

F20-2830-211

FILED
DENTON COUNTY, TEXAS
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DEPUTY

STATE OF TEXAS

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IN THE 211TH JUDICIAL

VS.

*

DISTRICT COURT OF

CORY WASHINGTON

*

DENTON COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, CORY WASHINGTON, stands charged by amended indictment with the offense of Capital Murder, alleged to have been committed on or about the 14th day of October, 2020. The defendant has pleaded not guilty.

To prove the defendant is guilty of capital murder, the state must prove, beyond a reasonable doubt, three elements:

1. the defendant intentionally or knowingly caused the death of an individual; and
2. the defendant intentionally or knowing caused the death of another individual; and
3. both murders were committed during the same criminal transaction.

Burden of Proof

The state must prove, beyond a reasonable doubt, the accusations against defendant.

Definitions

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.

Application of Law to Facts

You should determine whether the state has proved, beyond a reasonable doubt, three elements, specifically:

1. The defendant, CORY WASHINGTON, on or about the 14th day of October, 2020, in Denton County, Texas, did then and there intentionally or knowingly cause the death of an individual, namely, April Robinson, by shooting April Robinson with a firearm; and
2. The defendant, CORY WASHINGTON, on or about the 14th day of October, 2020, in Denton County, Texas, did then and there intentionally or knowingly cause the death of another individual, namely, Donovan Fielder, by shooting Donovan Fielder with a firearm; and
3. both murders were committed during the same criminal transaction.

If you find the state proved, beyond a reasonable doubt, all 3 of these elements of capital murder, you must still consider whether any defenses apply to the murder of Donovan Fielder.

If you find the state proved, beyond a reasonable doubt, elements 1 and 2 then you will find him guilty of the murder of April Robinson, but you must still consider whether any defenses apply to the murder of Donovan Fielder.

If you find the state proved, beyond a reasonable doubt, element 1 but not element 2, you will find the defendant guilty of the murder of April Robinson and not guilty of the murder of Donovan Fielder

If you find the state proved, beyond a reasonable doubt, element 2 but not element 1, you will find the defendant not guilty of the murder of April Robinson and you must still consider whether any defenses apply to the murder of Donovan Fielder.

If you find the state failed to prove both element 1 and 2 then you will find the defendant not guilty.

Self-Defense

A person is justified in using force against another when and to the degree that he reasonably believes the force is immediately necessary to protect himself against the other person's use or attempted use of unlawful force.

A person is justified in using deadly force against another if he would be justified in using force against the other in the first place, as above set out, and when he reasonably believes that such deadly force is immediately necessary to protect himself against the other person's use

or attempted use of unlawful deadly force, or to prevent the other's imminent commission of aggravated kidnaping, murder, sexual assault, aggravated sexual assault, robbery, or aggravated robbery.

The defendant is not required to prove self-defense. Rather, the state must prove, beyond a reasonable doubt, that self-defense does not apply to the defendant's conduct.

Self-defense does not cover conduct in response to verbal provocation alone. The Defendant must have reasonably believed the other person had done more than verbally provoke the Defendant.

A person who has a right to be present at the location where the deadly force is used, who has not provoked the person against whom the deadly force is used, and who is not engaged in criminal activity at the time the deadly force is used is not required to retreat before using deadly force.

"Reasonable belief" means a belief that an ordinary and prudent person would have held in the same circumstances as the defendant.

"Deadly force" means force that is intended or known by the persons using it to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.

The Defendant is not required to prove self-defense. Rather, the state must prove, beyond a reasonable doubt, that self-defense does not apply to the Defendant's conduct.

To decide the issue of self-defense, you must determine whether the state has proved, beyond a reasonable doubt, one of the following:

1. the Defendant, CORY WASHINGTON, did not believe his use of deadly force on or about October 14, 2020, was immediately necessary to protect himself against Donovan Fielders' unlawful deadly force; *or*
2. the Defendant's belief, on or about October 14, 2020, was not reasonable.

You must agree unanimously that the state has proved, beyond a reasonable doubt, either element 1 or 2 listed above. You need not agree unanimously on which of these elements the state has proved.

If you find the state has failed to prove, beyond a reasonable doubt, at least one of the elements listed above, you must find the Defendant not guilty of "Murder" for Donovan Fielder on or about October 14, 2020.

Necessity Defense

If you all agree the state has proved, beyond a reasonable doubt, each of the elements of the offense of murder, and you believe, beyond a reasonable doubt, that the defendant did not act in self-defense in committing said killing of Donovan Fielder, you must next consider the justification of necessity.

As to the law of necessity, you are instructed that a person's conduct is justified if that person reasonably believes his conduct is immediately necessary to avoid imminent harm; and the desirability and urgency of avoiding the harm clearly outweigh, according to ordinary standards of reasonableness, the harm sought to be prevented by the law prescribing the conduct.

Now, if you find and believe from the evidence that on the occasion in question the defendant reasonably believed, viewed from the standpoint of the defendant at the time, that his conduct of shooting the firearm at Donovan Fielder was immediately necessary to avoid imminent harm, and the desirability and urgency of avoiding the harm clearly outweighed, according to ordinary standards of reasonableness, the harm sought to be prevented by the law prohibiting murder, then you should acquit the defendant, or, if you have a reasonable doubt as to whether or not the defendant acted reasonably or the desirability and urgency of avoiding the harm was unreasonable under the circumstances, then you should give the defendant the benefit of that doubt and say by your verdict "not guilty" of the murder of Donovan Fielder.

If you all agree that the state has proved, beyond a reasonable doubt, each of the elements of the offense of murder of Donovan Fielder, and you believe beyond a reasonable doubt, the defendant did not act out of self-defense or necessity, you shall find the defendant guilty of element 2, the murder of Donovan Fielder.

If you further find or have found that the State proved elements 1 and 3 then you shall find the defendant guilty of Capital Murder as alleged in the amended indictment.

Further Instructions

Voluntary intoxication does not constitute a defense to the commission of a crime.

Our law provides that a defendant may testify if he elects to do so. However, in the event a defendant does not testify, the fact that he did not testify cannot be considered as evidence or circumstance against him or anyone else. You are instructed that you cannot, and must not, refer to or allude to the election of any defendant to not testify when you enter your deliberations, or

take such election into consideration for any purpose whatever as evidence or a circumstance against the defendant.

You are instructed that if there is any testimony before you in this case regarding the defendant's having committed offenses other than the offense alleged against him in the amended indictment in this case, you cannot consider said testimony for any other purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offenses, if any were committed, and even then you may only consider the same in determining the intent of the defendant, if any, in connection with the offense, if any, alleged against him in the amended indictment in this case, and for no other purpose.

At times throughout the trial the Court has been called upon to pass on the question of whether or not certain offered evidence might properly be admitted. You are not to draw any inferences from them. Whether offered evidence is admissible is purely a question of law. In admitting evidence to which an objection is made, the Court does not determine what weight should be given such evidence; nor does it pass on the credibility of the witness. As to any offer of evidence that has been rejected by the Court, you, of course, must not consider the same; as to any question to which an objection was sustained, you must not 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 think or surmise the opinion of the court to be. The Court has no right by any word or any act to indicate any desire respecting its outcome. The Court has not intended to express any opinion upon any matter of fact in this case, and if you have observed anything which you have or may interpret as the Court's opinion upon any matter of fact in this case, you must wholly disregard it.

You are instructed that any statements of counsel, made during the course of the trial or during argument are not evidence.

You are limited in your deliberations as jurors on the verdict of guilt or innocence. You are to consider and discuss only the facts and circumstances as were admitted into evidence. You should not consider nor discuss facts and circumstances that are not in evidence, nor should you make deductions therefrom and in connection with this, you are instructed that no juror may lawfully relate any fact or circumstance of which he or she may claim to have knowledge which has not been admitted into evidence before you. If any evidence has been withdrawn from the jury by the Court, you will not discuss or consider it for any purpose.

All persons are presumed to be innocent, and no person may be convicted of any 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.

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 proves guilt beyond all possible doubt. It is required that the prosecution's proof excludes all reasonable doubt concerning the defendant's guilt.

The Presiding Juror or any other juror who observes a violation of the Court's instructions shall immediately warn the one who is violating the same and caution the juror not to do so again.

You will make no further finding in this case except to show in the blank on the form of verdict whether the defendant is guilty beyond a reasonable doubt, or not guilty, as you may find and determine from the law and the evidence in this case.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given to the testimony. You can believe or disbelieve all or any part of any testimony of any witness or witnesses but you are bound to receive the law from the Court, which is herein given you, and be governed thereby.

After you retire to your jury room you should select one of your members as your Presiding Juror. It is the Presiding Juror'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 Presiding Juror.

SIGNED this the 24th day of March, 2022.



BRODY SHANKLIN
JUDGE PRESIDING
211th DISTRICT COURT

VERDICT FORM

(Presiding Juror to sign only one)

We, the jury, find the defendant, CORY WASHINGTON, guilty of Capital Murder as we have found CORY WASHINGTON guilty of the Murder of April Robinson, and guilty of Murder of Donovan Fielder, and we find that both of these murders were part of the same criminal transaction, as alleged in the amended indictment.



PRESIDING JUROR

We, the jury, find the defendant, CORY WASHINGTON, guilty of Murder of April Robinson, and guilty of Murder of Donovan Fielder, but we do not find that these murders were part of the same criminal transaction.

PRESIDING JUROR

We, the jury, find the defendant, CORY WASHINGTON, guilty of Murder of April Robinson, and not guilty of Murder of Donovan Fielder.

PRESIDING JUROR

We, the jury, find the defendant, CORY WASHINGTON, not guilty of Murder of April Robinson, and guilty of Murder of Donovan Fielder.

PRESIDING JUROR

We, the jury, find the defendant, CORY WASHINGTON, not guilty of Murder of April Robinson, and not guilty of Murder of Donovan Fielder.

PRESIDING JUROR