

THE STATE OF TEXAS                   §    IN THE 230TH DISTRICT COURT  
VS.                                       §    OF HARRIS COUNTY, TEXAS  
JAIME PIERO COLE                   §    AUGUST TERM, A. D., 2011

Members of the Jury:

The defendant, Jaime Piero Cole, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 4th day of February, 2010, 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 commits murder, as hereinbefore defined, and the person intentionally or knowingly causes the death of more than one person during the same criminal transaction.

"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 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.

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 Melissa Cole and the accused and Alecia Castillo 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 4th day of February, 2010, in Harris County, Texas, the defendant, Jaime Piero Cole, did then and there unlawfully, during the same criminal transaction, intentionally or knowingly cause the death of Melissa Cole by shooting Melissa Cole with a deadly weapon, to-wit: a firearm, and intentionally or knowingly cause the death of Alecia Castillo by shooting Alecia Castillo with a deadly weapon, to-wit: 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, you will acquit the defendant and say by your verdict "Not Guilty."

Voluntary intoxication does not constitute a defense to the commission of a crime. "Intoxication" means disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

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.

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) 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 and has not been altered; 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 an alleged oral statement to Xavier Avila and/or Roger Chappell, if he did give it, the said Xavier Avila and/or Roger Chappell 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 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 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 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 to or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against him.

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 he 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.

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."

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 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.

  
Belinda Hill, Judge  
230th District Court  
Harris County, TEXAS

**FILED**  
Chris Daniel  
District Clerk

OCT 20 2011

Time: 10:46 AM  
Harris County, Texas

By:   
Clerk



THE STATE OF TEXAS § IN THE 230TH DISTRICT COURT  
VS. § OF HARRIS COUNTY, TEXAS  
JAIME PIERO COLE § AUGUST TERM, A. D., 2011

V E R D I C T

"We, the Jury, find the defendant, Jaime Piero Cole, not guilty."

\_\_\_\_\_  
Foreman of the Jury

\_\_\_\_\_  
(Please Print) Foreman

"We, the Jury, find the defendant, Jaime Piero Cole, guilty of capital murder, as charged in the indictment."

**FILED**  
Chris Daniel  
District Clerk

OCT 20 2011  
12:50 PM  
Harris County, Texas

Time: \_\_\_\_\_

By: \_\_\_\_\_

*Gary D Marshall*  
\_\_\_\_\_

Foreman of the Jury

**GARY D MARSHALL**  
\_\_\_\_\_

(Please Print) Foreman

STATE OF TEXAS  
COUNTY OF HARRIS  
Chris Daniel, District Clerk of Harris County, Texas, hereby certifies that this is a true and correct copy of the original and that it is a true and correct copy of the original as it appears on this date. I am not responsible for any errors or omissions on this document.  
CHRIS DANIEL, DISTRICT CLERK  
HARRIS COUNTY, TEXAS  
Deputy