

CAUSE NO. 08-DCR-048916A

THE STATE OF TEXAS

V.

GINGER DEEANNA FISHER

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IN THE DISTRICT COURT OF

FORT BEND COUNTY, TEXAS

240TH JUDICIAL DISTRICT

CHARGE OF THE COURT

Ladies and Gentlemen of the Jury:

The defendant, Ginger Deeanna Fisher, stands charged by indictment with the offense of Aggravated Assault of a Public Servant alleged to have been committed in Fort Bend County, Texas, on or about the 22nd day of February, 2008. To this charge the defendant has pled not guilty.

I.

A person commits the offense of aggravated assault, if she commits the offense of assault, as hereinafter defined, and the person uses or exhibits a deadly weapon during the commission of the assault.

Our law provides that a person commits the offense of assault if the person intentionally, knowingly, or recklessly causes bodily injury to another. An assault is an aggravated assault when it is committed with a deadly weapon.

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

"Deadly weapon" means anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

The offense is Aggravated Assault on a Public Servant if the person the actor assaulted is a public servant and the actor knows the person is a public servant and the assault, if any, is done while the person is lawfully discharging an official duty.

"Public servant" means a person elected, selected, appointed, employed or otherwise designated as an officer, employee, or agent of government.

The actor is presumed to have known the person assaulted was a public servant or security officer if the person was wearing a distinctive uniform or badge indicating the person's employment as a public servant or status as a security officer.

"Actor" means a person whose criminal responsibility is in issue in a criminal action.



II.

A person acts intentionally, or with intent, with respect to a result of her conduct when it is her conscious objective or desire to engage in the conduct or cause the result.

A person acts knowingly, or with knowledge, with respect to the nature of her conduct or to circumstances surrounding her conduct when she is aware of the nature of her conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of her conduct when she is aware that her conduct is reasonably certain to cause the result.

A person acts recklessly, or is reckless, with respect to the result of her conduct when she is aware of but consciously disregards a substantial and unjustifiable risk that 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.

III.

Our law provides that a defendant may testify in her own behalf if she elects to do so. This, however, is a privilege accorded a defendant, and in the event she elects not to testify, that fact cannot be taken as a circumstance against her. 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. If any juror starts to mention the defendant's election not to testify in this case, then it is the duty of the other jurors to stop him at once.

IV.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that the defendant, Ginger Deeanna Fisher, on or about the 22nd day of February, 2008 in Fort Bend County, Texas, did intentionally or knowingly or recklessly cause bodily injury to Leslie Claunch by stabbing her with a knife, and that Ginger Deeanna Fisher did then and there use and exhibit a deadly weapon, to wit: a knife, during the commission of said assault, and Leslie Claunch was then and there a public servant acting under color of her employment, to wit: a peace officer, and Ginger Deeanna Fisher knew the said Leslie Claunch was a public servant, then you will find the defendant guilty of the offense of aggravated assault of a public servant as charged in the indictment.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not Guilty."

V.

You are instructed that no act done in a state of insanity can be punished as an offense. It is an

affirmative defense to prosecution of a criminal action that, at the time of the conduct charged against a person, as a result of severe mental disease or defect, she did not know that her conduct was wrong. The severe mental disease or defect must have existed at the very time or times inquired about, that is, at the very time of the alleged commission of the offense.

The term "mental disease or defect" does not include an abnormality manifested only by repeated criminal or otherwise anti-social conduct.

The burden of proof is upon the defendant to prove this affirmative defense by a preponderance of the evidence.

By the term "preponderance of the evidence" is meant the greater weight and degree of the credible evidence in this case.

Now, if you believe from the evidence beyond a reasonable doubt that the defendant, Ginger Deeanna Fisher, on or about the 22nd day of February, 2008 in Fort Bend County, Texas, did intentionally or knowingly or recklessly cause bodily injury to Leslie Claunch by stabbing her with a knife, and that Ginger Deeanna Fisher did then and there use and exhibit a deadly weapon, to wit: a knife, during the commission of said assault, and Leslie Claunch was then and there a public servant acting under color of her employment, to wit: a peace officer, and Ginger Deeanna Fisher knew the said Leslie Claunch was a public servant, as alleged in the indictment, but you further believe, by a preponderance of the evidence in the case, that at the time she committed the act, if she did, the defendant, as a result of mental disease or defect, did not know that her conduct was wrong, then you will find the defendant "Not Guilty by Reason of Insanity," and so state in your verdict.

Under the instructions given to you herein, you will state in your verdict whether you find the defendant "Guilty," or "Not Guilty," or "Not Guilty by reason of insanity."

VI.

You are instructed that voluntary intoxication does not constitute a defense to the commission of a crime.

You are further instructed that under our law neither intoxication nor temporary insanity of mind caused by intoxication shall constitute any defense to the commission of a crime.

Evidence of temporary insanity caused by intoxication, if any, should be considered only in mitigation of the penalty, if any, attached to the offense.

By the term "intoxication" as used herein is meant disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

VII.

A grand jury indictment is the means whereby a defendant is brought to trial in a felony prosecution. It is not evidence of guilt nor can it be considered by you in passing upon the issue of guilt of the defendant. 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 her trial. The law does not require a defendant to prove her 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.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and the weight to be given their testimony, but the law you shall receive in these written instructions and you must be governed thereby.

You are limited in your deliberations upon a verdict to the consideration and discussion of such facts and circumstances only as were admitted in evidence, or as are reasonably deducible from the evidence. You cannot legally and must not consider nor discuss any fact or circumstance not thus in evidence or reasonably deducible from the evidence. Nor may a juror relate to any of the others any fact or circumstance of which he may have or claim to have knowledge or information that was not introduced in evidence. Neither may any of the jurors lawfully discuss anything else, so far as the evidence is concerned, other than the evidence introduced by the parties and admitted by the Court.

You will not talk about this case with anyone not of your jury, and even among yourselves, only when you are all together in the jury room prior to being discharged by the court.

Your deliberations at this time are limited solely to the issue of guilt or innocence of the Defendant of the offense charged and you are not authorized to pass upon punishment, if any, to be imposed.

Do not let bias, prejudice, or sympathy play any part in your deliberations.

VIII.

After argument of counsel, you will retire to the jury room and you should select one of your members as your presiding juror. It is his or her duty to preside at your deliberations and to vote with you in arriving at your verdict. Your verdict must be unanimous.

After you have retired, you may communicate with this court in writing through the officer who has you in charge. Any communication relative to the cause must be written and prepared by the presiding juror and shall be submitted to the court through this officer. Do not attempt to talk to the officer who has you in charge, the attorneys, or the court, or anyone else concerning any questions you may have.

After you have reached a unanimous verdict, the presiding juror will certify thereto by filling in the appropriate form attached to this charge and signing his or her name as Presiding Juror.

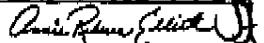


Honorable Thomas R. Culver III
Presiding Judge
240th District Court

FILED

OCT 14 2011

AT 10:17 A.M.



Clerk District Court, Fort Bend Co., TX

CAUSE NO. 08-DCR-048916

THE STATE OF TEXAS

V.

GINGER DEEANNA FISHER

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IN THE DISTRICT COURT OF

FORT BEND COUNTY, TEXAS

240TH JUDICIAL DISTRICT

VERDICT - GUILTY

We, the Jury, find the defendant, Ginger Deeanna Fisher **GUILTY** of the offense of Aggravated Assault of a Public Servant, as alleged in the indictment.

Janya Callander
Presiding Juror

FILED

OCT 14 2011

AT 2:10 P.M.
Anita Renee Smith *AS*
Clerk District Court, Fort Bend Co., TX

CAUSE NO. 08-DCR-048916

THE STATE OF TEXAS

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V.

GINGER DEEANNA FISHER

IN THE DISTRICT COURT OF

FORT BEND COUNTY, TEXAS

240TH JUDICIAL DISTRICT

VERDICT - NOT GUILTY BY REASON OF INSANITY

We, the Jury, find the defendant, GingerDeeanna Fisher **NOT GUILTY BY REASON OF INSANITY** of the offense of Aggravated Assault of a Public Servant, as alleged in the indictment.

Presiding Juror

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V.

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IN THE DISTRICT COURT OF

FORT BEND COUNTY, TEXAS

240TH JUDICIAL DISTRICT

VERDICT - NOT GUILTY

We, the Jury, find the defendant, Ginger Deeanna Fisher **NOT GUILTY** of the offense of Aggravated Assault of a Public Servant, as alleged in the indictment.

Presiding Juror