

MAY 13 2009

Time 9:16 AM
32-12 Deputy

CAUSE NO. 1013563D

THE STATE OF TEXAS)
VS.)
JARVIS L. GLENN)
) IN CRIMINAL DISTRICT COURT
) NUMBER FOUR OF
) TARRANT COUNTY, TEXAS

COURT'S CHARGE

MEMBERS OF THE JURY:

The Defendant, JARVIS L. GLENN, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 1st day of March 2006, in Tarrant County, Texas. To this charge, the Defendant has pleaded not guilty.

Our law provides that a person commits the offense of murder when 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.

A person commits the offense of 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 or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

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

A person commits the offense of criminally negligent homicide if he causes the death of an individual by criminal negligence.

A person commits the offense of robbery, if, in the course of committing theft, as that term is hereinafter defined, and with intent to obtain or maintain control of 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 aggravated robbery if he commits robbery, and he uses or exhibits a deadly weapon.

"Individual" means a human being who is alive.

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

"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.

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

"Serious bodily injury" means bodily injury which 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.

"Theft" as used herein is the unlawful appropriation of property, with the intent to deprive the owner of said property.

"Appropriation" and "appropriate", as those terms are used herein, 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" as used herein, means tangible or intangible personal property or documents, including money, that represents or embodies anything of value.

"Deprive" as used herein means to withhold property from the owner permanently.

"Effective consent" means assent in fact, whether express or apparent. Consent is not effective if induced by coercion, or force, or threats.

"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.

"Possession" means actual care, custody, control or management of property.

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 a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

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 from the standard of care that an ordinary person would exercise under all the circumstances, as viewed from the actor's standpoint.

A person acts with criminal negligence, or is criminally negligent, with respect to the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the

result complained of will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard care of that an ordinary person would exercise under all the circumstances, as viewed from the standpoint of the person charged.

The term "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.

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

A "firearm" is a deadly weapon.

You are instructed that a conviction cannot be had upon the testimony of an accomplice unless the jury first believes that the accomplice's testimony is true and that it shows the Defendant is guilty of the offense charged against him, and even then you cannot convict unless the testimony of the accomplice is corroborated by other evidence tending to connect the Defendant with the offense charged. The corroboration, if any, is not sufficient if it merely shows the commission of the offense, but it must tend to connect the Defendant with its commission.

For purposes of applying this instruction in the above paragraph, all persons are parties to an offense who are guilty of acting together in the commission of the offense. 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 both. A person is criminally responsible for an offense committed by the conduct of another if, (1) acting with intent to promote or assist the commission of the offense, he solicits or encourages, directs, aids, or

attempts to aid the other person to commit the offense; or (2) in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy.

The term "conspiracy" means an agreement with one or more persons that they or one or more of them engage in conduct that would constitute a felony. An agreement constituting a conspiracy may be inferred from the acts of the parties.

You are instructed that aggravated robbery is a felony.

Mere presence alone will not constitute one a party to a crime.

An accomplice, as the word is here used, means anyone connected as a party, as defined above, with the crime charged.

If you find from the evidence beyond a reasonable doubt that Jarvis L. Glenn, in Tarrant County, Texas, on or about the 1st day of March, 2006, did then and there intentionally cause the death of Dwight Rochon by shooting him with a firearm in the course of committing robbery of Dwight Rochon, but you find from the evidence beyond a reasonable doubt that the witness, Melinda Lauderdale, did not know of the intent, if any, of the said Jarvis L. Glenn to cause the death of Dwight Rochon by shooting him with a firearm in the course of committing robbery of Dwight Rochon, or even if Melinda Lauderdale had knowledge of such intent of Jarvis L. Glenn, that Melinda Lauderdale did not act with intent to promote or assist the commission of the offense by Jarvis L. Glenn by soliciting, encouraging, directing, aiding, or attempting to aid

Jarvis L. Glenn to commit the offense, then you will find the witness, Melinda Lauderdale, was not an accomplice to the offense of capital murder.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find that the witness, Melinda Lauderdale, was an accomplice to the offense of capital murder.

If you find that Melinda Lauderdale is an accomplice, you are instructed that a conviction cannot be had upon the testimony of Melinda Lauderdale unless the jury first believes that Melinda Lauderdale's testimony is true and that it shows the Defendant is guilty of the offense charged against him, and even then you cannot convict unless the testimony of Melinda Lauderdale is corroborated by other evidence tending to connect the Defendant with the offense charged. The corroboration, if any, is not sufficient if it merely shows the commission of the offense, but it must tend to connect the Defendant with its commission.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 1st day of March, 2006, in Tarrant County, Texas, Jarvis L. Glenn, did then and there intentionally cause the death of an individual, Dwight Rochon, by shooting him with a firearm, and the said Jarvis L. Glenn was then and there in the course of committing or attempting to commit the offense of robbery of Dwight Rochon, then you will find the defendant guilty of capital murder, as alleged in the indictment.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of the offense of capital murder and next proceed to consider whether the defendant is guilty of the lesser included offense of murder.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 1st day of March, 2006, in Tarrant County, Texas, Jarvis L. Glenn, did then and there intentionally or knowingly cause the death of an individual, Dwight Rochon, by shooting him with a firearm, or did then and there intentionally while in the course of committing or attempting to commit robbery of Dwight Rochon, the defendant did commit an act clearly dangerous to human life which caused the death of Dwight Rochon, then you will find the defendant guilty of the lesser included offense of murder.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of the offense of murder and next proceed to consider whether the defendant is guilty of the lesser included offense of aggravated robbery with a deadly weapon.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 1st day of March, 2006, in Tarrant County, Texas, Jarvis L. Glenn, did then and there intentionally or knowingly, while in the course of committing theft of property, and with intent to obtain or maintain control of said property, threaten or place Dwight Rochon, in fear of imminent bodily injury or death; and the defendant did then and there use or exhibit a deadly weapon, to-wit: a firearm, then you will find the defendant guilty of the lesser included offense of aggravated robbery with a deadly weapon.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of the offense of aggravated robbery and next proceed to consider whether the defendant is guilty of the lesser included offense of manslaughter.

Now, if you find from the evidence beyond a reasonable doubt that on or about 1st day of

March, 2006, in Tarrant County, Texas, the defendant, Jarvis L. Glenn, did recklessly cause the death of an individual, namely Dwight Rochon, by consciously disregarding the substantial and unjustifiable risk posed by carrying a firearm pointed in the direction of Dwight Rochon that discharged and caused the death of Dwight Rochon, then you will find the defendant guilty of the lesser included offense of manslaughter.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of the offense of manslaughter and next proceed to consider whether the defendant is guilty of the lesser included offense of criminally negligent homicide.

Now, if you find from the evidence beyond a reasonable doubt that on or about 1st day of March, 2006, in Tarrant County, Texas, the defendant, Jarvis L. Glenn, did then and there, by criminal negligence, with respect to circumstances surrounding his conduct or as to a result of his conduct, carry a firearm pointed in the direction of Dwight Rochon when he ought to have been aware of a substantial and unjustifiable risk that so pointing the firearm would result in the death of Dwight Rochon, that did cause the death of an individual, Dwight Rochon, by shooting Dwight Rochon with a deadly weapon, to wit, a firearm, then you will find the defendant guilty of criminally negligent homicide.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the Defendant not guilty.

Unless you find beyond a reasonable doubt that the defendant is guilty of any offense referred to under these instructions, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict Not Guilty.

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a privilege accorded a defendant, and in the event he elects not to testify, that fact cannot be taken as a circumstance against him. 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.

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 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 of 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.

The State has introduced evidence of an extraneous crime or bad act other than the one charged in the indictment in this case, concerning William Caesar. This evidence was admitted only for the purpose of assisting you, if it does, for the purpose of showing the defendant's intent, preparation, plan, or identity, if any. You cannot consider the testimony unless you find and believe beyond a reasonable doubt that the defendant committed this act, if it was committed.

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 must be governed by you shall receive in these written instructions.

After you retire to the jury room, you should select one of your members as your Foreperson. It is his or her duty to preside at your deliberations, vote with you, and, when you have unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form attached hereto, and signing the same as Foreperson.

No one has any authority to communicate with you except the officer who has you in charge. 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.

After you have retired, you may communicate with this court in writing through the

officer who has you in charge. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the court, or anyone else concerning any question you may have. After you have reached a unanimous verdict, the Foreperson will certify thereto by filling in the appropriate form attached to this charge and signing his or her name as Foreperson. You may now retire to consider your verdict.

Mike Thomas
MIKE THOMAS, PRESIDING JUDGE

VERDICT FORMS

We, the Jury, find the Defendant, JARVIS L. GLENN, guilty of the offense of capital murder as charged in the indictment.

FOREPERSON

--OR--

We, the Jury, find the Defendant, JARVIS L. GLENN, guilty of the lesser included offense of murder.

FOREPERSON

--OR--

We, the Jury, find the Defendant, JARVIS L. GLENN, guilty of the lesser included offense of aggravated robbery.

FOREPERSON

--OR--

We, the Jury, find the Defendant, JARVIS L. GLENN, guilty of the lesser included offense of manslaughter.

FOREPERSON

FILED
THOMAS A. WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

MAY 13 2009

Time 2:47 pm
By ML Deputy

--OR--

We, the Jury, find the Defendant, JARVIS L. GLENN, guilty of the lesser included offense of criminally negligent homicide.

FOREPERSON

--OR--

We, the Jury, find the Defendant, JARVIS L. GLENN, not guilty.

Greg Gibson
FOREPERSON