

MAY 20 2010

TIME: 9:20  
BY: MSB DEPUTY

NO. 1198091R

THE STATE OF TEXAS                    ()            IN THE 372ND JUDICIAL  
VS.                                        ()            DISTRICT COURT OF  
KERRY MICHAEL DRONSO                ()            TARRANT COUNTY, TEXAS

COURT'S CHARGE

MEMBERS OF THE JURY:

The Defendant, Kerry Michael Dronso, stands charged by indictment with the offense of capital murder, alleged to have been committed in Tarrant County, Texas, on or about the 14<sup>th</sup> day of September 2008. To this charge the Defendant has pleaded not guilty.

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.

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 robbery.

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 or knowingly:

- 1) causes bodily injury to another; OR
- 2) threatens or places another in fear of imminent bodily injury or death.

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.

"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.

"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.

"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 deception or coercion.

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

"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.

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

"Individual" means a human being who has been born and is alive.

"Attempt" means an act amounting to more than mere preparation that tends but fails to effect the commission of the offense intended.

You are instructed that "deadly weapon" means a firearm or anything manifestly designed, made or adapted for the purpose of inflicting death or serious bodily injury.

"Firearm" means any device designed, made or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

"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.

"Another" means a person other than the actor.

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.

You are instructed that before a person may be convicted of capital murder, the jury must find beyond a reasonable doubt that the actor had the specific intent to cause the death of an individual.

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 shooting in question, if any.

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

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 the 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.

Our law further provides that if, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, 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. The offense of robbery is a felony.

A person commits criminal conspiracy if, with intent that a felony be committed:

- (1) he agrees with one or more persons that they or one or more of them engage in conduct that would constitute the offense; and
- (2) he or one or more of them performs an overt act in pursuance of the agreement.

An agreement constituting a conspiracy may be inferred from acts of the parties.

A person is criminally responsible as a party of 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 constitute one a party to an offense.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 14<sup>th</sup> day of September 2008, in Tarrant County, Texas, the Defendant, Kerry Michael Dronso, did then and there intentionally cause the death of an individual, Ali Aziz, by shooting him with a firearm, and the said Defendant was then and there in the course of committing or attempting to commit the offense of robbery of Ali Aziz; OR

If you find from the evidence beyond a reasonable doubt that on or about the 14<sup>th</sup> day of September 2008, in Tarrant County, Texas, the Defendant, Kerry Michael Dronso, with the intent that the felony offense of robbery be committed, agreed with Chris Money to commit the offense of robbery of Ali Aziz, and in an attempt to carry out a conspiracy to commit the offense of robbery of Ali Aziz, Chris Money committed the offense of capital murder by intentionally causing the death of Ali Aziz by shooting him with a firearm, and that though Kerry Michael Dronso had no intent to commit said capital murder, said capital murder was committed by Chris Money in furtherance of the conspiracy to rob Ali Aziz, and said capital murder should have been anticipated by Kerry Michael Dronso as a result of the carrying out of the conspiracy to rob Ali Aziz, then you will find the defendant guilty of the offense of capital murder, as charged in the indictment.

If you do not so believe or if you have a reasonable doubt thereof, you will acquit the defendant of the offense of capital murder and next consider whether the defendant is guilty of the offense of murder.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 14<sup>th</sup> day of September 2008, in Tarrant County, Texas, that the Defendant, Kerry Michael Dronso, did then and there knowingly cause the death of Ali Aziz by shooting him with a firearm; OR

If you find from the evidence beyond a reasonable doubt that on or about the 14<sup>th</sup> day of September 2008, in Tarrant County, Texas, that the Defendant, Kerry Michael Dronso did then and there, with intent to cause serious bodily injury to Ali Aziz, commit an act clearly dangerous to human life, namely, shoot Ali Aziz with a firearm, which caused the death of Ali Aziz; OR

If you find from the evidence beyond a reasonable doubt that on or about the 14<sup>th</sup> day of September 2008, in Tarrant County, Texas, that Chris Money did then and there knowingly cause the death of Ali Aziz by shooting him with a firearm, and that the Defendant, Kerry Michael Dronso, acting with intent to promote or assist the commission of the offense, did encourage, aid or attempt to aid Chris Money to commit said offense;  
OR

If you find from the evidence beyond a reasonable doubt that on or about the 14<sup>th</sup> day of September 2008, in Tarrant County, Texas, that Chris Money did then and there, with intent to cause serious bodily injury to Ali Aziz, commit an act clearly dangerous to human life, namely, shoot Ali Aziz with a firearm, which caused the death of Ali Aziz, and that the Defendant, Kerry Michael Dronso, acting with intent to promote or assist the commission of the offense, did encourage, aid or attempt to aid Chris Money to commit said offense, then you will find the defendant guilty of the offense of murder.

If you do not so believe or if you have a reasonable doubt thereof, you will acquit the defendant of murder 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.

A handwritten signature in black ink, appearing to read "Scott Wisch", written over a horizontal line. The signature is stylized and includes a large, circular flourish on the right side.

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



VERDICT FORMS

119609172  
Kerry Michael  
Dronso

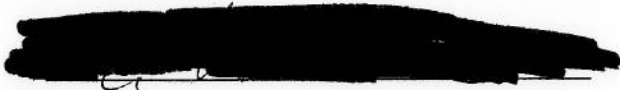
We, the Jury, find the Defendant, Kerry Michael Dronso, not guilty.

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Presiding Juror

-OR-

We, the Jury, find the Defendant, Kerry Michael Dronso, guilty of the offense of capital murder, as charged in the indictment.



Presiding Juror

-OR-

We, the Jury, find the Defendant, Kerry Michael Dronso, guilty of the offense of murder.

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Presiding Juror

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

MAY 20 2010

TIME 1:50  
BY MJB DEPUTY