

NO. CCCR-08-03104

THE STATE OF TEXAS                    ()     IN THE 220<sup>TH</sup> JUDICIAL  
VS.   ()     DISTRICT COURT OF  
ROCKY DEE HIDROGO, JR.               ()     COMANCHE COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, Rocky Dee Hidrogo, Jr., stands charged by indictment with the offense of capital murder, alleged to have been committed on or about July 5, 2008, in Comanche County, Texas. The defendant has pleaded not guilty.

1.

Our law provides that a person commits murder when he intentionally or ~~knowingly~~ causes the death of an individual.

A person commits capital murder when such person intentionally commits the murder in the course of committing or attempting to commit the offense of burglary.

2.

A person commits a burglary if, without the effective consent of the owner, the person enters a habitation, or a building (or any portion of a building) not then open to the public, with intent to commit theft.

3.

"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.

"Appropriation" and "appropriate," as those terms are used herein, 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.

"Property" as used herein means tangible or intangible personal property or documents, including money, that represent or embody anything of value.

"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.

**FILED**  
At \_\_\_\_\_ O'clock \_\_\_\_\_ M

SEP 18 2009

**BRENDA DICKEY**  
District Clerk, Comanche Co., TX

Deputy

"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.

"Firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

"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.

"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.

4.

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.

5.

To warrant a conviction of the defendant of capital murder, you must find from the evidence beyond a reasonable doubt not only that on the occasion in question the defendant was engaged in the commission of burglary, if any, the defendant shot Glenn Bundy with a firearm with the intention of thereby killing him. Unless you find from the evidence beyond a reasonable doubt that the defendant, on said occasion, specifically intended to kill or cause serious bodily injury to the said Glenn Bundy when he shot him, if he did shoot him, you cannot convict him of the offense of capital murder.

6.

Now, if you find from the evidence beyond a reasonable doubt that on or about July 5, 2008, in Comanche County, Texas, the defendant, Rocky Dee Hidrogo, Jr., while in the course of committing or attempting to commit burglary, did then and there intentionally commit murder by causing the death of Glenn Bundy by shooting the said Glenn Bundy with a firearm, then you will find the defendant guilty of capital murder.

Unless you find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of capital murder.

7.

You are instructed that the testimony before you in this case regarding the defendant's having committed burglaries, if he did, other than the one in connection with the crime alleged against him in the indictment in this case, you cannot consider said testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other burglaries, if any were committed, and even then you may only consider the same in determining the motive, intent, <sup>identity,</sup> preparation and plan of defendant, if any, in connection with the burglary and the offense, if any, alleged against him in the indictment in this case, and for no other purpose.

8.

You are instructed that an "accomplice," as the term is hereinafter used, means any person connected with the crime charged, as a party thereto, and includes all persons who are connected with the crime, as such parties, by unlawful act or omission on their part transpiring either before or during the time of the commission of the offense. 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. Mere presence alone, however, will not constitute one a party to an offense.

To be considered an accomplice witness, the witness's participation with the defendant must have involved some affirmative act that promotes the commission of the offense with which the defendant is charged. A witness is not an accomplice witness merely because he or she knew of the offense and did not disclose it, or even if he or she concealed it. Complicity with an accused in the commission of another offense apart from the charged offense does not make that witness's testimony that of an accomplice witness.

Under our law a conviction cannot be had upon the testimony of an accomplice unless corroborated by other evidence tending to connect the defendant with the offense committed; and the corroboration is not sufficient if it merely shows the commission of the offense, but it must tend to connect the defendant with its commission, and then from all of the evidence you must believe beyond a reasonable doubt that the defendant is guilty of the offense charged against him.

Therefore, if you find from the evidence that the offense alleged in the indictment was committed, but you further find that Edward Ray, Jr. was an accomplice to the commission of that crime, or if you have a reasonable doubt as to whether Edward Ray, Jr. was an accomplice or not, then you must not consider the testimony of Edward Ray, Jr. unless you find other evidence which tends to connect the defendant, Rocky Dee Hidrogo, Jr. with the crime.

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.

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 the Defendant has been arrested, confined, or indicted for, or otherwise charged with the offense gives rise to no inference of guilt at the Defendant's 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".

Our law provides that a defendant may testify in his own behalf. This however, is a privilege accorded a 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 through your deliberations or take it into consideration for any purpose whatsoever as a circumstance against the defendant.

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.

After you retire to the jury room you should select one of your members as your 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 attached hereto, and signing the same as Presiding Juror.

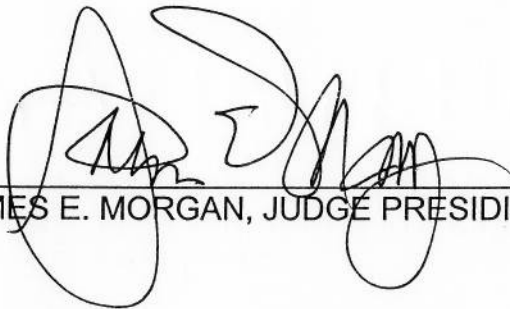
No one has any authority to communicate with you except the officer who has you in charge. During your deliberations in this case, you must not consider, discuss, nor relate any matters not in evidence before you. You should not consider nor mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence.

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.

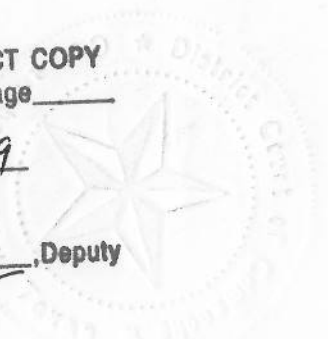
After you have reached a unanimous verdict, the Presiding Juror will certify thereto by filling in the appropriate form attached to this Charge and signing same as Presiding Juror.

9-18-09  
DATE

9:52 AM  
TIME

  
\_\_\_\_\_  
JAMES E. MORGAN, JUDGE PRESIDING

STATE OF TEXAS  
COUNTY OF COMANCHE  
CERTIFIED TO BE A TRUE AND CORRECT COPY  
of the Original in My Custody Vol. \_\_\_\_\_ Page \_\_\_\_\_  
Given Under My Hand and Seal of Office  
Dated September 21 Ad, 20 09  
Brenda Dickey  
District Clerk of Comanche County, Texas  
By Brenda Dickey, Deputy



NO. CCCR-08-03104

THE STATE OF TEXAS

0 IN THE 220TH JUDICIAL

V.

0 DISTRICT COURT OF

ROCKY DEE HIDROGO, JR.

0 COMANCHE COUNTY, TEXAS

VERDICT

We, the Jury, find the Defendant, Rocky Dee Hidrogo, Jr., guilty of capital murder, as charged in the indictment.

  
PRESIDING JUROR

(OR)

We, the Jury, find the Defendant Rocky Dee Hidrogo, Jr., not guilty.

\_\_\_\_\_  
PRESIDING JUROR

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COUNTY OF COMANCHE  
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