

NO. A-18-1665-CR and A-18-1666-CR

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

OF ECTOR COUNTY, TEXAS

JOEL LUNA

70TH JUDICIAL DISTRICT

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The Defendant, JOEL LUNA, stands charged by indictment with the offense of CAPITAL MURDER and AGGRAVATED ASSAULT WITH A DEADLY WEAPON, alleged to have been committed in Ector County, Texas on or about April 30, 2018. The Defendant has pleaded not guilty to both charges.

CAPITAL MURDER

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

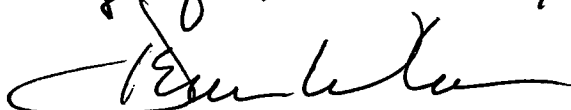
A person commits capital murder when such person commits the murder, if any, to an individual under ten years of age.

DEFINITIONS

"Individual" means a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.

A person acts intentionally, or with intent, with respect to a result of his conduct when it is his conscious desire to cause the result

A person acts knowingly, or with knowledge, with respect to a result of his

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@ 6:55 p.m. 

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

CAUSATION: CONDUCT AND RESULTS

A person is criminally responsible if the result would not have occurred but for his conduct, operating ^{whether} wither alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result and the conduct of the actor is clearly insufficient.

APPLICATION OF LAW TO FACTS

Now if you find, beyond a reasonable doubt that in Ector County, Texas, JOEL LUNA, hereafter styled the defendant, on or about April 30, 2018, did then and there intentionally and knowingly cause the death of an individual, namely, UNBORN CHILD, an individual younger than 10 years of age, by striking the body of TRENA LUNA with the defendant's arm, hand, leg, knee, or foot, or by applying pressure or the defendant's body weight to the body of TRENA LUNA, or by kneeling on TRENA LUNA, or by impeding the normal breathing or circulation of the blood of TRENA LUNA by applying pressure to TRENA LUNA's throat or neck, then you will find the defendant guilty of CAPITAL MURDER as to COUNT ONE and sign VERDICT FORM ONE.

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.

If and only if you are unable to agree on the defendant's guilt of CAPITAL MURDER, or if you have a reasonable doubt thereof, then you will next consider whether the defendant is guilty of the lesser offense of attempted capital murder.

ATTEMPTED CAPITAL MURDER

A person commits attempted capital murder if, with the intent to commit capital murder, he does an act amounting to more than mere preparation that tends but fails to effect the commission of the capital murder.

APPLICATION OF LAW TO FACTS

Now if you find, beyond a reasonable doubt that in Ector County, Texas, JOEL LUNA, hereafter styled the defendant, on or about April 30, 2018, did then and there with the specific intent to commit capital murder of UNBORN CHILD, an individual younger than 10 years of age, by striking the body of TRENA LUNA with the defendant's arm, hand, leg, knee, or foot, or by applying pressure or the defendant's body weight to the body of TRENA LUNA, or by kneeling on TRENA LUNA, or by impeding the normal breathing or circulation of the blood of TRENA LUNA by applying pressure to TRENA LUNA's throat or neck, which amounted to more than mere preparation that tended but failed to effect the commission of CAPITAL MURDER then you will find the defendant guilty of ATTEMPTED CAPITAL MURDER and sign VERDICT FORM TWO.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty of ATTEMPTED CAPITAL MURDER and sign VERDICT FORM THREE.

**AGGRAVATED ASSAULT WITH A DEADLY WEAPON SERIOUS BODILY
INJURY (FAMILY VIOLENCE)**

A person commits an assault if the person intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse.

A person commits aggravated assault if the person commits an assault, as defined above, and uses or exhibits a deadly weapon during the commission of the assault and causes serious bodily injury to a member of the defendant's family or household or a person with whom the defendant has or has had a dating relationship, as described by Section 71.003, 71.005, or 71.0021(b) of the Texas Family Code,

DEFINITIONS

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

"Serious Bodily Injury" means bodily injury that 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.

"Deadly weapon" means a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury; OR anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

A person acts intentionally as previously defined.

A person acts knowingly as previously defined.

A person acts recklessly, or is reckless, with respect to the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that 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

Section 71.003 of the Texas Family Code relates to "family" relationships.

"Family" includes individuals related by consanguinity or affinity, as determined under Sections 573.022 and 573.024, Government Code, individuals who are former spouses of each other, individuals who are the parents of the same child, without regard to marriage, and a foster child and foster parent, without regard to whether those individuals reside together. This also includes a husband and wife.

"Dating relationship" is defined as a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of: (1) the length of the relationship; (2) the nature of the relationship; and (3) the frequency and type of interaction between the persons involved in the relationship.

Section 71.005 of the Texas Family Code relates to "household" relationships.

"Household" is defined as a unit composed of persons living together in the same dwelling, without regard to whether they are related to each other.,

Section 71.0021(b) of the Texas Family Code relates to dating relationships.

"Dating relationship" is defined as a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of

such a relationship shall be determined based on consideration of: (1) the length of the relationship; (2) the nature of the relationship; and (3) the frequency and type of interaction between the persons involved in the relationship.

APPLICATION OF LAW TO FACTS

Now if you find, beyond a reasonable doubt that in Ector County, Texas, JOEL LUNA, hereafter styled the defendant, heretofore on or about the 30th day of April, 2018, did then and there intentionally, knowingly, or recklessly cause serious bodily injury to Trena Luna hereafter styled the complainant, by striking the body of TRENA LUNA with the defendant's arm, hand, leg, knee, or foot, or by applying pressure or the defendant's body weight to the body of TRENA LUNA, or by kneeling on TRENA LUNA, or by impeding the normal breathing or circulation of the blood of TRENA LUNA by applying pressure to TRENA LUNA's throat or neck, and the defendant did then and there use or exhibit a deadly weapon, to-wit: hand, arm, leg, foot, knee, or body weight, during the commission of the assault, and said TRENA LUNA was a member of the defendant's family or household or a person with whom the defendant has or has had a dating relationship, as described by Section 71.003, 71.005, or 71.0021 (b) of the Texas Family Code and you further find that the defendant did use or exhibit a deadly weapon, to-wit: the defendant's hand, arm, leg, foot, knee, or body weight that in the manner of its use or intended use was capable of causing death or serious bodily injury, during the commission of or immediate flight from said felony offense then you will find the defendant guilty of AGGRAVATED ASSAULT and sign VERDICT FORM FOUR.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty of AGGRAVATED ASSAULT and sign VERDICT FORM FIVE.

GENERAL PRINCIPLES

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 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.

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

"Intoxication" means disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

The State has introduced evidence of extraneous crimes or bad acts other than the one charged in the indictment in this case. This evidence was admitted for the purpose of assisting you, if it does, for the purpose of showing the defendant's motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, the nature of the relationship between the defendant and Trena Luna, or consciousness of guilt, if any. You cannot consider the testimony unless you find and believe beyond a reasonable doubt that the defendant committed these acts, if any, were 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.

You should give terms their common meanings, unless you have been told in these instructions that the terms are given special meanings. In that case, of course, you should give those terms the meaning provided in the instructions.

While you should consider only the evidence, you are permitted to draw reasonable inferences from the testimony and exhibits that are justified in the light of common experience. In other words, you may make deductions and reach conclusions

that reason and common sense lead you to draw from the facts that have been established by the evidence.

You are further charged as the law in this case that the State is not required to prove the exact date alleged in the indictment but may prove the offense, if any, to have been committed at any time prior to the presentment of the indictment so long as said offense, if any, occurred within three years of the date of the presentment of the indictment; you are further instructed that the day the indictment was presented and the day of the offense, if any, occurred, shall not be computed within the three year limitation period.

DELIBERATIONS AND VERDICT

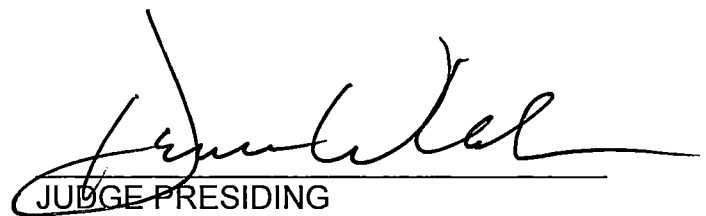
After you retire to the jury room, you should select one of your members as your Foreperson. It is his or her duty to preside at your deliberations, vote with you, and, when you have unanimously agreed upon a verdict as to each count, to certify to your verdicts by using the appropriate forms attached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

You may, if you wish, examine exhibits. If you wish to examine the exhibits, the foreperson will inform the court in writing. Only exhibits that were admitted into evidence

may be given to you for examination.

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 as to each count, the Foreperson will certify thereto by filling in the appropriate forms attached to this charge and signing his or her name as Foreperson.



JUDGE PRESIDING

NO. A-18-1665-CR and A-18-1666-CR

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

OF ECTOR COUNTY, TEXAS

JOEL LUNA

70TH JUDICIAL DISTRICT

VERDICT FORM ONE

We, the Jury, find the Defendant, JOEL LUNA, "Guilty," beyond a reasonable doubt, of the offense of CAPITAL MURDER, as charged in the Indictment.



FOREPERSON

NO. A-18-1665-CR and A-18-1666-CR

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

OF ECTOR COUNTY, TEXAS

JOEL LUNA

70TH JUDICIAL DISTRICT

VERDICT FORM TWO

We, the Jury, find the Defendant, JOEL LUNA, "Not Guilty," of the offense of CAPITAL MURDER, as charged in the Indictment but we further find the Defendant JOEL LUNA "Guilty" beyond a reasonable doubt of the lesser offense of ATTEMPTED CAPITAL MURDER.

FOREPERSON

NO. A-18-1665-CR and A-18-1666-CR

THE STATE OF TEXAS

IN THE DISTRICT COURT

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OF ECTOR COUNTY, TEXAS

JOEL LUNA

70TH JUDICIAL DISTRICT

VERDICT FORM THREE

We, the Jury, find the Defendant, JOEL LUNA, "Not Guilty" of the offense of CAPITAL MURDER and further find the Defendant, JOEL LUNA, "Not Guilty" of the lesser offense of ATTEMPTED CAPITAL MURDER

FOREPERSON

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JOEL LUNA

70TH JUDICIAL DISTRICT

VERDICT FORM FOUR

We, the Jury, find the Defendant, JOEL LUNA, "Guilty" beyond a reasonable doubt of the offense of AGGRAVATED ASSAULT as charged in the indictment



FOREPERSON

NO. A-18-1665-CR and A-18-1666-CR

THE STATE OF TEXAS

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70TH JUDICIAL DISTRICT

VERDICT FORM FIVE

We, the Jury, find the Defendant, JOEL LUNA, "Not Guilty" of the offense of
AGGRAVATED ASSAULT as charged in the indictment

FOREPERSON