

JASON E. MURRAY
CLERK DISTRICT COURT
FILED
9:16am
MAR 11 2011
GALVESTON COUNTY, TEXAS
BY B. M. O. S.
DISTRICT COURT OF DEPUTY

No. 08CR0333

THE STATE OF TEXAS
VS.
TRAVIS JAMES MULLIS

IN THE DISTRICT COURT OF
GALVESTON COUNTY, TEXAS
122ND JUDICIAL DISTRICT

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The defendant, TRAVIS JAMES MULLIS, stands charged by indictment with the offense of Capital Murder, alleged to have been committed in Galveston County, Texas, on or about the 29th day of January, 2008. To this charge, the defendant has pleaded not guilty.

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, of an individual under six years of age.

“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 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.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 29th day of January, 2008 in Galveston County, Texas, the defendant, TRAVIS JAMES MULLIS, did intentionally or knowingly cause the death of ALIJAH MULLIS, an individual under six years of age, by stomping or kicking the said ALIJAH MULLIS with the leg or foot of the said TRAVIS JAMES MULLIS, then you will find the defendant, TRAVIS JAMES MULLIS, guilty of Capital Murder as charged in the indictment.

Unless you find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of Capital Murder as alleged in the indictment and proceed to consider whether the Defendant is guilty of the lesser offense of Injury to a Child.

Our law provides that a person commits the offense of Injury to a Child if he intentionally or knowingly by act, causes serious bodily injury to a child.

“Child” means a person 14 years of age or younger.

“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.

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.

Now, if you find from the evidence beyond a reasonable doubt that on or about 29th day of January, 2008 in Galveston County, Texas, the Defendant, TRAVIS JAMES MULLIS, did then and there intentionally or knowingly by act cause serious bodily injury to Alijah Mullis , a Child, fourteen years of age or younger, by stomping or kicking the said ALIJAH MULLIS with the leg or foot of the said TRAVIS JAMES MULLIS, then you will find the defendant, TRAVIS JAMES MULLIS, guilty of the lesser included offense of Injury to a Child.

If you find from the evidence beyond a reasonable doubt that the defendant is guilty of either Capital Murder or Injury to a Child, but you have a reasonable doubt as to which of said offenses he is guilty, then you must resolve that doubt in the defendant's favor and find him guilty of the lesser included offense of Injury to a Child.

If you have a reasonable doubt as to whether the defendant is guilty of any offense defined in this charge then you will acquit the defendant and say by your verdict "Not Guilty."

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

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.

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."

You are instructed that a statement of an accused may be used in evidence against him if it appears that the same was freely and voluntarily made without compulsion or persuasion.

A written statement of an accused may be used in evidence against him if it appears that the same was freely and voluntarily made without compulsion or persuasion.

A written statement of an accused means a statement signed by the accused or a statement made by the accused in his own handwriting.

No written statement made by an accused as a result of custodial interrogation (while the accused was in jail or other place of confinement or in the custody of a peace officer) is admissible as evidence against him in any criminal proceeding unless it is shown on the face of the statement (or is obtained in another state and was obtained in compliance with the laws of that state) that:

(a) the accused, prior to making the statement, received from the person to whom the statement is made a warning that:

- (1) he has the right to remain silent and not make any statement at all and that any statement he makes may be used against him at his trial;
- (2) any statement he makes may be used as evidence against him in court;
- (3) he has the right to have a lawyer present to advise him prior to and during any questioning;

(4) if he is unable to employ a lawyer, he has the right to have a lawyer appointed to advise him prior to and during any questioning;

(5) he has the right to terminate the interview at any time.

(b) the accused, prior to and during the making of the statement, knowingly, intelligently, and voluntarily waived the rights set out in the warning prescribed above.

So in this case, if you find from the evidence, or if you have a reasonable doubt thereof, that prior to the time the defendant gave the alleged statement to Detective Robert Hesser and/or Detective Gregory Rodden, if he did give it, the said Detective Robert Hesser and/or Detective Gregory Rodden did not warn the defendant in the respects outlined above, or as to any one of such requirements, then you will wholly disregard the alleged statement and not consider it for any purpose; if, however, you find beyond a reasonable doubt that the aforementioned warning was given to the defendant prior to his having made such statement, if he did make it, still, before you may consider such statement as evidence in this case, you must find from the evidence beyond a reasonable doubt that prior to and during such statement, if any, the defendant knowingly, intelligently and voluntarily waived the rights hereinabove set out in the said warning, and unless you so find, or if you have a reasonable doubt thereof, you will not consider the statement for any purpose.

No oral statement of an accused (except a statement that is the res gestae of the arrest or of the offense, or a statement that does not stem from custodial interrogation) made as a result of custodial interrogation shall be admissible against the accused in a criminal proceeding unless:

(1) An electronic recording, which may include audio, motion picture, videotape, or visual recording, is made of the statement;

(2) Prior to the statement but during the recording the accused is given the following warning:

- a. he has the right to remain silent and not make any statement at all and that any statement he makes may be used against him at his trial;
- b. any statement he makes may be used as evidence against him in court;
- c. he has the right to have a lawyer present to advise him prior to and during any questioning;
- d. if he is unable to employ a lawyer, he has the right to have a lawyer appointed to advise him prior to and during any questioning;
- e. he has the right to terminate the interview at any time; and
- f. the accused knowingly, intelligently, and voluntarily waives any rights set out in the warning;

(3) The recording device was capable of making an accurate recording, the operator was competent, and the recording is accurate, has not been altered except by agreement, and reflects that the accused was advised before the interrogation that the interrogation would be recorded; and

(4) All voices on the recording that are material are identified.

So in this case, if you find from the evidence, or if you have a reasonable doubt thereof, that prior to the time the defendant gave the alleged oral statement or oral confession to Detective Robert Hesser and/or Detective Gregory Rodden, if he did give it, the said Detective Robert Hesser and/or Detective Gregory Rodden did not warn the defendant in the respects outlined above, or as to any one of such requirements, then you will wholly disregard the alleged oral confession and not consider it for any purpose nor any evidence obtained as a result thereof; if, however you find beyond a reasonable doubt that the aforementioned warning was given to the defendant prior to his having made such oral statement, if he did make it, still, before you

may consider such oral statement as evidence in this case, you must first find from the evidence beyond a reasonable doubt that prior to and during such oral statement, if any, the defendant knowingly, intelligently and voluntarily waived the rights hereinabove set out in the said warning, and unless you so find, or if you have a reasonable doubt thereof, you will not consider the oral statement or oral confession for any purpose whatsoever or any evidence obtained as a result of same.

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a right 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 it into consideration for any purpose whatsoever as a circumstance against the Defendant.

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 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.

During your deliberations in this case, you must not consider, discuss, or relate any matters not in evidence before you. You should not consider or 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 to your 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 signing the same as foreperson.

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, but you are bound to receive the law from the Court, which is herein given to you, and be governed thereby.

No one has any authority to communicate with you except the officer who has you in charge. 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 or her name as foreperson.

Suitable forms for your verdict are hereto attached; your verdict must be in writing and signed by your foreperson. Your sole duty at this time is to determine the guilt or innocence of the Defendant under the indictment in this case; and restrict your deliberations solely to the issue of guilt or innocence of the Defendant.


JUDGE PRESIDING

No. 08 CR0333

THE STATE OF TEXAS

VS.

TRAVIS JAMES MULLIS

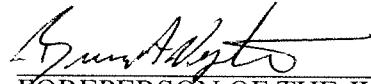
IN THE DISTRICT COURT OF

GALVESTON COUNTY, TEXAS

122ND JUDICIAL DISTRICT

VERDICT

We, the Jury, find the Defendant, TRAVIS JAMES MULLIS, guilty of the offense of Capital Murder as alleged in the indictment.



FOREPERSON OF THE JURY

We, the Jury, find the Defendant, TRAVIS JAMES MULLIS, guilty of the lesser included offense of Injury to a Child.

FOREPERSON OF THE JURY

We, the Jury, find the Defendant, TRAVIS JAMES MULLIS, not guilty.

FOREPERSON OF THE JURY