

FILED

CAUSE NO. F08-30404-N

2009 DEC -3 AM 10:04

GARY FLETCHER
CLERK OF COURT
DEPUTY

THE STATE OF TEXAS

VS.

ERIC CHRISTOPHER HODGES

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IN THE 195TH JUDICIAL
DISTRICT COURT OF
DALLAS COUNTY, TEXAS

COURT'S CHARGE

MEMBERS OF THE JURY:

The defendant, Eric Christopher Hodges, stands charged by indictment with the offense of capital murder, alleged to have been committed in Dallas County, Texas, on or about April 13, 2008. To that charge, the defendant has pled not guilty.

A person commits the offense of murder if he intentionally causes the death of an individual. The offense becomes capital murder if the person intentionally commits the murder in the course of committing or attempting to commit robbery.

An "attempt" to commit an offense occurs where one, with specific intent to commit an offense, does an act amounting to more than mere preparation that tends, but fails, to effect the commission of the offense intended.

A person commits the offense of robbery if, in the course of committing theft and with intent to obtain or maintain control of the property of another, he intentionally or knowingly causes bodily injury to another or threatens or places

another in fear of imminent bodily injury or death.

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

“Appropriate” means 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.

“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.

“Property” means tangible personal property, including money.

“Owner” means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the actor.

“Consent” means assent in fact, whether express or apparent. Consent is not effective if induced by force.

“In the course of committing theft or robbery” means conduct that occurs in an attempt to commit, during the commission or in immediate flight after the attempt or commission of theft or robbery.

As used in the definition of murder or 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.

As used in the definition of robbery, a person acts “intentionally,” or with intent, with respect to the nature of his conduct when it is his conscious objective or desire to engage in the conduct.

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

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

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

“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.

Voluntary intoxication does not constitute a defense to the commission of crime. “Intoxication” means disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

A person commits murder if he commits or attempts to commit a robbery, a

felony, 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.

A person commits aggravated robbery if a person commits robbery, as defined above, and he causes serious bodily injury to another or uses or exhibits a deadly weapon.

You are instructed that under our law a confession of a defendant made while the defendant was in jail or other place confinement or in the custody of an officer shall be admissible in evidence if it appears that the same was freely and voluntarily made without compulsion or persuasion. So if you find from the evidence, or if you have a reasonable doubt thereof, that prior to the giving of the statement by the defendant, if he did give one, any officer threatened or in any manner coerced the defendant or used any improper influence on the defendant, and the defendant, through fear or under duress or under any other improper influence was thereby induced to ~~sign~~ ^{make} *FLH* said statement, then such statement would not be freely made and voluntary and in such case, if you find the facts so to be, or if you have a reasonable doubt thereof, you will wholly disregard the alleged confession or statement and not consider it for any purpose nor any evidence obtained as a result thereof.

APPLICATION OF LAW TO FACTS

CAPITAL MURDER

For Eric Christopher Hodges to be convicted of capital murder in this case, it must be proved beyond a reasonable doubt that he intentionally caused the death of Lois Ivory by shooting her with a firearm, a deadly weapon, and that he intentionally caused the death of Lois Ivory while in the course of committing or attempting to commit robbery of Lois Ivory.

If you find beyond a reasonable doubt that the defendant, Eric Christopher Hodges, on or about April 13, 2008, in the County of Dallas and said State, did unlawfully then and there intentionally cause the death of Lois Ivory, an individual, hereinafter called deceased, by shooting the deceased with a firearm, a deadly weapon, and the defendant was then and there in the course of committing or attempting to commit the offense of robbery of said deceased, then you will find the defendant guilty of capital murder, as charged in the indictment. If you do not so find, or if you have a reasonable doubt thereof, you will next consider whether the defendant is guilty of murder, as included in the indictment.

MURDER

If you find and believe from the evidence beyond a reasonable doubt that the defendant, Eric Christopher Hodges, on or about April 13, 2008, in Dallas County,

Texas, committed or attempted to commit a felony, robbery, and in the course of, and in furtherance of, the commission or attempt to commit robbery of Lois Ivory, Eric Christopher Hodges committed an act clearly dangerous to human life by pointing a loaded firearm toward and struggling with Lois Ivory and thereby caused the death of Lois Ivory, an individual, you will find the defendant guilty of murder, as included in the indictment. If you do not so find, or if you have a reasonable doubt thereof, you will next consider whether the defendant is guilty of aggravated robbery, as included in the indictment.

AGGRAVATED ROBBERY

If you find and believe from the evidence beyond a reasonable doubt that the defendant, Eric Christopher Hodges, on or about April 13, 2008, in Dallas County, Texas, in the course of committing theft as herein defined and with intent to obtain or maintain control of property of Lois Ivory, intentionally, knowingly, or recklessly caused serious bodily injury to another, Lois Ivory, by causing the death of Lois Ivory by discharging a firearm, a deadly weapon, towards Lois Ivory and thereby causing her death, you will find him guilty of aggravated robbery, as included in the indictment.

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

The prosecution has the burden of proving the defendant guilty and must prove each and every element of the offense charged beyond a reasonable doubt. If it fails to do so, you must acquit the defendant. The prosecution is not required to prove guilt beyond all possible doubt, but 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 shall acquit the defendant and say by your verdict, "not guilty."

An indictment is no evidence of guilt; therefore, you shall not consider the indictment in this case as any evidence of guilt.

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, indicted for, or otherwise charged with an offense raises no inference of guilt at his trial. A defendant is not required to prove his innocence or to produce any evidence at all. The presumption of innocence alone is sufficient to acquit a 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.

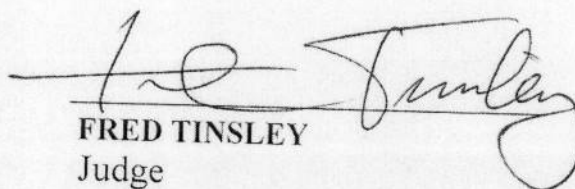
You are instructed that if there is any testimony before you in this case

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.

During your deliberations in this case, you must not consider, discuss, or relate any matters not in evidence before you, nor should you consider or 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. Neither shall you, in deciding your verdict, discuss the punishment which may be assessed in the event the defendant is found guilty.

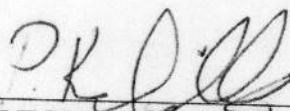
Your verdict must be unanimous and shall be arrived at by due deliberation and not by majority vote or by any method of chance.

You are the exclusive judges of the facts proved, the credibility of the witnesses, and the weight to be given the testimony, but you are bound to receive the law from the Court, which is herein given you, and be governed thereby.


FRED TINSLEY
Judge

VERDICT FORMS

We, the jury, find the defendant, Eric Christopher Hodges, guilty of capital murder as charged in the indictment.



PRESIDING JUROR

JAMES PATRICK KERCHEVILLE
(Printed Name of Presiding Juror)

OR

We, the jury, find the defendant, Eric Christopher Hodges, guilty of murder, as included in the indictment.

PRESIDING JUROR

(Printed Name of Presiding Juror)

OR

We, the jury, find the defendant, Eric Christopher Hodges, guilty of aggravated robbery, as included in the indictment.

PRESIDING JUROR

(Printed Name of Presiding Juror)

OR

We, the jury, find the defendant, Eric Christopher Hodges, not guilty.

PRESIDING JUROR

(Printed Name of Presiding Juror)