

CAUSE NO. 07-04601-CRF-361

THE STATE OF TEXAS

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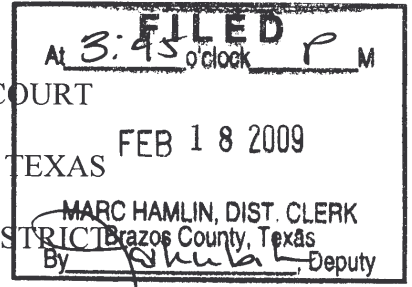
IN THE DISTRICT COURT

VS.

BRAZOS COUNTY, TEXAS

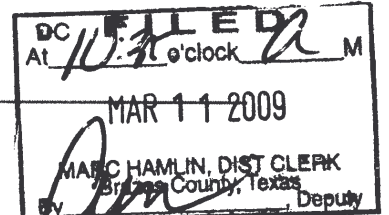
CHRISTIAN OLSEN

361ST JUDICIAL DISTRICT



CHARGE OF THE COURT

MEMBERS OF THE JURY:



The defendant, CHRISTIAN OLSEN, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 3rd day of June, 2007, in Brazos County, Texas. To this charge, the defendant has pleaded not guilty.

I.

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

“Individual” means a human being who is alive.

A person commits the offense of capital murder if the person intentionally commits the murder in the course of committing or attempting to commit robbery.

“In the course of committing” means conduct occurring in an attempt to commit, during the commission or in the immediate flight after the attempt or commission of the offense.

II.

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

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

A person commits the offense of theft if the person unlawfully appropriates property with intent to deprive the owner of the property.

“Appropriate” means to acquire or otherwise exercise control over property.

Appropriation of property is unlawful if:

- (A) it is without the owner’s effective consent;
- (B) the property is stolen and the actor appropriates the property knowing it was stolen by another; or
- (C) 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.

“Effective consent” includes consent by a person legally authorized to act for the owner.

Consent is not effective if:

- (A) induced by coercion;
- (B) given by a person the actor knows is not legally authorized to act for the owner;
- (C) given by a person who by reason of youth, mental disease or defect, or intoxication is known by the actor to be unable to make reasonable property disposition;
- (D) given solely to detect the commission of an offense; or
- (E) given by a person who by reason of advanced age is known by the actor to have a diminished capacity to make informed and rational decisions about the reasonable disposition of property.

“Consent” means assent in fact, whether express or apparent.

“Coercion” means a threat, however communicated:

- (A) to commit an offense;
- (B) to inflict bodily injury in the future on the person threatened or another;
- (C) to accuse a person of any offense;
- (D) to expose a person to hatred, contempt, or ridicule;
- (E) to harm the credit or business repute of any person; or
- (F) to take or withhold action as a public servant, or to cause a public servant to take or withhold action.

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

“Property” means:

- (A) tangible or intangible personal property including anything severed from land;  
or
- (B) a document, including money, that represents or embodies anything of value.

“Deprive” means:

- (A) to withhold property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the property is lost to the owner;
- (B) to restore property only upon payment of reward or other compensation; or
- (C) to dispose of property in a manner that makes recovery of the property by the owner unlikely.

“Owner” means a person who:

- (A) has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the actor; or
- (B) is a holder in due course of a negotiable instrument.

“Actor” means a person whose criminal responsibility is in issue in a criminal action.

### III.

With regard to the offense of capital murder, 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.

With regard to the offense of robbery, a person acts intentionally, or with intent, with respect to the nature of his conduct or a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

With regard to the offense of robbery, 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.

With respect to the offense of robbery, a person acts recklessly with respect to a 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.

#### IV.

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about 3rd day of June, 2007, in Brazos County, Texas, the defendant, CHRISTIAN OLSEN, did then and there intentionally cause the death of an individual, namely, Etta Westbrook, by striking her with a metal bar or an unknown object, or by strangling her, or by a combination of both striking her with a metal bar or an unknown object and by strangling her, and the defendant was then and there in the course of committing or attempting to commit the offense of Robbery of Etta Westbrook, you will find the defendant guilty of the offense of capital murder as alleged in the indictment.

If you do not so find, or if you have a reasonable doubt thereof, you will find the defendant not guilty.

#### V.

Evidence may have been introduced in this case regarding the defendant having committed other crimes, wrongs or acts. You cannot consider the evidence for any purpose unless you find unanimously and beyond a reasonable doubt that the defendant committed such other crimes, wrongs or acts. You are instructed that you cannot consider any such evidence to prove the character of the defendant or that he acted in conformity therewith. You can consider any such evidence only for the purpose of showing the Defendant's intent, if any, in connection with the offense charged in this case, but only if you find beyond a reasonable doubt that the defendant committed such other crimes, wrongs or acts.

#### VI.

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 you consider it in passing upon the question 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.

#### VII.

In a criminal case, the law permits the defendant to testify in his own behalf, but the same law provides that the fact that the defendant did not testify shall not be considered as a circumstance against him. Therefore, you will not consider the fact that the defendant did not testify as a circumstance against him. You will not in your retirement to consider your verdict allude to, comment on or in any manner refer to the fact that the defendant has not testified.

#### VIII.

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, indicted for or otherwise charged with an 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.

## IX.

You are the exclusive judges of the facts proved, of the credibility of the witnesses, and the weight to be given to their testimony, but the law you shall receive in these written instructions and you must be governed thereby.

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

No one has any authority to communicate with you except the bailiff. 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 that is not shown by the evidence before you. In determining the guilt or innocence of the defendant, you shall not discuss or consider the punishment, if any, which may be assessed against the defendant in the event he is found guilty beyond a reasonable doubt.

It is your duty, as jurors, to consult with one another and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to reexamine your own views and change your opinion if convinced it is erroneous, but do not surrender your honest convictions as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

X.

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 your 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, however, discuss the contents of your notes with the other jurors. You shall not use your notes 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 aides, 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. Therefore, you are not to use your notes as authority to persuade fellow jurors of what the evidence was during the trial.

XI.

After you have retired, no one has any authority to communicate with you except the bailiff. You may communicate with the judge in writing through the bailiff, but do not attempt to talk to the bailiff, or the attorneys, or the judge, or anyone else concerning any question you may have. After you have reached a unanimous verdict, and the Presiding Juror has signed the appropriate form, notify the bailiff that you have reached a verdict.

Signed on February 18, 2009.



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Presiding Judge  
361st Judicial District Court



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361ST JUDICIAL DISTRICT

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**VERDICT OF THE JURY**

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We, the Jury, find the defendant, CHRISTIAN OLSEN, not guilty.

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Presiding Juror

We, the Jury, find beyond a reasonable doubt that the defendant, CHRISTIAN OLSEN, is guilty of the offense of Capital Murder as alleged in the indictment.

*Mich/FOG*  
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Presiding Juror