

NO. 366-80734-2018

THE STATE OF TEXAS	§	IN THE 296th JUDICIAL
VS.	§	DISTRICT COURT OF
BRANDON DAVIS	§	COLLIN COUNTY, TEXAS

CHARGE OF THE COURT**MEMBERS OF THE JURY:**

The defendant, **BRANDON DAVIS**, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 14th day of February, 2018, in Collin County, Texas. 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 in the course of committing or attempting to commit a robbery.

A person commits the offense of robbery if, in the course of committing theft as defined herein, and with intent to obtain or maintain control of the property, he intentionally, knowingly, or recklessly causes bodily injury to another.

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

A person acts intentionally, or with intent, with respect to the 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 when it is his conscious objective or desire to engage in the conduct.

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. 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 recklessly or is reckless, with respect to the circumstances surrounding his conduct or the result of his conduct, when he 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 defendant's standpoint.

"Individual" means a person who has been born and was alive.

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

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

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

"Property" means tangible or intangible personal property including anything severed from land; or a document, including money, that represents or embodies anything of value.

"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 actor.

"Effective consent" includes consent by a person legally authorized to act for the owner.

“Bodily injury” means physical pain, illness, or any impairment of the physical condition.

You are instructed that while the indictment alleges that the offense was committed on or about the 14th day of February, 2018, you are not bound to find that the offense, if any, took place on that specific date. It is sufficient if such time is approximately accurate, and the offense, if any, took place prior to March 22, 2018, the date of the return of the indictment for said offenses in this case, and is not barred by the statute of limitations. You are further instructed that there is no statute of limitations for the offense of Capital Murder.

The court has admitted into evidence before you the alleged oral statement of the defendant, and you are instructed that before you may consider the same for any purpose you must first believe from the evidence beyond a reasonable doubt that the same was freely and voluntarily made by the defendant without compulsion or persuasion; and that prior thereto the defendant had been warned by the person to whom the statement was made that:

- (1) he had the right to remain silent and not make any statement at all and that any statement he made may be used against him at trial; and
- (2) any statement he made may be used as evidence against him in court; and
- (3) he had the right to have a lawyer present to advise him prior to and during any questioning; and
- (4) if he was unable to employ a lawyer, he had the right to have a lawyer appointed to advise him prior to and during any questioning; and
- (5) he had the right to terminate the interview at any time;

and that the defendant prior to and during the making of the statement, knowingly, intelligently and voluntarily waived these rights; but if you do not so believe, or if you have a reasonable doubt thereof, then the alleged statement is entirely withdrawn from your consideration and you shall not give the same any force or effect whatever or consider it as any evidence of the defendant's guilt in this case, and you shall not consider any evidence obtained as a result thereof, if any.

CAPITAL MURDER

NOW, if you find from the evidence beyond a reasonable doubt that on or about the 14th day of February, 2018, in Collin County, Texas, the defendant, **BRANDON DAVIS**, did then and there intentionally cause the death of an individual, namely, Ahmed Omar, by shooting Ahmed Omar with a firearm, and the defendant was then and there in the course of committing or attempting to commit the offense of robbery of Ahmed Omar, then you will find the defendant guilty of Capital Murder as charged in the indictment.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof that the defendant is guilty of capital murder as charged, then you will acquit the defendant and say by your verdict, "Not Guilty."

GENERAL INSTRUCTIONS

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.

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 charged with an 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 of the evidence in the case.

In all criminal cases the burden of proof is on the State and the defendant is presumed to be innocent until the defendant's guilt is established by evidence beyond a reasonable doubt; and, in case you have a reasonable doubt of the defendant's guilt, you will acquit the defendant and say by your verdict "not guilty".

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

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, if any were committed, and even then you may only consider the same in determining the intent of the defendant, if any, in connection with the offense, if any, alleged against him in the indictment in this case, and for no other purpose.

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 its outcome. The Court has not intended to express any opinion upon any matter of fact in this case, and if you have

observed anything which you have or may interpret as the Court's opinion upon any matter of fact in this case, you must wholly disregard it.

You are instructed that any statements of counsel made during the course of the trial or during argument not supported by the evidence, or statements of law made by counsel not in harmony with the law as stated to you by the Court in these instructions, are to be wholly disregarded.

You are further instructed that you should not question the Bailiff concerning the testimony or the law of the case, nor should you discuss the case in his presence. If you have any questions, you should reduce them to writing, to be signed by the presiding juror, and present them to the Court.

If the Jurors disagree as to the statement of any witness, they may, upon applying to the Court, have read to them from the Court Reporter's notes that portion of such witness' testimony, and only that portion, on the point in dispute.

You are instructed that the indictment is the means whereby a defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered as such when passing upon whether the defendant is guilty or not guilty.

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.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, and no juror is permitted to communicate to any other juror anything he might have heard regarding the case from any source other than the witness stand.

You are the exclusive judges of the facts proved, of the credibility of the witnesses, and the weight to be given their testimony, but you must be governed by the law you 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 their duty to preside at your deliberations and vote with you. Your verdict must be unanimous and signed by the presiding juror.

Suitable forms for your verdict are attached hereto. Your verdict must be in writing and signed by your presiding juror. Your sole duty at this time is to determine whether the defendant is guilty or not guilty under the indictment in this cause and you are to restrict your deliberations to that issue.

Signed this the 10th day of April, 2019.



HONORABLE JOHN R. ROACH, JR
Judge Presiding

FILED
19 APR 10 AM 11:57
LYNNE FINLEY
DISTRICT CLERK
COLLIN COUNTY, TX
BY: *[Signature]* DEPUTY

VERDICT FORM

We, the jury, find the defendant guilty of Capital Murder, as charged in the indictment.

Christopher T. Blair

Presiding Juror Signature

Christopher T. Blair

Presiding Juror Printed Name

OR,

We, the jury, find the defendant not guilty.

Presiding Juror Signature

Presiding Juror Printed Name