § TARRANT COUNTY, TEXAS

COURT'S CHARGE

MEMBERS OF THE JURY:

The Defendant, James Wesley Brooks Jackson, stands charged by indictment with the offense of capital murder, alleged to have been committed in Tarrant County, Texas, on or about the 2nd day of December 2011. To this charge the Defendant has pleaded not guilty.

A person commits the offense of capital murder if he intentionally causes the death of an individual, and the person intentionally commits the murder in the course of committing or attempting to commit:

- (1) aggravated sexual assault; OR
- (2) burglary.

Our law provides that a person commits the offense of murder if he:

- (1) intentionally or knowingly causes the death of an individual; OR
- (2) intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual; OR
- (3) commits or attempts to commit a felony, and in the course of or in furtherance of the commission or attempt, or immediate flight from the commission or attempt, he commits an act clearly dangerous to human life that causes the death of an individual.

A person commits the offense of sexual assault if the person intentionally or knowingly causes the penetration of the anus or sexual organ of another person by any means, without that person's consent. A sexual assault is without the consent of the other person if the actor compels the other person to submit or participate by the use of physical force or violence. Sexual assault is a felony.

FILED
THOMAS A WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

MAR - 1 2013

TIME BY TRC J-ALP DEPUTY

A person commits the offense of aggravated sexual assault if the person commits the offense of sexual assault, as defined above, and causes serious bodily injury or attempts to cause the death of the victim in the course of the same criminal episode. Aggravated sexual assault is a felony.

A person commits the offense of burglary if, without the effective consent of the owner, the person enters a building and commits or attempts to commit a felony, theft, or an assault. Burglary is a felony.

A person commits theft if he unlawfully appropriates property with intent to deprive the owner of property. Appropriation of property is unlawful if it is without the owner's effective consent.

A person commits the offense of assault if he intentionally or knowingly causes bodily injury to another.

"Attempt" means 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.

"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.

"Enter" means to intrude any part of the body; or any physical object connected with the body.

"Building" means any enclosed structure intended for use or occupation as a habitation or for some purpose of trade, manufacture, ornament, or use.

"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, or fraud.

"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 actor.

"Possession" means actual care, custody, control, or management.

"Actor" means a person whose criminal responsibility is in issue in a criminal action.

S. J.

"Appropriation," or "appropriate," means to acquire or otherwise exercise control over property other than real property.

"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.

"Act" means a bodily movement, whether voluntary or involuntary and includes speech.

"Individual" means a human being who is alive.

For the offense of burglary, sexual assault and aggravated sexual assault, a person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

For the offense of burglary, sexual assault and aggravated sexual assault, 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.

For the offense of capital murder, murder and assault, 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.

For the offense of murder and assault, 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.

Our law provides a defendant may testify in his own behalf if he elects to do so. This, however, is a privilege accorded to the defendant, and in the event he does not testify, that fact cannot be taken as a circumstance against him. In this case the Defendant has not testified, 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.

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 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".

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about the 2nd day of December 2011, in Tarrant County, Texas, the Defendant, James Wesley Brooks Jackson, did then and there intentionally cause the death of an individual, Jo Beth Marchand, by strangling her with a ligature, and the said Defendant was then and there in the course of committing or attempting to commit the offense of aggravated sexual assault of Jo Beth Marchand;
OR

If you find from the evidence beyond a reasonable doubt that on or about the 2nd day of December 2011, in Tarrant County, Texas, the Defendant, James Wesley Brooks Jackson, did then and there intentionally cause the death of an individual, Jo Beth Marchand, by strangling her with a ligature, and the said Defendant was then and there in the course of committing or attempting to commit the offense of burglary of Jo Beth Marchand, then you will find the Defendant guilty of capital murder.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will next consider whether he is guilty of the offense of murder.

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about the 2nd day of December 2011, in Tarrant County, Texas, the Defendant, James Wesley Brooks Jackson, did then and there intentionally or knowingly cause the death of an individual, Jo Beth Marchand, by strangling her with a ligature; OR

If you find from the evidence beyond a reasonable doubt that on or about the 2nd day of December 2011, in Tarrant County, Texas, the Defendant, James Wesley Brooks Jackson, did then and there intentionally, with the intent to cause serious bodily injury to Jo Beth Marchand, commit an act clearly dangerous to human life, namely, strangling her with a ligature, which caused the death of Jo Beth Marchand; OR

If you find from the evidence beyond a reasonable doubt that on or about the 2nd day of December 2011, in Tarrant County, Texas, the Defendant, James Wesley

Brooks Jackson, did then and there commit a felony, to-wit: aggravated sexual assault, *and*
he committed or attempted to commit an act clearly dangerous to human life, to-wit: by
In the course of said felony.
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strangling Jo Beth Marchand with a ligature that caused the death of Jo Beth
Marchand; OR

If you find from the evidence beyond a reasonable doubt that on or about the 2nd day of December 2011, in Tarrant County, Texas, the Defendant, James Wesley
Brooks Jackson, did then and there commit a felony, to-wit: burglary, *and in the course of said felony*
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he committed or
attempted to commit an act clearly dangerous to human life, to-wit: by strangling Jo
Beth Marchand with a ligature that caused the death of Jo Beth Marchand, then you will
find the Defendant guilty of the offense of murder.

If you do not so find beyond a reasonable doubt, or if you have a reasonable
doubt thereof, you will acquit the Defendant and say by your verdict "Not Guilty".

The indictment in this case is no evidence whatsoever of the guilt of the
Defendant. It is a written instrument necessary in order to bring this case into court for
trial, and you will not consider the indictment as any evidence in this case or as any
circumstance whatsoever against the Defendant.

You are the exclusive judges of the facts proved, of the credibility of the
witnesses and of the weight to be given to their testimony, but you are bound to receive
the law from the Court, which is herein given, and be governed thereby.

You are charged that it is only in open court that the jury is permitted to receive
evidence regarding the case, or any witness therein, and no juror is permitted to
communicate to any other juror anything he or she may have seen or heard regarding
the case or any witness therein, from any source other than in open court.

Your verdict must be by a unanimous vote of all members of the jury. In your
deliberations you shall consider the charge as a whole and you must not refer to or
discuss any matters not in evidence.

At times throughout the trial the Court may have been called upon to rule on the question of whether or not certain offered evidence might properly be admitted. You are not to concern yourselves with the reasons for the Court's ruling nor draw any inferences therefrom. Whether offered evidence is admissible is a question of law and in admitting evidence to which an objection is made, the Court does not determine what weight should be given such evidence; nor does the Court pass on the credibility of the witness. You must not consider any evidence offered that has been rejected by the Court. As to any question to which an objection was sustained, you must not engage in conjecture as to what the answer might have been or as to the reason for the objection.

You are instructed that you are not to allow yourselves to be influenced in any degree whatsoever by what you may think or surmise the opinion of the Court to be. The Court has no right by any word or any act to indicate any opinion respecting any matter of fact involved in this case, nor to indicate any desire respecting the outcome of the case. The Court has not intended to express any opinion upon any matter of fact, and if you have observed anything which you may have interpreted as the Court's opinion as to any matter of fact, you must wholly disregard it.

After you retire to the jury room, you should select one of your members as your Presiding Juror. Any member of the jury may serve as Presiding Juror. It is that person's duty to preside at your deliberations, vote with you, and when you have unanimously agreed upon a verdict, certify to your verdict by signing one of the attached forms.

At this time you will confine your deliberations solely to the issue of whether the Defendant is guilty or not guilty of the offenses set forth in this charge.

Should the jury desire to have any or all of the admitted exhibits delivered to you for your deliberations, your Presiding Juror shall so notify the Court in writing and the requested exhibits will be delivered.

After you have retired, you may communicate with the Court in writing through the bailiffs who have you in charge. Your written communications must be signed by the Presiding Juror. Do not attempt to talk to the bailiffs, the attorneys, or the Court regarding any question you may have concerning the trial of the case.

After you have reached a unanimous verdict or if you desire to communicate with the Court, please use the jury call button on the wall and one of the bailiffs will respond.



Scott Wisch

Scott Wisch, Presiding Judge
372nd Judicial District Court
Tarrant County, Texas