

SCANNED

CAUSE NO. F14-75905-J

THE STATE OF TEXAS	}	IN THE CRIMINAL
VS.	}	DISTRICT COURT NO. 3
CLEZEL MONTAGUE MUGHNI	}	DALLAS COUNTY, TEXAS

2015 APR 22 PM 12:35
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 DISTRICT COURT
 DALLAS COUNTY
 TEXAS
 DEPUTY

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, CLEZEL MONTAGUE MUGHNI, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 2nd day of June, 2014, in Dallas County, Texas.

To this charge, the defendant has pled not guilty.

Our law provides that a person commits Murder when he intentionally or knowingly causes the death of an individual.

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

A person commits Capital Murder when such person murders an individual under ten years of age.

A "deadly weapon" means (a) a firearm or anything manifestly designed, made or adapted for the purpose of inflicting death or serious bodily injury or (b) 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.

In all criminal cases the burden of proof is on the State.

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 a 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 the defendant and say by your verdict "not guilty".

You further are instructed that the State is not required to prove the exact date alleged in the indictment, but may prove the offense, if any, to have been committed at any time prior to the filing of the indictment and that "on or about June 2nd, 2014" as used herein, means any date preceding September 3, 2014.

You are instructed that if there is any testimony before you in this case regarding the defendant's having committed offenses, if any, 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 motive, intent, scheme or design, if any, of the defendant, in connection with the offense alleged against him in the indictment and for no other purpose.

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a right 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.

The fact that he has been arrested, confined, or indicted for, or otherwise charged with the offense gives no rise to any inference of guilt at his trial.

The use of force, but not deadly force, against a child younger than 18 years is justified if the actor is the child's parent or stepparent or is acting in loco parentis to the child; and when and to the degree the actor reasonably believes the force is necessary to discipline the child or to safeguard or promote his welfare.

"In loco parentis" includes grandparent and guardian, any person acting by, through, or under the direction of a court with jurisdiction over the child, and anyone who has express or implied consent of the parent or parents.

Now, bearing in mind the foregoing instructions, if you find and believe from the evidence beyond a reasonable doubt that on or about the 2nd day of June, 2014, in the County of Dallas and State of Texas, CLEZEL MONTAGUE MUGHNI, did unlawfully then and there intentionally or knowingly cause the death of MARQUIS JOHNSON, an individual hereinafter called deceased, by striking deceased with Defendant's hand, a deadly

weapon, or by striking deceased with a brush, a deadly weapon, or by striking deceased with or against an unknown object, a deadly weapon, the exact nature or description of which is unknown or unknowable to the Grand Jury, and at the time of the offense, the deceased was under ten years of age, then you will find the defendant guilty of Capital Murder, as charged in the indictment and so say by your verdict.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of the offense of Capital Murder and next proceed to consider the offense of Recklessly Causing Serious Bodily Injury to a Child, as included in the indictment.

Our law provides that a person commits the offense of Serious Bodily Injury to a Child if he recklessly causes serious bodily injury to a child.

By the term "bodily injury" is meant physical pain, illness, or any impairment of physical condition.

"Serious bodily injury" means a bodily injury that causes 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.

"Child" means a person younger than 14 years of age.

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 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 actor's standpoint.

Now, bearing in mind the foregoing instructions, if you find and believe from the evidence beyond a reasonable doubt that on or about the 2nd day of June, 2014, in the County of Dallas and State of Texas, CLEZEL MONTAGUE MUGHNI, did unlawfully then and there recklessly cause serious bodily injury to MARQUIS JOHNSON, an individual hereinafter called deceased, by striking deceased with Defendant's hand, a deadly weapon, or by striking deceased with a brush, a deadly weapon, or by striking deceased with or against an unknown object, a deadly weapon, the exact nature or description of which is unknown or unknowable to the Grand Jury, and at the time of the offense, the deceased was under ten years of age, then you will find the defendant guilty of Recklessly Causing Serious Bodily Injury to a Child, as included in the indictment, and so say by your verdict.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of the offense of Recklessly Causing Serious Bodily Injury to a Child and next proceed to consider the offense of Criminal Negligent Homicide, as included in the

indictment.

A person acts with "criminal negligence" or is "criminally negligent," with respect to the result of his conduct, when he ought to be aware of a substantial and unjustifiable risk that the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances, as viewed from the standpoint of the person so acting.

For a person to be deemed "criminally negligent," there must actually be both a substantial and an unjustifiable risk that the result will occur, and that the person acting should, under all the circumstances as viewed from his standpoint, have perceived the risk, and if you have a reasonable doubt as to whether such matters have been established, then you would be bound to acquit the defendant.

Now, bearing in mind the foregoing instructions, if you find and believe from the evidence beyond a reasonable doubt that on or about the 2nd day of June, 2014, in the County of Dallas and State of Texas, CLEZEL MONTAGUE MUGHNI, did unlawfully then and there with criminal negligence cause the death of MARQUIS JOHNSON, an individual hereinafter called deceased, by striking deceased with Defendant's hand, a deadly

weapon, or by striking deceased with a brush, a deadly weapon, or by striking deceased with or against an unknown object, a deadly weapon, the exact nature or description of which is unknown or unknowable to the Grand Jury, then you will find the defendant guilty of Criminal Negligent Homicide, as included in the indictment, and so say by your verdict.

If you do not so find and believe beyond a reasonable doubt, or if you have a reasonable doubt thereof, then you will acquit the defendant, and say by your verdict, "not guilty".

If you find from the evidence beyond a reasonable doubt that the defendant is guilty of either Capital Murder or Recklessly Causing Serious Bodily Injury to a Child or Criminal Negligent Homicide, but you have a reasonable doubt as to which offense he is guilty, then you must resolve the doubt in the defendant's favor and find him guilty of the lesser included offense of Criminal Negligent Homicide.

If you have a reasonable doubt as to whether the defendant is guilty of Capital Murder or Recklessly Causing Serious Bodily Injury to a Child or Criminal Negligent Homicide, then you should acquit the defendant and say by your verdict "not guilty".

You are instructed that any statements of counsel made during the course of this 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 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 guilt, if any.

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 be concerned with the reasons for such rulings and are not to draw any inference from her. 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 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

through the bailiff who has you in charge. Your written communication must be signed by the foreperson. Do not attempt to talk to the bailiff, the attorneys, or the Court regarding any question you may have concerning the trial of this 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.



HONORABLE GRACIE LEWIS, JUDGE
CRIMINAL DISTRICT COURT NO. 3

VERDICT FORM

We, the jury, find the defendant, CLEZEL MONTAGUE MUGHNI, guilty of the offense of Capital Murder, as charged in the indictment.

Vut Rodriguez
FOREPERSON

Vincent Rodriguez
(Printed Name of Foreperson)

-OR-

We, the jury, find the defendant, CLEZEL MONTAGUE MUGHNI, guilty of the offense of Recklessly Causing Serious Bodily Injury to a Child, as included in the indictment.

FOREPERSON

(Printed Name of Foreperson)

-OR-

We, the jury, find the defendant, CLEZEL MONTAGUE MUGHNI, guilty of the offense of Criminal Negligent Homicide, as included in the indictment.

FOREPERSON

(Printed Name of Foreperson)

-OR-

We, the jury, find the defendant, CLEZEL MONTAGUE MUGHNI, not guilty.

FOREPERSON

(Printed Name of Foreperson)