

FILED

Loren Jackson
District Clerk

MAR 31 2010

12:40 PM

CAUSE NO. 1209535

Time: _____
Harris County, Texas
By _____
Deputy

A.L.

THE STATE OF TEXAS § IN THE 180TH DISTRICT COURT
VS. § OF HARRIS COUNTY, TEXAS
TYRONE COLBERT § FEBRUARY TERM, A. D., 2010

Members of the Jury:

The defendant, Tyrone Colbert, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 14th day of January, 2009, in Harris County, Texas. 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 the offense of capital murder if he intentionally commits murder, as hereinbefore defined, in the course of committing or attempting to commit the offense of robbery. Robbery is a felony.

A person commits the offense of felony murder if he commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

A person commits the offense of robbery if, in the course of committing theft, as that term is hereinafter defined, and with intent to obtain or maintain control of property of another, he:

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(1) intentionally or knowingly causes bodily injury to another; or

(2) 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 the immediate flight after the attempt or commission of theft.

"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.

"Theft" is the unlawful appropriation of property with intent to deprive the owner of property.

"Appropriation" and "appropriate", as those terms are used herein, means 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 represents or embodies anything of value.

"Deprive" means 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.

"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.

"Owner" means a person who has title to the property, possession of property, or a greater right to possession of the property than the actor.

"Possession" means actual care, custody, control, or management of the property.

"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.

"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.

The definition of intentionally relative to the offense of capital murder is as follows:

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.

The definitions of intentionally or knowingly relative to the offense of murder are as follow:

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.

The definitions of intentionally and knowingly relative to the offense of robbery are as follow:

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

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.

Before you would be warranted in finding the defendant guilty of capital murder, you must find from the evidence beyond a reasonable doubt not only that on the occasion in question the defendant was in the course of committing or attempting to commit the felony offense of robbery of Joel Maldonado, as alleged in this charge, but also that the defendant specifically intended to cause the death of Joel Maldonado, by shooting Joel Maldonado, with a deadly weapon, namely, a firearm, and unless you so find,

then you cannot convict the defendant of the offense of capital murder.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 14th day of January, 2009, in Harris County, Texas, the defendant, Tyrone Colbert, did then and there unlawfully, while in the course of committing or attempting to commit the robbery of Joel Maldonado, intentionally cause the death of Joel Maldonado by shooting Joel Maldonado with a deadly weapon, namely, a firearm, then you will find the defendant guilty of capital murder, as charged in the indictment.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, or if you are unable to agree, you will next consider whether the defendant is guilty of the lesser offense of felony murder.

Therefore, if you find from the evidence beyond a reasonable doubt that on or about the 14th day of January, 2009, in Harris County, Texas, the defendant, Tyrone Colbert, did then and there unlawfully, while in the furtherance of the commission or attempted commission of the felony of robbery of Joel Maldonado, or in immediate flight from the commission or attempted commission of the felony of robbery of Joel Maldonado, commit an act clearly dangerous to human life, to-wit: by shooting Joel Maldonado with a deadly weapon, namely, a firearm, that caused the death of Joel Maldonado, then you will find the defendant guilty of felony murder.

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either capital murder on the one

hand or felony murder on the other hand, 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 offense of felony murder.

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

You are instructed that a witness may be impeached by showing that he or she has made other and different statements out of court from those made before you on the trial. Such impeachment evidence may be considered by you to aid you in determining, if it does so, the weight, if any, to be given the testimony of the witness at trial and his or her credibility, but such impeaching evidence, if any, is not to be considered as tending to establish the alleged guilt of the defendant in such case.

and these instructions, you will acquit him and say by your verdict "Not Guilty."

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.

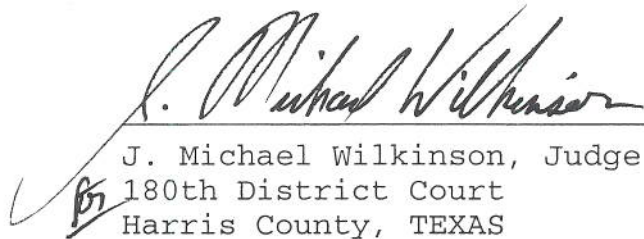
After you retire to the jury room, you should select one of your members as your Foreman. It is his or her duty to preside at your deliberations, vote with you, and when you have unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form attached hereto and signing the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

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.

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 this officer. Any communication relative to the cause must be written, prepared and signed by the Foreman and shall be submitted to the court through this officer. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the Court, or anyone else concerning any questions you may have.

Your sole duty at this time is to determine whether the defendant is guilty or not guilty under the indictment in this cause and restrict your deliberations solely to that issue.

Following the arguments of counsel, you will retire to consider your verdict.



J. Michael Wilkinson, Judge Presiding
180th District Court
Harris County, TEXAS

CAUSE NO. 1209535

THE STATE OF TEXAS

§ IN THE 180TH DISTRICT COURT

VS.

§ OF HARRIS COUNTY, TEXAS

TYRONE COLBERT

§ FEBRUARY TERM, A. D., 2010

CHOOSE ONE

"We, the Jury, find the defendant, Tyrone Colbert, not guilty."

Foreman of the Jury

(Please Print) Foreman

"We, the Jury, find the defendant, Tyrone Colbert, guilty of capital murder, as charged in the indictment."

Natasha Buckner

Foreman of the Jury

Natasha Buckner

(Please Print) Foreman

"We, the Jury, find the defendant, Tyrone Colbert, guilty of felony murder."

Foreman of the Jury

(Please Print) Foreman

CAUSE NO. 1209535

THE STATE OF TEXAS

IN THE 180TH DISTRICT COURT

VS.

COUNTY CRIMINAL COURT AT

TYRONE COLBERT

LAW NO. _____

(Name of Defendant)

AKA _____

OF HARRIS COUNTY, TEXAS

CERTIFICATE OF FAILURE TO FILE MARK

The below named Deputy District Clerk hereby certifies that the attached COURTS JURY CHARGE was not file marked or properly file marked at the time it was received. The document would have been file marked on MARCH 31, 2010 had it been file marked timely.

CHRIS DANIEL
District Clerk, Harris County, Texas

By _____
Deputy

Date: 12-21-2011

