

THE STATE OF TEXAS

VS.

ERICK DANIEL DAVILA

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§

CRIMINAL DISTRICT COURT

NUMBER ONE IN AND FOR

TARRANT COUNTY, TEXAS

COURT'S CHARGE

MEMBERS OF THE JURY:

The defendant, Erick Daniel Davila, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 6th day of April 2008, in Tarrant County, Texas. To this charge, the defendant has pleaded not guilty.

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

"Individual" means a human being who is alive.

"Deadly weapon" means a firearm.

"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.

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.

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 no evidence obtained by an officer in violation of any provision of the Constitution or laws of the State of Texas, or of the Constitution or laws of the United States of America, shall be admitted in evidence against the accused on the trial of any criminal case. Our law permits the arrest of an accused under a warrant when there is sufficient probable cause to support the issuance of the warrant.

By the term "probable cause" is meant where the facts and circumstances within the officer's affidavit, and of which he has reasonably trustworthy information, would justify a reasonable and prudent person in believing that a particular person has committed a crime.

Therefore, bearing in mind the foregoing instruction if you believe that the affidavit for arrest contained sufficient probable cause to support the arrest of Erick Daniel Davila you may consider the arrest of the defendant and all evidence derived from it. If you have a reasonable doubt that the affidavit contained sufficient

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THOMAS A WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

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DEPUTY

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probable cause to support the arrest of the defendant, you may not consider the arrest of the defendant or any evidence derived from it.

Now, if you find from the evidence beyond a reasonable doubt, that Erick Daniel Davila, in Tarrant County, Texas, on or about the 6th day of April 2008, did intentionally or knowingly cause the death of an individual, Queshawn Stevenson, by shooting her with a deadly weapon, to wit: a firearm, and did intentionally or knowingly cause the death of an individual, Annette Stevenson, by shooting her 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 the offense of capital murder.

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 as charged in the indictment and next consider the lesser included offenses of murder.

A person commits an offense of "murder" if he intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual.

"Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death.

Now, if you find from the evidence beyond a reasonable doubt, that Erick Daniel Davila, in Tarrant County, Texas, on or about the 6th day of April 2008, did with the intent to cause serious bodily injury commit an act clearly dangerous to human life that caused the death of an individual, Queshawn Stevenson, by shooting her with a deadly weapon, to wit: a firearm, then you will find the defendant guilty of the offense of murder of Queshawn Stevenson.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty of the murder of Queshawn Stevenson and next consider the offense of murder of Annette Stevenson.

Now, if you find from the evidence beyond a reasonable doubt, that Erick Daniel Davila, in Tarrant County, Texas, on or about the 6th day of April 2008, did with the intent to cause serious bodily injury commit an act clearly dangerous to human life that caused the death of an individual, Annette Stevenson, by shooting her with a deadly weapon, to wit: a firearm, then you will find the defendant guilty of the offense of murder of Annette Stevenson.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty of the murder of Annette Stevenson and next consider the offense of manslaughter.

A person commits the offense of "manslaughter" if he recklessly causes the death of an individual.

A person acts "recklessly" or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its

disregard constitutes a gross deviation for the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

Now, if you find from the evidence beyond a reasonable doubt, that Erick Daniel Davila, in Tarrant County, Texas, on or about the 6th day of April 2008, did recklessly cause the death of an individual, Qeshawn Stevenson, by shooting her with a deadly weapon, to wit: a firearm, then you will find the defendant guilty of the offense of manslaughter of Qeshawn Stevenson.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty of the manslaughter of Qeshawn Stevenson and next consider the offense of manslaughter of Annette Stevenson.

Now, if you find from the evidence beyond a reasonable doubt, that Erick Daniel Davila, in Tarrant County, Texas, on or about the 6th day of April 2008, did recklessly cause the death of an individual, Annette Stevenson, by shooting her with a deadly weapon, to wit: a firearm, then you will find the defendant guilty of the offense of manslaughter of Annette Stevenson.

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

If you should find from the evidence beyond a reasonable doubt that the defendant is either guilty of capital murder or murder or manslaughter, but you have a reasonable doubt as to which offense he is guilty, then you should resolve the doubt in the defendant's favor, and in such event you will find the defendant guilty of the lesser offense of murder or manslaughter.

You are instructed that our law provides that in the event a defendant chooses not to testify, that fact cannot be taken as a circumstance against him. Erick Daniel Davila has chosen 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 him.

You have been permitted to take notes during the testimony in this case. In the event any of you took notes, you may rely on your notes during your deliberations. However, you may not share your notes with the other jurors and you should not permit the other jurors to share their notes with you. You may, however, discuss the contents of your notes with the other jurors. You shall not use your notes as authority to persuade your fellow jurors. In your deliberations, give no more and no less weight to the views of a fellow juror just because that juror did or did not take notes. Your notes are not official transcripts. They are personal memory aids, just like the notes of the judge and the notes of the lawyers. Notes are valuable as a stimulant to your memory. On the other hand, you might make an error in observing or you might make a mistake in recording what you have seen or heard. Therefore, you are not to use your notes as authority to

persuade fellow jurors of what the evidence was during the trial.

Occasionally, during jury deliberations, a dispute arises as to the testimony presented. If this should occur in this case, you shall inform the court and request that the court read the portion of disputed testimony to you from the official transcript. You shall not rely on your notes to resolve the dispute because those notes, if any, are not official transcripts. The dispute must be settled by the official transcript, for it is the official transcript, rather than any juror's notes, upon which you must base your determination of the facts and ultimately your verdict in this case.

Your verdict must be by a unanimous vote of all members of the jury. 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.

In all criminal cases, the burden of proof is on the State. The burden of proof rests upon the State throughout the trial and never shifts to the defendant.

The indictment in this case is no evidence whatsoever of the guilt of the defendant. It is a mere pleading that is necessary in order to bring this case into court for trial and you will not consider it for any purpose.

All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proven beyond a reasonable doubt. The fact that a defendant has been arrested, confined, indicted for, or otherwise charged with an offense gives no rise to any 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.

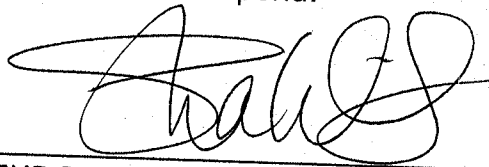
You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case and no juror is permitted to communicate to any other juror anything he may have heard regarding the case or any witness therein, from any other source than the witness stand.

You are the exclusive judges of the facts proven, of the credibility of the witnesses, and of the weight to be given their testimony. But you are bound to receive the law from the Court, which is given in these written instructions, and be governed thereby.

After you retire to the jury room, you should select one of your members as your foreman. It is his or her duty to preside at your deliberations, to vote with you, and when you have reached a unanimous verdict, to certify to your verdict by using the attached forms and signing the same as your foreman.

Any further communication must be in writing signed by your foreman through the bailiff to the Court, except as to your personal needs which may be communicated orally to the bailiff in charge. After you have reached a unanimous verdict or if you desire to communicate with the Court, please use the jury call

button on the wall and one of the bailiffs will respond.

A handwritten signature in black ink, appearing to read 'Sharen Wilson', written over a horizontal line.

JUDGE SHAREN WILSON
Criminal District Court No. 1
Tarrant County, Texas

VERDICT FORMS

We, the Jury, find the defendant, Erick Daniel Davila, guilty of the offense of capital murder as charged in the indictment.

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Foreman

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-OR-

We, the Jury, find the defendant, Erick Daniel Davila, not guilty of the offense of capital murder as charged in the indictment.

Foreman

We, the Jury, find the defendant, Erick Daniel Davila, guilty of the offense of murder of Queshawn Stevenson.

Foreman

-OR-

We, the Jury, find the defendant, Erick Daniel Davila, not guilty of the offense of murder of Queshawn Stevenson.

Foreman

We, the Jury, find the defendant, Erick Daniel Davila, guilty of the offense of murder of Annette Stevenson.

Foreman

-OR-

We, the Jury, find the defendant, Erick Daniel Davila, not guilty of the offense of murder of Annette Stevenson.

Foreman

We, the Jury, find the defendant, Erick Daniel Davila, guilty of the offense of manslaughter of Queshawn Stevenson.

Foreman

-OR-

We, the Jury, find the defendant, Erick Daniel Davila, not guilty of the offense of manslaughter of Queshawn Stevenson.

Foreman

We, the Jury, find the defendant, Erick Daniel Davila, guilty of the offense of manslaughter of Annette Stevenson.

Foreman

-OR-

We, the Jury, find the defendant, Erick Daniel Davila, not guilty of the offense of manslaughter of Annette Stevenson.

Foreman