

Filed at the bench in open
Court @ 12:54pm on 29th
Day of February, 2024

NO. F20-54-211

THE STATE OF TEXAS

VS.

JAMARQUE WASHINGTON

FILED
DENTON COUNTY, TEXAS
2024 MAR -1 AM 11:29
§
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DISTRICT CLERK
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IN THE 16th JUDICIAL

Sherry Shipman
Judge, District Court

DENTON COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, JAMARQUE WASHINGTON, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 15th day of February, 2019. The defendant has pleaded not guilty.

The Law

A person commits the offense of Capital Murder when the person intentionally causes the death of an individual in the course of committing or attempting to commit the offense of Robbery.

A person commits the offense of 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.

A person commits the offense of Aggravated Robbery if the person committing Robbery causes serious bodily injury to another OR uses or exhibits a deadly weapon.

Robbery and Aggravated Robbery are felony offenses.

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, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

Lesser Included Offenses

Although the State has charged the defendant with the offense of Capital Murder, you may find the defendant not guilty of that charged offense, but guilty of a lesser included offense. In this case, the offense of Murder and Aggravated Robbery are lesser included offenses of the charged and greater offense of Capital Murder.

Definitions

“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.

An “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.

"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.

“Individual” means a human being who is alive.

“Theft” means the unlawful appropriation of property of another, with the intent to deprive such other person of said property.

“Appropriation” and “appropriate” mean 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” 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.

“Deadly weapon” means a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting 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.

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.

A person acts recklessly, or is reckless, with respect to the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the result will occur. The risk must be of such 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 actor’s standpoint. For a person to be deemed reckless, there must actually be both a substantial and an unjustifiable risk that the result complained of will occur, and that the person acting was actually aware of such risk and consciously disregarded it.

Application of Law to Facts – Capital Murder

Now, if you find from the evidence beyond a reasonable doubt that on or about the 15th day of February, 2019, in Denton County, Texas, the defendant, JAMARQUE WASHINGTON, did then and there intentionally cause the death of Ashraf Lakhani, by shooting Ashraf Lakhani with a firearm, and the defendant was then and there in the course of committing or attempting to commit the offense of Robbery of Ashraf Lakhani, then you will find the defendant, JAMARQUE WASHINGTON, guilty of Capital Murder, as charged in the indictment.

If you do not so believe beyond a reasonable doubt, that the state has proved the elements of Capital Murder, then you will next consider the lesser-included offense of Murder.

Application of Law to Facts – Murder

Now, if you find from the evidence beyond a reasonable doubt that the defendant, JAMARQUE WASHINGTON, on or about the 15th day of February, 2019, in Denton County, Texas:

- (1) did then and there intentionally or knowingly cause the death of Ashraf Lakhani, by shooting Ashraf Lakhani with a firearm; OR

- (2) did then and there with intent to cause serious bodily injury to Ashraf Lakhani, commit an act clearly dangerous to human life that caused the death of Ashraf Lakhani, by shooting Ashraf Lakhani with a firearm; OR
- (3) did then and there commit or attempt to commit a felony, other than manslaughter, to wit: Aggravated Robbery, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, said defendant committed or attempted to commit an act clearly dangerous to human life, by shooting Ashraf Lakhani with a firearm;

Then you will find the defendant, JAMARQUE WASHINGTON, guilty of Murder, a lesser included offense of the indictment.

If you do not so believe beyond a reasonable doubt, that the state has proved the elements of Murder, then you will next consider the lesser-included offense of Aggravated Robbery.

Application of Law to Facts – Aggravated Robbery

Now, if you find from the evidence beyond a reasonable doubt that the defendant, JAMARQUE WASHINGTON, on or about the 15th day of February, 2019, in Denton County, Texas:

- (1) did then and there, while in the course of committing theft of property and with intent to obtain or maintain control of said property, intentionally, knowingly, or recklessly cause serious bodily injury to Ashraf Lakhani, by shooting Ashraf Lakhani with a firearm; OR
- (2) did then and there, while in the course of committing theft of property and with intent to obtain or maintain control of said property, use or exhibit a deadly weapon, namely, a firearm;

Then you will find the defendant, JAMARQUE WASHINGTON, guilty of Aggravated Robbery, a lesser included offense of the indictment.

If you do not so believe, beyond a reasonable doubt, that the state has proved the elements of Aggravated Robbery, then you will find the defendant not guilty and will end your deliberations.

Further Instructions

All persons are presumed to be innocent and no person may be convicted of any 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.

An indictment is no evidence of guilt. Therefore, you are instructed in this case that the indictment herein shall not be considered by the jury as any evidence of guilty, if any.

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 find the defendant not guilty.

It is not required that the prosecution proves guilt beyond all possible doubt. It is required that the prosecution's proof excludes all reasonable doubt concerning the defendant's guilt.

The law does not require the State to prove the exact date alleged in the indictment. The State may prove the offense, if any, to have been committed at any time prior to January 17, 2020, the presentment date of the indictment.

Our law provides that a defendant may testify if he elects to do so. In the event a defendant does not testify, the fact that he did not testify cannot be considered as evidence or circumstance against him or anyone else. You are instructed that you cannot, and must not, refer to or allude to the election of any defendant to not testify when you enter your deliberations, or take such election into consideration for any purpose whatsoever as evidence or a circumstance against the defendant.

An accomplice, as the term is herein used, means anyone connected with the crime charged, and includes all persons who are connected with the crime by unlawful act or omission on their part transpiring either before, at the time of, or after the commission of the offense or any lesser included offenses.

You are instructed that a conviction cannot be had upon the testimony of an accomplice unless the jury first believes that the accomplice's testimony is true as to the defendant's participation in the offense or any lesser included offenses and establishes the guilt of the defendant. You cannot convict unless the accomplice's testimony is corroborated by other evidence tending to connect the defendant with the offense or any lesser included offenses charged in the indictment. The corroboration is not sufficient if it merely shows the commission of the offense or any lesser included offenses.

The witness, Kwame Mickels, is an accomplice to this offense or any lesser included offenses, if an offense was committed, and you cannot convict the defendant upon his testimony alone, unless you first believe that his testimony is true as to the defendant's participation in the offense or any lesser included offenses and establishes the guilt of the defendant. You cannot convict the defendant upon the testimony of the said Kwame Mickels unless you further believe that there is other testimony in the case, outside of the testimony of Kwame Mickels tending to connect the defendant with the offense or any lesser included offenses committed, if you find that

an offense or lesser included offense was committed. The corroboration of Kwame Mickels testimony is not sufficient if it merely shows the commission of the offense or any lesser included offenses.

From all of the evidence you must believe beyond a reasonable doubt that the defendant is guilty of the offense charged against him in the indictment.

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.

At times throughout the trial the Court has been called upon to pass on the question of whether or not certain offered evidence might properly be admitted. You are not to draw any inferences from them. Whether offered evidence is admissible is purely a question of law. In admitting evidence to which an objection is made, the Court does not determine what weight should be given such evidence; nor does it pass on the credibility of the witness. As to any offer of evidence that has been rejected by the Court, you, of course, must not consider the same; as to any question to which an objection was sustained, you must not 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 think or surmise the opinion of the court to be. The Court has no right by any word or any act 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 are not evidence.

You are to render a fair and impartial verdict based on the evidence admitted in the case under the law that is in these instructions. Do not allow your verdict to be determined by bias or prejudice. Do not let bias, sympathy, or prejudice play any part in your deliberations.

You are limited in your deliberations as jurors on the verdict of guilt or innocence. You are to consider and discuss only the facts and circumstances as were admitted into evidence. You should not consider nor discuss facts and circumstances that are not in evidence, nor should you make deductions therefrom and in connection with this, you are instructed that no juror may lawfully relate any fact or circumstance of which he or she may claim to have knowledge which

has not been admitted into evidence before you. If any evidence has been withdrawn from the jury by the Court, you will not discuss or consider it for any purpose.

While you should consider only the evidence, you are permitted to draw reasonable inferences from the testimony and exhibits that are justified in the light of common experience. In other words, you may make deductions and reach conclusions that reason and common sense lead you to draw from the facts that have been established by the evidence.

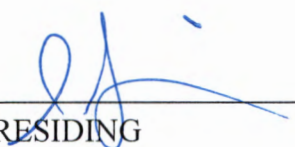
The Presiding Juror or any other juror who observes a violation of the Court's instructions shall immediately warn the one who is violating the same and caution the juror not to do so again.

You will make no further finding in this case except to show in the blank on the form of verdict whether the defendant is guilty beyond a reasonable doubt, or not guilty, as you may find and determine from the law and the evidence in this case.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given to the testimony. You can believe or disbelieve all or any part of any testimony of any witness or witnesses but you are bound to receive the law from the Court, which is herein given you, and be governed thereby.

After you retire to your jury room you should select one of your members as your Presiding Juror. It is the Presiding Juror's 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, and signing the same as Presiding Juror.

SIGNED this the 29th day of February, 2024.



JUDGE PRESIDING

VERDICT FORM

(Presiding Juror to sign only one)

We, the jury, find the defendant, JAMARQUE WASHINGTON, guilty of the offense of **Capital Murder**, as alleged in the indictment.

PRESIDING JUROR

We, the jury, find the defendant, JAMARQUE WASHINGTON, guilty of the offense of **Murder**, a lesser included offense of Capital Murder.



PRESIDING JUROR

We, the jury, find the defendant, JAMARQUE WASHINGTON, guilty of the offense of **Aggravated Robbery**, a lesser included offense of Capital Murder.

PRESIDING JUROR

We, the jury, find the defendant, JAMARQUE WASHINGTON, not guilty.

PRESIDING JUROR