

NO. 2008-CR-2684A

THE STATE OF TEXAS § IN THE DISTRICT COURT
VS. § 226TH JUDICIAL DISTRICT
RUSSELL KNOWLES § BEXAR COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, Russell Knowles, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 8th day of January, 2008, in Bexar County, Texas. The defendant has pleaded not guilty.

I.

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

A person commits capital murder when such person intentionally commits the murder in the course of committing or attempting to commit the offense of robbery.

II.

"Individual" means a human being who is alive.

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

"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.

"Deadly weapon" is a firearm.

III.

For the offenses of murder and capital murder, 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.

For the offense of murder, 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.

IV.

A person commits a robbery if, in the course of committing theft, as defined hereinafter, and with intent to obtain or maintain control of the property, he intentionally or knowingly causes bodily injury to another, or intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

V.

"In the course of committing" as defined in paragraph II applies and has the same meaning here.

"Attempt" as defined in paragraph II applies and has the same meaning here.

"Bodily injury" means physical pain, illness, or any impairment of physical condition.

VI.

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

VII.

"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 or for so extended a period of time that a major portion of the value or enjoyment of the property is lost to the owner.

"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.

VIII.

For the offenses of robbery and theft, a person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

For the offenses of robbery and theft, 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.

For the offenses of robbery and theft, 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.

You are instructed that a person commits an offense only if he voluntarily engages in conduct, including an act, omission, or possession. Conduct is not rendered involuntary merely because the person did not intend the results of his conduct.

Therefore, if you believe from the evidence beyond a reasonable doubt that on the occasion in question the defendant, Russell Knowles, did cause the death of Raymond Solis by shooting him with a deadly weapon, namely: a firearm, as alleged in the indictment, but you further believe from the evidence, or you have a reasonable doubt thereof, that the shooting was a result of an accidental discharge of the gun while Raymond Solis and the defendant were struggling or scuffling for the possession of the gun and was not the voluntary act or conduct of the defendant, you will acquit the defendant and say by your verdict "Not Guilty."

You are instructed that under our law a confession of a defendant made while he was in jail or in custody of an officer and while under interrogation shall be admissible in evidence if it appears that the same was freely and voluntarily made without compulsion or persuasion. However, before a confession made orally to officers may be considered voluntary, it must be shown by legal evidence beyond a reasonable doubt that, prior to making such oral statement, the defendant has been given the proper warnings by the person to whom the statement is made, and that the defendant has knowingly, intelligently, and voluntarily waived the rights set out in the warnings. Those warnings are as follows:

(1) The defendant has the right to remain silent and not make any statement,

(2) Anything said by the defendant may be used against him at trial,

(3) Any statement the defendant makes may be used as evidence against him in court,

(4) The defendant has the right to terminate the questioning at any time during the interview or questioning, and

(5) The defendant is entitled to the services of an attorney, his own or, if he is unable to employ one, a court-appointed attorney, to advise him prior to and during any questioning or interrogation.

Therefore, if you find from the evidence, or if you have a reasonable doubt thereof, that prior to the time the defendant gave the alleged statement or confession to the officer or officers, if he did give it, the officer or officers did not warn defendant in the respects enumerated above, or as to any one of such requirements, then you will wholly disregard the alleged confession or statement and not consider it for any purpose nor any evidence obtained as a result thereof.

If, however, you find beyond a reasonable doubt that the aforementioned warnings were given to the defendant prior to his having made such statement, if he did make it, still, before you may consider such statement as evidence in this case, you must find from the evidence beyond a reasonable doubt that prior to making such statement, if he did, the defendant knowingly, intelligently and voluntarily waived the rights hereinbefore set out in the said warnings, and unless you so find, or if you have a reasonable doubt thereof, you will not consider the statement or confession for any purpose whatsoever or any evidence obtained as a result of the statement, if any.

IX.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 8th Day of January, 2008, in Bexar County, Texas, the defendant, Russell Knowles, did intentionally cause the death of an individual, namely, Raymond Solis, by shooting Raymond Solis with a deadly weapon, namely, a firearm, and Russell Knowles was in the course of committing or attempting to commit the offense of robbery of Kathy DeHaro, then you will find the defendant guilty of capital murder as charged in the indictment.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty of capital murder and next consider whether he is guilty of the lesser included offense of felony murder.

X.

Our law provides that a person commits the offense of felony murder if he 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 an act clearly dangerous to human life that causes the death of an individual.

Robbery is a felony offense.

XI.

"Individual" and "attempt to commit an offense" are defined in paragraph II and have the same meanings here.

XII.

The offense of robbery and the terms and definitions pertaining thereto are found in paragraphs IV-VIII and have the same meanings here.

XIII.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 8th Day of January, 2008, in Bexar County, Texas, the defendant, Russell Knowles, did intentionally or knowingly commit or attempt to commit a felony, namely, robbery of Kathy DeHaro, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt to commit, robbery of Kathy DeHaro, Russell Knowles did commit an act clearly dangerous to human life, namely, by shooting Raymond Solis with a deadly weapon, namely, a firearm, then you will find the defendant guilty of felony murder.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty.

You are instructed that under our law, voluntary intoxication does not constitute a defense to the commission of a crime. For the purpose of this law intoxication means a disturbance of mental or physical capacity resulting from the voluntary introduction of any substance into the body.

Written statements made by a witness to investigators or other officers or police reports made by officers and tendered by the prosecution to the defense for purposes of cross-examination are not part of the evidence unless introduced in evidence. Many times statements and reports may be marked with an exhibit number but are neither offered nor received in evidence. I can send only statements and reports received in evidence to the jury room.

The Grand Jury Indictment is not evidence of guilt. It is the means whereby a defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered by you in determining 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.

The burden of proof in all criminal cases rests upon the State throughout the trial, and never shifts to 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 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 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 him and say by your verdict "Not guilty."

You are instructed that you are not to let, bias, prejudice, or sympathy play any part in your deliberations. You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given the testimony but the law of the case you must receive from the Court as contained in these instructions, and be governed thereby. You must disregard any comment or statement made by the Court during the trial or in these instructions which may seem to indicate an opinion with respect to any fact, item of evidence or verdict to be reached in this case. No such indication was intended.

After argument of counsel, you will retire to the jury room, select your own Presiding Juror and proceed with your deliberations. After you have reached a unanimous verdict the Presiding Juror will certify thereto by filling in the appropriate forms attached to this charge and signing his or her name as Presiding Juror. The forms are not intended to suggest to you what your verdict should be.

Your sole duty at this time is to determine whether the defendant is guilty under the indictment in this cause; and restrict your deliberations to the issue of whether the defendant is guilty or not guilty, and nothing else. If the Jury wishes to communicate with the Court, they shall notify the bailiff.

Any communication relative to the case must be written, prepared by the Presiding Juror and shall be submitted to the Court through the bailiff.

Respectfully submitted,

SID L. HARLE
226th Judicial District
Bexar County, Texas

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RUSSELL KNOWLES § BEXAR COUNTY, TEXAS

VERDICT FORM

We, the Jury, find the defendant, Russell Knowles, not guilty.

PRESIDING JUROR

VERDICT FORM

We, the Jury, find the defendant, Russell Knowles, guilty of capital murder as charged in the indictment.

PRESIDING JUROR

VERDICT FORM

We, the Jury, find the defendant, Russell Knowles, guilty of the lesser included offense of felony murder.

PRESIDING JUROR