

THE STATE OF TEXAS

V.

RICKEY DONNELL CUMMINGS

IN THE 19th JUDICIAL
DISTRICT COURT OF
MCLENNAN COUNTY, TEXAS

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, Rickey Donnell Cummings, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about March 28, 2011, in McLennan County, Texas. To this charge the Defendant has pleaded not guilty.

1.

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

A person commits Capital Murder when he intentionally or knowingly causes the death of more than one individual during the same criminal transaction.

2.

"Another" means a person other than the actor.

"Individual" means a human being who is alive.

"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.

Charge
2 Day of Nov, 2012
Charge of the Court, State of Texas v. Rickey Donnell Cummings - Page 1
FILED
KAREN C. MATKIN
DISTRICT CLERK
McLennan County, Texas
By *Ronald Howard*
Deputy

Verdict
2nd Day of Nov, 2012
at 12:46 o'clock P.M.
FILED
KAREN C. MATKIN
DISTRICT CLERK
McLennan County, Texas
By *Susanne Brundis*
Deputy



"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.

3.

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.

4.

A person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both. Each party to an offense may be charged with commission of the offense.

A person is criminally responsible for an offense committed by the conduct of another if acting with intent to promote or assist the commission of the offense he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense.

A Defendant's mere presence alone will not make him responsible for an offense. A Defendant's mere knowledge of a crime or failure to disclose a crime is not sufficient.

5.

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 offense alleged against him in the indictment in this case, you may not 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 the same in determining the intent, motive, opportunity, preparation, plan, knowledge, identity, or absence of mistake or accident by the Defendant, if any, in connection with the offense, if any, alleged against him in the indictment in this case. It is not necessary that all of you agree that the Defendant committed these other crimes or acts, but unless you, as an individual juror, believe beyond a reasonable doubt that the Defendant committed such acts, you may not consider this evidence for any purpose.

6.

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 he has been arrested or confined or indicted or otherwise charged with the offense gives no rise to an inference of guilt at his trial.

The Indictment filed in this case by the State is not evidence of guilt or innocence. It is a mere accusation and cannot be considered by you as evidence in determining the innocence or guilt of the Defendant in this case.

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, 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 exclude 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 and say by your verdict "Not Guilty".

The burden of proof in all criminal cases rests upon the State throughout the trial and never shifts to the Defendant.

7.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that on or about March 28, 2011, the Defendant, Rickey Donnell Cummings, did intentionally or knowingly caused the deaths of Tyus Sneed and Keenan Hubert by shooting said Tyus Sneed and Keenan Hubert with a firearm, a deadly weapon, during the same criminal transaction, you will find the Defendant guilty of Capital Murder as charged in the indictment.

OR

If you believe from the evidence beyond a reasonable doubt that on or about March 28, 2011, a person or persons other than Rickey Donnell Cummings did intentionally or knowingly caused the deaths of Tyus Sneed and Keenan Hubert by shooting said Tyus Sneed and Keenan Hubert with a firearm, a deadly weapon, during the same criminal transaction, and if you further believe from the evidence beyond a reasonable doubt that the Defendant, Rickey Donnell Cummings, acting with intent to promote or assist the commission of the offense, solicited, encouraged, directed, aided, or attempted to aid another in the commission of the offense, you will find Rickey Donnell Cummings guilty of Capital Murder as charged in the indictment.

If you do not so believe, or if you have a reasonable doubt thereof, you will acquit the Defendant and say by your verdict "Not Guilty."

In order to find the Defendant guilty it is not necessary that all of you agree whether he is guilty as the primary actor or as a party. Some of you may believe beyond a reasonable doubt that he is guilty as the primary actor and the remainder of you may believe beyond a reasonable doubt that he is guilty as a party. But in order to find the Defendant guilty all of you must agree beyond a reasonable doubt that the Defendant is guilty under one or a combination of both theories.

8.

You are instructed that any statements of counsel made during the course of the 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.

9.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, and no juror is permitted to communicate to any other juror anything he might have heard regarding the case from any source other than the witness stand.

10.

After you retire to your jury room you will select one of your members as your Presiding Juror. If you agree upon a verdict it must be by unanimous vote.

Until you have finished your deliberations you shall not communicate to anyone outside the jury room how the jury may stand numerically in its voting nor how the jury may stand numerically on any issue before you unless you are first called upon by the Court to do so.

Any communication from the jury to the Court must be written, prepared by the Presiding Juror, signed by the Presiding Juror, and submitted to the Court through the Bailiff. Therefore, if you wish to communicate with the Court about any matter, have your Presiding Juror prepare your communication in writing, sign it, deliver it to the Bailiff, and the Bailiff will deliver it to the Court.

Do not let personal bias, prejudice, sympathy or resentment on your part or any such personal emotion on your part enter into your deliberations or affect your verdict in this case.

In your deliberations you must not relate to your fellow jurors any personal experience of your own or relate or speculate on any occurrence, happening or event known to you not shown by the evidence in this case. In all of your deliberations you will confine yourselves strictly to the evidence introduced before you in this trial under the rulings of the Court and the definitions and instructions given by the Court. If any juror attempts a violation of these instructions the other jurors shall stop him at once. If any juror persists in the violation, immediately report that fact to the Court.

You are the exclusive judges of the facts proved, of the credibility of the witnesses, and the weight to be given their testimony, but in matters of law you must be governed by the instructions, definitions and the rulings of the Court.

During trial it was permissible for you to take notes. You may carry those notes to the jury room for your personal use during deliberation on the court's charge. You may not share these notes with other jurors; however, you may discuss the contents of your notes. Your personal recollection of the evidence takes precedence over any notes you have taken. A juror may not rely on the notes of another juror.

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 presiding juror, (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.

You shall have this written charge with you when you go to the jury room.

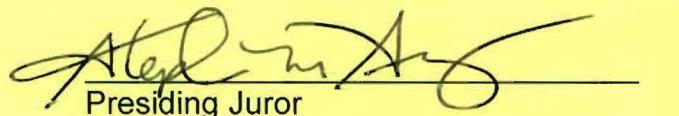


Ralph T. Strother,
Presiding Judge of the
19th Judicial District Court
McLennan County, Texas

READ TO THE JURY ON
November 2, 2012 AT
8:25 A.M.

VERDICT FORMS

We, the jury, find the Defendant, Rickey Donnell Cummings, **guilty** of Capital Murder, as charged in the indictment in Cause Number 2011-1513-C1.



Presiding Juror
Printed Name: STEPHANIE M. AMY

-OR-

We, the jury, find the Defendant, Rickey Donnell Cummings, **not guilty** of Capital Murder, as charged in the indictment in Cause Number 2011-1513-C1.

Presiding Juror
Printed Name: _____

VERDICT RECEIVED ON
November 2, 2012 AT
1:30 p.m.