

Cause No. 1474853D

THE STATE OF TEXAS § IN THE 213TH JUDICIAL

v. § DISTRICT COURT

CARY JOSEPH HEATH § TARRANT COUNTY **FILED**
THOMAS A. WASSER, DIST. CLERK
TARRANT COUNTY, TEXAS

JURY INSTRUCTIONS

SEP 12 2019

MEMBERS OF THE JURY:

TIME 12:15 PM
BY AS DEPUTY

The defendant, Cary Joseph Heath, is accused of capital murder. The defendant has pleaded “not guilty,” and you have heard all of the evidence that will be produced on whether the defendant has been proved guilty.

Both sides will soon present final arguments. Before they do so, I must now give you the instructions you must follow in deciding whether the defendant has been proved guilty or not.

You will have a written copy of these instructions to take with you and to use during your deliberations.

First, I will tell you about some general principles of law that must govern your decision of the case. Then I will tell you about the specific law applicable to this case. Finally, I will instruct you on the rules that must control your deliberations.

The indictment is not evidence of guilt. The indictment is only a document required to bring the case before you. The indictment cannot be considered in any way by the jury. Do not consider the fact that the defendant has been arrested, confined, or indicted or otherwise charged. You may not draw any inference of guilt from any of these

circumstances.

The defendant is presumed innocent of the charge. 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 law does not require a defendant to prove his innocence or produce any evidence at all. 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 presumption of innocence alone is sufficient to acquit the defendant.

The burden of proof throughout the trial is always on the state. The defendant does not have the burden to prove anything. The state must prove every element of the offense beyond a reasonable doubt to establish guilt for the offense. If the state proves every element of the offense beyond a reasonable doubt, then you must find the defendant guilty. If the state does not prove every element of the offense beyond a reasonable doubt, then you must find the defendant not guilty. If, after you have considered all the evidence and these instructions, you have a reasonable doubt about whether the defendant is guilty, you must find the defendant not guilty.

As the jurors, you review the evidence and determine the facts and what they prove. You judge the believability of the witnesses and what weight to give their testimony. In judging the facts and the believability of the witnesses, you must apply the law provided in these instructions.

The evidence consists of the testimony and exhibits admitted in the trial. You must

consider only evidence to reach your decision. You must not consider, discuss, or mention anything that is not evidence in the trial. You must not consider or mention any personal knowledge or information you may have about any fact or person connected with this case that is not evidence in the trial.

Statements made by the lawyers are not evidence. The questions asked by the attorneys are not evidence. Evidence consists of the testimony of the witnesses and materials admitted into evidence.

Nothing the judge has said or done in this case should be considered by you as an opinion about the facts of this case or influence you to vote one way or the other.

You should give terms their common meanings, unless you have been told in these instructions that the terms are given special meanings. In that case, of course, you should give those terms the meanings provided in the instructions.

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.

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.

You may, if you wish, examine exhibits. If you wish to examine an exhibit, the

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foreperson will inform the court and specifically identify the exhibit you wish to examine. Only exhibits that were admitted into evidence may be given to you for examination.

Certain testimony will be read back to you by the court reporter if you request. To request that testimony be read back to you, you must follow these rules. The court will allow testimony to be read back to the jury only if the jury, in a writing signed by the foreperson, (1) states that it is requesting that testimony be read back, (2) states that it has a disagreement about a specific statement of a witness or a particular point in dispute, and (3) identifies the name of the witness who made the statement. The court will then have the court reporter read back only that part of the statement that is in disagreement.

The law requires that you render a verdict of either “guilty” or “not guilty.” The verdict of “not guilty” simply means that the state’s evidence does not prove the defendant guilty beyond a reasonable doubt.

Your verdict must be by a unanimous vote of all members of the jury. In other words, you may return a verdict only if all twelve of you agree on this verdict. In deliberating on this case, you shall consider the charge as a whole and you must not refer to nor discuss any matters not in evidence.

When you reach a verdict, the foreperson should notify the court.

The defendant has a constitutional right to remain silent. The defendant may testify on his own behalf. The defendant may also choose not to testify. The defendant’s decision not to testify cannot be held against him, and it is not evidence of guilt. You

must not speculate, guess, or even talk about what the defendant might have said if he had taken the witness stand or why he did not. 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 foreperson of the jury must immediately stop any juror from mentioning the defendant's decision not to testify.

You are instructed that if there is any testimony before you in this case regarding the defendant having committed crimes, wrongs or acts other than the crime alleged 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 crimes, wrongs or acts, if any were committed, and even then you may only consider those other crimes, wrongs or acts in determining the proof of the defendant's opportunity, intent, knowledge, absence of mistake, or lack of accident.

The defendant, Cary Joseph Heath, stands charged by indictment with the offense of capital murder, alleged to have been committed in Tarrant County, Texas, on or about the 23rd day of October 2016. To this charge, the defendant has pleaded "not guilty."

A person commits the offense of murder if he intentionally or knowingly causes the death of an individual.

A person commits the offense of capital murder if he intentionally or knowingly causes the death of an individual and murders more than one person during the same criminal transaction.

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

“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.

“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 firearm is a deadly weapon.

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 the result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

You are instructed that voluntary intoxication is not a defense to the commission of a crime. “Intoxication” means disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 23rd day of October 2016, in Tarrant County, Texas, the defendant Cary Joseph Heath, did then and there intentionally or knowingly cause the death of an individual, Daniel Haros, by shooting Daniel Haros with a deadly weapon, to-wit: a firearm, and did intentionally or knowingly cause the death of an individual, Phillip Evans, by shooting Phillip Evans with a deadly weapon, to wit: a firearm, and both murders were committed

during the same criminal transaction, then you will find the defendant guilty of capital murder, as charged in the indictment.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty of capital murder.

You must follow these rules while you are deliberating and until you reach a verdict. After the closing arguments by the attorneys, you will go into the jury room.

Your first task will be to pick your foreperson. The foreperson should conduct the deliberations in an orderly way. Each juror has one vote, including the foreperson. The foreperson must supervise the voting, vote with other members on the verdict, and sign the verdict sheet.

While deliberating and until excused by the trial court, all jurors must follow these rules:

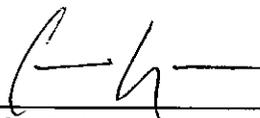
1. You must not discuss this case with any court officer, or the attorneys, or anyone not on the jury.
2. You must not discuss this case unless all of you are present in the jury room. If anyone leaves the room, then you must stop your discussions about the case until all of you are present again.
3. You must communicate with the judge only in writing, signed by the foreperson and given to the judge through the officer assigned to you.
4. You must not conduct any independent investigations, research, or experiments.
5. You must tell the judge if anyone attempts to contact you about the case before you reach your verdict.

Your sole duty at this point is to determine whether the defendant has been proved

guilty. You must restrict your deliberations to this matter.

After you have arrived at your verdict, you are to use the form attached to these instructions. You should have your foreperson sign his or her name to the particular form that conforms to your verdict.

After the closing arguments by the attorneys, you will begin your deliberations to decide your verdict.



Chris Wolfe, Judge
213th Judicial District Court
Tarrant County, Texas

VERDICT FORM

VERDICT – NOT GUILTY

We, the Jury, find the defendant, Cary Joseph Heath, not guilty.

Foreperson of the Jury

Printed Name of Foreperson

--OR--

VERDICT -- GUILTY

We, the Jury, find the defendant, Cary Joseph Heath, guilty of the offense of capital murder, as charged in the indictment.

Susan Jordan
Foreperson of the Jury

Susan Jordan
Printed Name of Foreperson

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

SEP 12 2019

TIME 1:05 PM
BY AS DEPUTY