

THE STATE OF TEXAS

§

IN THE 372ND JUDICIAL

VS.

§

DISTRICT COURT OF

THOMAS OLIVAS

§

TARRANT COUNTY, TEXAS

COURT'S CHARGE

MEMBERS OF THE JURY:

The Defendant, Thomas Olivas, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 20<sup>th</sup> day of March 2011, in Tarrant County, Texas. To this charge the Defendant has pleaded not guilty.

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

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

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

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.

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

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

OCT 02 2014

TIME 9:20  
BY [Signature] DEPUTY

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 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.

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 him and say by your verdict "Not Guilty".

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about the 20<sup>th</sup> day of March 2011, in Tarrant County, Texas, the Defendant, Thomas Olivas, did then and there intentionally or knowingly cause the death of an individual, Mechelle Gandy, by cutting her or stabbing her with an item, the exact nature of which is unknown to the Grand Jury, and during the same criminal transaction the Defendant intentionally or knowingly caused the death of another individual, Asher Olivas, by setting fire to his body by igniting a combustible or flammable material with an open flame; OR

then and there intentionally or knowingly cause the death of an individual, Mechelle Gandy, by cutting her or stabbing her with an item, the exact nature of which is unknown to the Grand Jury, and during the same criminal transaction the Defendant intentionally or knowingly caused the death of another individual, Asher Olivas, by setting fire to a combustible or flammable material with an open flame in close proximity to the body of Asher Olivas; OR

If you find from the evidence beyond a reasonable doubt that on or about the 20<sup>th</sup> day of March 2011, in Tarrant County, Texas, the Defendant, Thomas Olivas, did then and there intentionally or knowingly cause the death of an individual, Mechelle Gandy, by cutting her or stabbing her with an item, the exact nature of which is unknown to the Grand Jury, and during the same criminal transaction the Defendant intentionally or knowingly caused the death of another individual, Asher Olivas, in a manner and by a means which are unknown to the Grand Jury, then you will find the Defendant guilty of the offense of capital murder, as charged in the indictment.

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

The indictment in this case is no evidence whatsoever of the guilt of the Defendant. It is a written instrument necessary in order to bring this case into court for trial, and you will not consider the indictment as any evidence in this case or as any circumstance whatsoever against the Defendant.

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

evidence regarding the case, or any witness therein, and no juror is permitted to communicate to any other juror anything he or she may have seen or heard regarding the case or any witness therein from any source other than in open court.

Your verdict must be by a unanimous vote of all members of the jury. In your deliberations you shall consider the charge as a whole and you must not refer to or discuss any matters not in evidence.

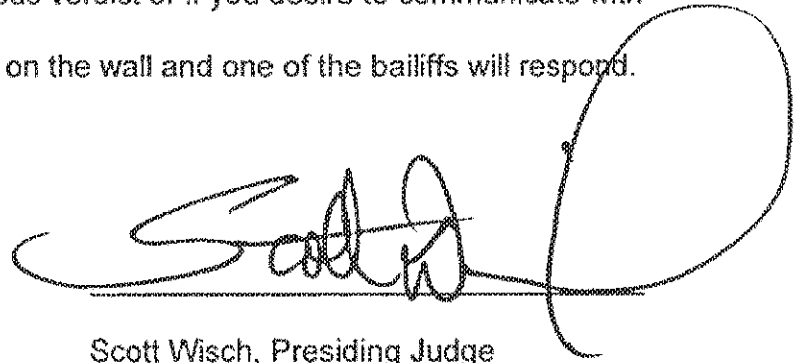
At times throughout the trial the Court may have been called upon to rule on the question of whether or not certain offered evidence might properly be admitted. You are not to concern yourselves with the reasons for the Court's ruling nor draw any inferences therefrom. Whether offered evidence is admissible is a question of law and in admitting evidence to which an objection is made, the Court does not determine what weight should be given such evidence; nor does the Court pass on the credibility of the witness. You must not consider any evidence offered that has been rejected by the Court. As to any question to which an objection was sustained, you must not engage in conjecture as to what the answer might have been or as to the reason for the objection.

You are instructed that you are not to allow yourselves to be influenced in any degree whatsoever by what you may think or surmise the opinion of the Court to be. The Court has no right by any word or any act to indicate any opinion respecting any matter of fact involved in this case, nor to indicate any desire respecting the outcome of the case. The Court has not intended to express any opinion upon any matter of fact, and if you have observed anything which you may have interpreted as the Court's opinion as to any matter of fact, you must wholly disregard it.

After you retire to the jury room, you should select one of your members as your Presiding Juror. Any member of the jury may serve as Presiding Juror. It is that person's 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 and signing the same as your Presiding Juror.

the bailiffs who have you in charge. Your written communications must be signed by the Presiding Juror. Do not attempt to talk to the bailiffs, the attorneys, or the Court regarding any question you may have concerning the trial of the case.

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 "Scott Wisch", written over a horizontal line. The signature is stylized and includes a large, circular flourish on the right side.

Scott Wisch, Presiding Judge  
372nd Judicial District Court  
Tarrant County, Texas

We, the Jury, find the Defendant, Thomas Olivas, not guilty.

---

Presiding Juror

-OR-

We, the Jury, find the Defendant, Thomas Olivas, guilty of the offense of capital murder, as charged in the indictment.



Presiding Juror

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

OCT 02 2014

TIME 6:12 PM  
BY map DEPUTY