

ORIGINAL

NO. 199-80508-2019

THE STATE OF TEXAS § IN THE 199TH JUDICIAL
 VS. § DISTRICT COURT OF
 DELVIN AJAIR POWELL § COLLIN COUNTY, TEXAS

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

The defendant, **DELVIN AJAIR POWELL**, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 17th day of September, 2017, in Collin County, Texas. To this charge the defendant has pleaded not guilty.

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

A person commits capital murder when he intentionally or knowingly commits the offense of murder for remuneration or the promise of remuneration from another.

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 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.

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

You are instructed that 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. Each party to an offense may be charged with commission of the offense.

A person is a party to an offense and 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 or even knowledge of an offense does not make one a party to an offense. Acts committed after the offense is complete cannot make one a party to an offense.

You are instructed that while the indictment alleges that the offense was committed on or about the 17th day of September, 2017, you are not bound to find that the offense, if any, took place on that specific date. It is sufficient if the alleged date is approximately accurate, and you find that the offense, if any, occurred prior to the 14th day of February, 2019, the date of the return of the indictment in this case, and is not barred by the statute of limitations.

CAPITAL MURDER

NOW, if you find from the evidence beyond a reasonable doubt that on or about the 17th day of September, 2017 in Collin County, Texas, the defendant, **DELVIN AJAIR POWELL**, either acting alone or with another, namely Ronnie Welborn, Kadie Robinson, Robert Veal, or all, as a party to the offense, as that term is defined above, did then and there intentionally or knowingly cause the death of an individual, namely, Kelli Underwood, by shooting Kelli Underwood with a firearm, for remuneration or the promise of remuneration from Ronnie Welborn or Kadie Robinson, namely: money, then you will find the defendant guilty of Capital Murder as charged in the indictment.

Or,

if you find from the evidence beyond a reasonable doubt that on or about the 17th day of September, 2017 in Collin County, Texas, the defendant, **DELVIN AJAIR POWELL**, either acting alone or with another, namely Ronnie Welborn, Kadie Robinson, Robert Veal, or all, as a party to the offense, as that term is defined above, did then and there intentionally or knowingly cause the death of an individual, namely, Kelli Underwood, by stabbing Kelli Underwood with a knife, for remuneration or the promise of remuneration from Ronnie Welborn or Kadie Robinson, namely: money, then you will find the defendant guilty of Capital Murder as charged in the indictment.

Or,

if you find from the evidence beyond a reasonable doubt that on or about the 17th day of September, 2017 in Collin County, Texas, the defendant, **DELVIN AJAIR POWELL**, either acting alone or with another, namely Ronnie Welborn, Kadie Robinson, Robert Veal, or all, as a party to the offense, as that term is defined above, did then and there intentionally or knowingly cause the death of an individual, namely, Kelli Underwood, by stabbing Kelli Underwood with an unknown object, for remuneration or the promise of remuneration from Ronnie Welborn or Kadie Robinson, namely: money, 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, or if you cannot agree, you will consider whether he is guilty of the lesser included offense of murder as instructed below.

MURDER

If you find from the evidence beyond a reasonable doubt that on or about the 17th day of September, 2017, in Collin County, Texas, that **DELVIN AJAIR POWELL**, either acting alone or with another, namely Ronnie Welborn, Kadie Robinson, Robert Veal or all, as a

party to the offense, as that term is defined above, did then and there, intentionally or knowingly cause the death of Kelli Underwood by shooting Kelli Underwood with a firearm, then you will find him guilty of the lesser included offense of murder.

Or,

If you find from the evidence beyond a reasonable doubt that on or about the 17th day of September, 2017, in Collin County, Texas, that **DELVIN AJAIR POWELL**, either acting alone or with another, namely Ronnie Welborn, Kadie Robinson, Robert Veal or all, as a party to the offense, as that term is defined above, did then and there, intentionally or knowingly cause the death of Kelli Underwood by stabbing Kelli Underwood with a knife, then you will find him guilty of the lesser included offense of murder.

Or,

If you find from the evidence beyond a reasonable doubt that on or about the 17th day of September, 2017, in Collin County, Texas, that **DELVIN AJAIR POWELL**, either acting alone or with another, namely Ronnie Welborn, Kadie Robinson, Robert Veal or all, as a party to the offense, as that term is defined above, did then and there, intentionally or knowingly cause the death of Kelli Underwood by stabbing Kelli Underwood with an unknown object, then you will find him guilty of the lesser included offense of murder.

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either capital murder on the one hand or murder on the other hand, but you have a reasonable doubt as to which of those two offenses he is guilty, then you must resolve that doubt in the defendant's favor and find him guilty of the lesser offense of murder.

If you do not so believe or if you have a reasonable doubt as to the defendant's guilt to the offenses defined in this charge, after considering all the evidence before you, and these instructions, you will acquit him and say by your verdict "Not Guilty".

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 offense or offenses, if any were committed, and even then you may only consider the same for the purpose of determining motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident, and for no other purpose.

You are instructed that the defendant may testify in his own behalf if he elects to do so, but, if he chooses not to do so, that fact cannot be taken as a circumstance against him nor prejudice him in any way. The defendant has elected not to testify, and you are instructed that you cannot and must not refer to nor 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.

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.

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.

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.

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.

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 legal 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".

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 29th day of August, 2019.


Honorable Angela Tucker

Judge Presiding

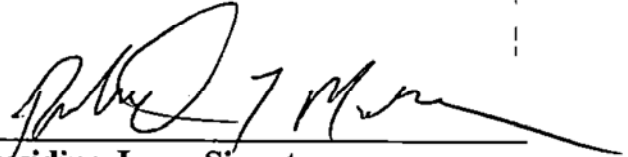
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DISTRICT CLERK
TARRANT COUNTY, TX

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FILED

VERDICT

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



Presiding Juror Signature

Ronald T. McGee

Presiding Juror Printed Name

OR,

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

Presiding Juror Signature

Presiding Juror Printed Name

OR,

We, the jury, find the defendant not guilty.

Presiding Juror Signature

Presiding Juror Printed Name