

FILED
GRAY COUNTY, TEXAS

2011 JAN 20 AM 11 46

SANDRA BURKETT
DISTRICT CLERK

BY PC DEPUTY

No. 8577

THE STATE OF TEXAS § IN THE 31ST JUDICIAL
V. § DISTRICT COURT OF
MARY LEE BOLIN § GRAY COUNTY, TEXAS

COURT'S CHARGE

LADIES AND GENTLEMEN OF THE JURY:

The defendant, MARY LEE BOLIN, has been charged by indictment with the offense of CAPITAL MURDER PERSON UNDER SIX YEARS OF AGE alleged to have been committed on or about the 21st day of May, 2007, in GRAY County, Texas. The defendant has pleaded not guilty.

1.

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

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

2.

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

A person acts knowingly, or with knowledge, with respect to a result of her conduct when she is aware that her conduct is reasonably certain to cause the result.

3.

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about May 21, 2007 in Gray County, Texas, the

defendant, MARY LEE BOLIN, did knowingly cause the death of an individual, namely K.B., by shaking the said K.B., and the said K.B. was then and there an individual younger than six years of age you will find the defendant guilty of CAPITAL MURDER PERSON UNDER SIX YEARS OF AGE as charged in the indictment.

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

You are instructed that if you believe from the evidence that the death of KB was caused by complications and problems of a chronic subdural hematoma you will find the defendant not guilty.

4.

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.

5.

Our law provides that a defendant may testify in her own behalf if she elects to do so. This, however, is a privilege accorded a defendant, and in the event she elects not to testify, that fact cannot be taken as a circumstance against her. 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.

6.

You are instructed that a grand jury indictment is no evidence of guilt. It is the means whereby a Defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered by you in passing upon the innocence, guilt, or insanity of this Defendant.

7.

In all criminal cases the burden of proof is on the State and never shifts to the Defendant. All persons are presumed to be innocent and no person may be convicted of an offense unless each and every element of an 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 her trial. The law does not require a Defendant to prove her 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 her and

say by your verdict, "Not Guilty".

8.

You, the jury, are the exclusive judges of the facts proved, of the credibility of the witnesses, and of the weight to be given their testimony, but you are bound to receive the law from the Court which is here given you in these written instructions, and you are governed thereby.

9.

During your deliberations in this case, you must not discuss, consider, or relate, any matters not in evidence before you. You should not consider or mention any personal knowledge or information that you may have about any fact or person connected with this case which is not shown by the evidence.

10.

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

11.

After you have retired to the jury room to consider your verdict, no one has authority to communicate with you except the officer who has you in charge. You may communicate with the 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 to the attorneys or to the Court, or to anyone else regarding any question that you may have.

12.

After you have reached a verdict, you will use one of the verdict forms attached hereto by having your Presiding Juror sign his or her name to the particular verdict form that conforms to your verdict, but in no event shall more than one of such forms be used.


The form of the verdict may be:

"We, the Jury, find the Defendant, MARY LEE BOLIN, not guilty."

or

"We, the Jury, find the Defendant, MARY LEE BOLIN, guilty of the offense of CAPITAL MURDER PERSON UNDER SIX YEARS OF AGE as charged in the indictment."

Write your verdict on a separate sheet of paper, have the same signed by your Presiding Juror, and return into open court with the verdict agreed upon by you.



Judge Presiding

NO. 8577

THE STATE OF TEXAS

§

IN THE 31ST JUDICIAL

VS.

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DISTRICT COURT OF

MARY LEE BOLIN

§

GRAY COUNTY, TEXAS

FILED
JANUARY 20, 2011
7:00 p.m.
[Signature]
Judge Presiding

VERDICT OF THE JURY

We, the jury, find the Defendant, MARY LEE BOLIN, Not Guilty.

[Signature]

Presiding Juror

NO. 8577

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GRAY COUNTY, TEXAS

VERDICT OF THE JURY

We, the jury, find the Defendant, MARY LEE BOLIN, Guilty of the offense of CAPITAL MURDER PERSON UNDER SIX YEARS OF AGE as alleged in the indictment.

Presiding Juror

A CERTIFIED COPY

ATTEST: January 21, 2011

SANDRA BURKETT

District Clerk, Gray County, Texas

By Styllis Caswell Deputy

