

CAUSE NO. 1169491

THE STATE OF TEXAS                   §    IN THE 351ST DISTRICT COURT  
 VS.                                       §    OF HARRIS COUNTY, TEXAS  
 CHRISTINE MARIE PAOLILLA           §    AUGUST TERM, A. D., 2008

Members of the Jury:

The defendant, Christine Marie Paolilla, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 18th day of July, 2003, in Harris County, Texas. The defendant has pleaded not guilty.

Our law provides that a person commits the offense of murder if she intentionally or knowingly causes the death of an individual.

Our law provides that a person commits the offense of capital murder if she commits murder, as hereinbefore defined, and the person intentionally or knowingly causes the death of more than one person during the same criminal transaction.

"Person" means an individual, corporation, or association.

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

"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.

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

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.

All persons are parties to an offense who are guilty of acting together in the commission of the offense. A person is criminally responsible as a party to an offense if the offense is committed by her own conduct, by the conduct of another for which she is criminally responsible, or by both.

A person is criminally responsible for an offense committed by the conduct of another if, acting with intent to promote or assist the commission of the offense, she solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense. Mere presence alone will not constitute one a party to an offense.

You are instructed that it is your duty to consider the evidence of all relevant facts and circumstances surrounding the deaths and the previous relationship, if any, existing between the accused and Rachel Koloroutis and the accused and Marcus Precella together with all relevant facts and circumstances going to show the condition of the mind of the defendant at the time of the alleged offense.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 18th day of July, 2003, in Harris County, Texas, the defendant, Christine Marie Paolilla, did then and there unlawfully, during the same criminal transaction, intentionally or knowingly cause the death of Rachel Koloroutis by shooting Rachel Koloroutis with a deadly weapon, namely, a firearm, and intentionally or knowingly cause the death of Marcus Precella by shooting Marcus Precella with a deadly weapon, namely, a firearm; or

If you find from the evidence beyond a reasonable doubt that on or about the 18th day of July, 2003, in Harris County, Texas, Christopher Lee Snider, did then and there unlawfully, during the same criminal transaction, intentionally or knowingly cause the death of Rachel Koloroutis by shooting Rachel Koloroutis with a deadly weapon, namely, a firearm, and intentionally or

knowingly cause the death of Marcus Precella by shooting Marcus Precella with a deadly weapon, namely, a firearm, and that the defendant, Christine Marie Paolilla, with the intent to promote or assist the commission of the offense, if any, solicited, encouraged, directed, aided or attempted to aid Christopher Lee Snider to commit the offense, if she did; or

If you find from the evidence beyond a reasonable doubt that on or about the 18th day of July, 2003, in Harris County, Texas, the defendant, Christine Marie Paolilla, did then and there unlawfully, during the same criminal transaction, intentionally or knowingly cause the death of Rachel Koloroutis by striking Rachel Koloroutis with a deadly weapon, namely, a firearm, and intentionally or knowingly cause the death of Marcus Precella by striking Marcus Precella with a deadly weapon, namely, a firearm; or

If you find from the evidence beyond a reasonable doubt that on or about the 18th day of July, 2003, in Harris County, Texas, Christopher Lee Snider, did then and there unlawfully, during the same criminal transaction, intentionally or knowingly cause the death of Rachel Koloroutis by striking Rachel Koloroutis with a deadly weapon, namely, a firearm, and intentionally or knowingly cause the death of Marcus Precella by striking Marcus Precella with a deadly weapon, namely, a firearm, and that the defendant, Christine Marie Paolilla, with the intent to promote or assist the commission of the offense, if any, solicited, encouraged, directed, aided or attempted to aid Christopher Lee Snider to commit the offense, if she did; or

If you find from the evidence beyond a reasonable doubt that on or about the 18th day of July, 2003, in Harris County, Texas, the defendant, Christine Marie Paolilla, did then and there unlawfully, during the same criminal transaction, intentionally or knowingly cause the death of Rachel Koloroutis by striking Rachel Koloroutis with a deadly weapon, namely, an unknown object, and intentionally or knowingly cause the death of Marcus Precella by striking Marcus Precella with a deadly weapon, namely, an unknown object; or

If you find from the evidence beyond a reasonable doubt that on or about the 18th day of July, 2003, in Harris County, Texas, Christopher Lee Snider, did then and there unlawfully, during the same criminal transaction, intentionally or knowingly cause the death of Rachel Koloroutis by striking Rachel Koloroutis with a deadly weapon, namely, an unknown object, and intentionally or knowingly cause the death of Marcus Precella by striking Marcus Precella with a deadly weapon, namely, an unknown object, and that the defendant, Christine Marie Paolilla, with the intent to promote or assist the commission of the offense, if any, solicited, encouraged, directed, aided or attempted to aid Christopher Lee Snider to commit the offense, if she did, 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, you will acquit the defendant and say by your verdict "Not Guilty."

It is an affirmative defense to prosecution for any offense that the person charged engaged in the proscribed conduct because she was compelled to do so by the threat of imminent death or serious bodily injury to herself or another. Such compulsion exists only if the force or threat of force would render a person of reasonable firmness incapable of resisting the pressure.

The burden of proof of the affirmative defense of duress rests upon the defendant, and to establish such defense, the defendant must prove it by a preponderance of the evidence. By the term "preponderance of the evidence" is meant the greater weight and degree of the credible evidence in the case.

The defense of duress is unavailable if the defendant intentionally, knowingly, or recklessly placed herself in a situation in which it was probable that she would be subjected to compulsion.

Therefore, if you find from the evidence beyond a reasonable doubt that the defendant did commit the offense of capital murder, as alleged in the indictment, but you further find by a preponderance of the evidence that Christopher Lee Snider had made an imminent threat to kill or cause serious bodily injury to the defendant or another if she did not participate in said offense, and that the force or threats of force were such as would render a person of reasonable firmness incapable of resisting the pressure, and that the defendant was in fear of imminent loss of her life or serious bodily injury at the hands of Christopher Lee Snider if she did not participate in the said offense and that so believing, she did participate, then you will acquit the defendant and say by your verdict "Not Guilty."

If, however, after viewing the facts from the defendant's standpoint at the time, you do not find by a preponderance of the evidence that the defendant's participation in the said offense, if any, was compelled by such threat of imminent death or serious bodily injury at the hands of Christopher Lee Snider as would render a person of reasonable firmness incapable of resisting the pressure thereof, or if you find the defendant

intentionally, knowingly, or recklessly placed herself in a situation in which it was probable that she would be subjected to compulsion, then you will find against the defendant on her defense of duress.

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

The person making the arrest or the person having custody of the person arrested shall without unnecessary delay, but not later than 48 hours after the person is arrested, take the person arrested or have her taken before some magistrate of the county where the accused was arrested. Failure to take an arrestee before a magistrate in a timely manner will not invalidate a statement unless there is proof of a causal connection between the delay and the statement. Further, an unreasonable delay in presenting an arrestee before a magistrate will not invalidate an otherwise voluntary statement if the arrestee was properly advised of his or hers 38.22 warnings.

The voluntariness of a statement is not destroyed, and a statement induced by deception or trickery can be considered by the jury, unless the method used by the officer doing the interrogation was calculated to produce an untruthful statement.

No oral statement of an accused 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 other visual recording, is made of the statement;
- (2) Prior to the statement but during the recording the accused is given the following warning:
  - (a) she has the right to remain silent and not make any statement at all and that any statement she makes may be used against her at her trial;
  - (b) any statement she makes may be used as evidence against her in court;
  - (c) she has the right to have a lawyer present to advise her prior to and during any questioning;
  - (d) if she is unable to employ a lawyer, she has the right to have a lawyer appointed to advise her prior to and during any questioning;

(e) she 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, and reflects that the accused was advised before the interrogation that the interrogation would be recorded; and

(4) all voices on the recording 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 to Brian Harris and/or Breck McDaniel, if she did give it, the said Brian Harris and/or Breck McDaniel 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 statement 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 the defendant prior to her having made such oral statement, if she did make it, still, before you may consider such oral statement as evidence in this case, you must 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 for any purpose whatsoever or any evidence obtained as a result of same.



Our law provides that a defendant may testify in her own behalf if she elects to do so. This, however, is a right 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 to or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against her.

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.

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 she has been arrested, confined, or indicted for, or otherwise charged with the 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."

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 that 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 the guilt or innocence of the defendant under the indictment in this cause and restrict your deliberations solely to the issue of guilt or innocence of the defendant.

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

*Mark Kent Ellis*

Mark Kent Ellis, Judge  
351st District Court  
Harris County, TEXAS

**FILED**  
Theresa Chang  
District Clerk  
OCT 13 2008  
Time: \_\_\_\_\_  
Harris County, Texas  
By \_\_\_\_\_  
Deputy

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V E R D I C T

"We, the Jury, find the defendant, Christine Marie Paolilla, not guilty."

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Foreman of the Jury

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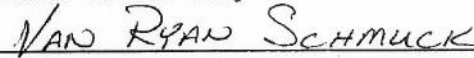
(Please Print) Foreman

"We, the Jury, find the defendant, Christine Marie Paolilla, guilty of capital murder, as charged in the indictment."




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Foreman of the Jury




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(Please Print) Foreman

**FILED**  
 Theresa Chang  
 District Clerk  
 OCT 13 2008  
 Time: \_\_\_\_\_  
           Harris County, Texas  
 By \_\_\_\_\_  
                           Deputy