

CAUSE NO. 28,240

AT FILED M
APR 17 2015
CLERK DISTRICT COURT HUNT CO. TX

THE STATE OF TEXAS

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IN THE DISTRICT COURT

VS

OF HUNT COUNTY, TEXAS

GEORGE WASHINGTON SHARPER §

196TH JUDICIAL DISTRICT

JURY CHARGE

MEMBERS OF THE JURY:

The defendant, GEORGE WASHINGTON SHARPER, stands charged by indictment with the offense of capital murder, alleged to have been committed in Hunt County, Texas, on or about the 29th day of June, A.D. 2007. The defendant has pleaded not guilty.

Our law requires that I submit the following charge to you in this case. This charge contains all of the law necessary to enable you to reach a verdict.

1.

A person commits murder if he intentionally or knowingly causes the death of an individual.

A person commits the offense of capital murder if he commits murder, and he intentionally commits the murder in the course of committing or attempting to commit burglary of habitation and/or robbery.

2.

A person commits the offense of burglary if, without the effective consent of the owner, he enters a habitation with intent to commit a felony or a theft.

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

3.

So that you can better understand some of the words and terms used in the charge, the law provides the following definitions:

"Appropriation" and "appropriate," 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, or the property is stolen and the actor appropriates the property knowing it was stolen by another, or property in the custody of any law enforcement agency was explicitly represented by any law enforcement agent to the actor as being stolen and the actor appropriates the property believing it was stolen by another.

"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.

"Deprive" means to withhold property from the owner permanently.

"Effective Consent" means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner. Consent is not effective if induced by deception or coercion, or threats or force.

"Enter," as used above, is meant to intrude any part of the body or any physical object connected with the body into the habitation.

"Habitation" means a structure or that is adapted for the overnight accommodation of persons, and includes each separately secured or occupied portion of the structure and each structure appurtenant to or connected with the structure.

"Individual" means a human being that has been born and 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.

"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 the property.

"Property" means tangible or intangible personal property including anything severed from the land, or a document, including money, that represents or embodies anything of value.

"Theft" as used herein is the unlawful appropriation of the corporeal personal property of another with the intent to deprive such other person of said property.

4.

A person acts intentionally with respect to a result of his conduct when it is his conscious objective or desire to cause the result. Intent can be inferred from acts done or words spoken, if any.

A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. 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.

5.

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 the commission of an 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 an offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense.

Mere presence alone will not constitute one a party to an offense

6.

Now, if you believe from the evidence beyond a reasonable doubt that in Hunt County, Texas, on or about the 29th day of June, A.D. 2007, the defendant, GEORGE WASHINGTON SHARPER, did then and there individually or acting together with MARKUS LADANE STEPHENSON, intentionally caused the death of an individual, DAVID OLIVARES, by shooting him with a firearm, and GEORGE WASHINGTON SHARPER was then and there in the course of committing or attempting to commit the offense of burglary of a habitation and/or robbery, you shall find the defendant "Guilty" of the offense of capital murder as alleged in the indictment.

Unless you so find, or if you have a reasonable doubt thereof, you shall acquit the defendant and say by your verdict, "Not guilty" of capital murder and will next consider the lesser included offense of murder.

7.

Now, if you believe from the evidence beyond a reasonable doubt that in Hunt County, Texas, on or about the 29th day of June, A.D. 2007, the defendant, GEORGE WASHINGTON SHARPER, did then and there individually or acting together with MARKUS LADANE STEPHENSON, intentionally or knowingly caused the death of an individual, DAVID OLIVARES, by shooting him with a firearm, you shall find the defendant "Guilty" of the lesser included offense of murder.

Unless you so find, or if you have a reasonable doubt thereof, you shall acquit the defendant of the lesser included offense of murder and say by your verdict, "Not guilty" of murder.

8.

You are instructed that you may consider all relevant facts and circumstances surrounding the killing, if any, and the previous relationship existing between the accused and the deceased, if any, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the shooting in question, if any.

9.

Upon the law of accomplice witness testimony, you are instructed that MARKUS LADANE STEPHENSON was an "accomplice, if any offense was committed, as alleged in the indictment. With this in mind, you are further instructed that you cannot convict the defendant, GEORGE WASHINGTON SHARPER, in this cause upon MARKUS LADANE STEPHENSON'S testimony unless you first believe that MARKUS LADANE STEPHENSON'S testimony is true and shows the guilt of the defendant, GEORGE WASHINGTON SHARPER, as charged in the indictment, and then you cannot convict the Defendant, GEORGE WASHINGTON SHARPER unless MARKUS LADANE STEPHENSON'S testimony is corroborated by other evidence tending to connect the defendant, GEORGE WASHINGTON SHARPER, with the offense charged. The corroboration is not sufficient if it merely shows the commission of an offense, but it must tend to connect the Defendant, GEORGE WASHINGTON SHARPER with its commission, and then from all the evidence, you must believe beyond a reasonable doubt that the Defendant, GEORGE WASHINGTON SHARPER, is guilty of the offense charged against him. You are further instructed that mere presence of the Defendant, GEORGE WASHINGTON SHARPER, in the company of an accomplice witness shortly before or after the time of the offense, if any, is not in itself, sufficient corroboration of the accomplice witness testimony.

10.

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 into consideration for any purpose whatsoever as a circumstance against the defendant.

11.

Evidence may have been introduced in this case regarding the defendant's having committed other crimes, wrongs or acts. You are instructed that you can not consider any such evidence to prove the character of the defendant or that he acted in conformity therewith.

You can consider any such evidence for other purposes such as proof of motive, intent, identity or rebuttal of a defensive theory. You cannot consider the testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other acts, if any were committed.

12.

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, confined, 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.

13.

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 shall receive in these written instructions, and you must be governed thereby.

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 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 discuss the contents of your notes with the other jurors but shall not use them 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.

Occasionally, during jury deliberation, 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 have the portion of disputed testimony read back to you. You are advised that this is a time consuming process and you must certify to the Court the exact area of the factual dispute before the readback can be ordered.

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 the authority to communicate with you except the officer who has you in his charge. During your deliberations in this case, you must not consider, discuss, or 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, and consider only evidence that has been introduced during this trial and reasonable inferences therefrom.

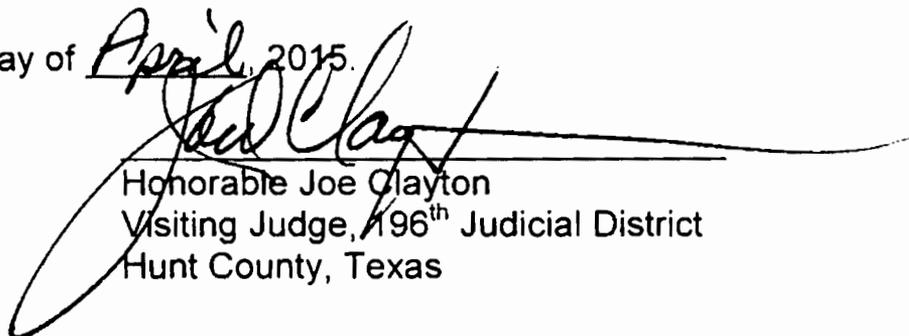
After you have retired to deliberate your verdict, you cannot separate from each other except for one of your members to use the restroom. When one member is absent in the restroom, you must cease deliberation until all twelve are present. If one person goes outside to smoke, then all twelve must accompany that person, because the jury can not separate after deliberation begins

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/her name as the Foreperson and then notify the bailiff.

Your sole duty at this time is to determine the guilt or innocence of the defendant under the indictment in this cause and restrict your deliberations solely to the issue of guilt or innocence of the defendant. After final arguments, you may retire to consider your verdict.

Signed this the 17 day of April, 2015.



Honorable Joe Clayton
Visiting Judge, 196th Judicial District
Hunt County, Texas

VERDICT FORM
(Choose one ONLY)

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CLERK, DISTRICT COURT, HUNT CO. TX

We, the Jury, find the defendant, GEORGE WASHINGTON SHARPER, "Guilty" beyond a reasonable doubt of the offense of capital murder, as charged in the indictment.

Bryan Bruce Belen
Foreperson

OR

We, the Jury, find the defendant, GEORGE WASHINGTON SHARPER, "Guilty" beyond a reasonable doubt of the lesser included offense of murder.

Foreperson

OR

We, the Jury find the defendant, GEORGE WASHINGTON SHARPER, "Not Guilty."

Foreperson