



CAUSE NO. 10823JD
INCIDENT NO./TRN: 9154284899A001

THE STATE OF TEXAS

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IN THE DISTRICT

v.

COURT OF

JOHN LAWRENCE MATTHEWS

JASPER COUNTY, TEXAS

STATE ID No. TX 05141039

JUDGMENT OF CONVICTION BY JURY

Judge Presiding: HON. GARY H. GATLIN Date Judgment Entered: December 16, 2011

Attorney for State: STEVEN M. HOLLIS Attorney for Defendant: J. RANDALL WALKER

Offense for which Defendant Convicted: CAPITAL MURDER IN THE COURSE OF ROBBERY 19.03(a)(2)PC 19.03(a)(2)PC

Charging Instrument: INDICTMENT Statute for Offense: CAPITAL MURDER IN THE COURSE OF ROBBERY 19.03(a)(2)PC 19.03(a)(2)PC

Date of Offense: 12/13/09

Degree of Offense: CAPITAL FELONY Plea to Offense: NOT GUILTY

Verdict of Jury: GUILTY Findings on Deadly Weapon: YES, A FIREARM

Plea to 1st Enhancement Paragraph: N/A Plea to 2nd Enhancement/Habitual Paragraph: N/A

Findings on 1st Enhancement Paragraph: N/A Findings on 2nd Enhancement/Habitual Paragraph: N/A

Punished Assessed by: JURY Date Sentence Imposed: December 16, 2011 Date Sentence to Commence: December 16, 2011

Punishment and Place of Confinement: LIFE WITHOUT PAROLE INSTITUTIONAL DIVISION, TDCJ

THIS SENTENCE SHALL RUN CONCURRENTLY.

SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR N/A.

Fine: \$ N/A Court Costs: \$ Restitution: \$ N/A Restitution Payable to: VICTIM (see below) AGENCY/AGENT (see below)

Sex Offender Registration Requirements do not apply to the Defendant. TEX. CODE CRIM. PROC. chapter 62

The age of the victim at the time of the offense was N/A.

If Defendant is to serve sentence in TDCJ, enter incarceration periods in chronological order

From 12/15/09 to 12/16/11 From to From to

Time Credited: From to From to From to

If Defendant is to serve sentence in county jail or is given credit toward fine and costs, enter days credited below

N/A DAYS NOTES: N/A

All pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

This cause was called for trial in Jasper County, Texas. The State appeared by her District Attorney

Counsel / Waiver of Counsel (select one)

Defendant appeared in person with Counsel.

Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

It appeared to the Court that Defendant was mentally competent and had pleaded as shown above to the charging instrument. Both parties announced ready for trial. A jury was selected, impaneled, and sworn. The INDICTMENT was read to the jury, and Defendant entered a plea to the charged offense. The Court received the plea and entered it of record.



The jury heard the evidence submitted and argument of counsel. The Court charged the jury as to its duty to determine the guilt or innocence of Defendant, and the jury retired to consider the evidence. Upon returning to open court, the jury delivered its verdict in the presence of Defendant and defense counsel, if any.

The Court received the verdict and ORDERED it entered upon the minutes of the Court.

Punishment Assessed by Jury / Court / No election (select one)

- Jury. Defendant entered a plea and filed a written election to have the jury assess punishment. The jury heard evidence relative to the question of punishment. The Court charged the jury and it retired to consider the question of punishment. After due deliberation the jury was brought into Court, and, in open court, it returned its verdict as indicated above.
- Court. Defendant elected to have the Court assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.
- No Election. Defendant did not file a written election as to whether the judge or jury should assess punishment. After hearing evidence relative to the question of punishment, the Court assessed Defendant's punishment as indicated above.

The Court FINDS Defendant committed the above offense and ORDERS, ADJUDGES AND DECREES that Defendant is GUILTY of the above offense. The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM PROC. art. 42.12 § 9.

The Court ORDERS Defendant punished as indicated above. The Court ORDERS Defendant to pay all fines, court costs, and restitution as indicated above.

Punishment Options (select one)

- Confinement in State Jail or Institutional Division. The Court ORDERS the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the Director, Institutional Division, TDCJ. The Court ORDERS Defendant to be confined for the period and in the manner indicated above. The Court ORDERS Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence. The Court ORDERS that upon release from confinement, Defendant proceed immediately to the Jasper County District Clerk. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.
- County Jail—Confinement / Confinement in Lieu of Payment. The Court ORDERS Defendant immediately committed to the custody of the Sheriff of Jasper County, Texas on the date the sentence is to commence. Defendant shall be confined in the Jasper County Jail for the period indicated above. The Court ORDERS that upon release from confinement, Defendant shall proceed immediately to the Jasper County District Clerk. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay any remaining unpaid fines, court costs, and restitution as ordered by the Court above.
- Fine Only Payment. The punishment assessed against Defendant is for a FINE ONLY. The Court ORDERS Defendant to proceed immediately to the Office of the Jasper County District Clerk. Once there, the Court ORDERS Defendant to pay or make arrangements to pay all fines and court costs as ordered by the Court in this cause.

Execution / Suspension of Sentence (select one)

- The Court ORDERS Defendant's sentence EXECUTED.
- The Court ORDERS Defendant's sentence of confinement SUSPENDED. The Court ORDERS Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

The Court ORDERS that Defendant is given credit noted above on this sentence for the time spent incarcerated.

Furthermore, the following special findings or orders apply:

Signed and entered on 16th day of December 2011.

X Ray H. Ballin
JUDGE PRESIDING

Clerk: KATHY KENT, DISTRICT CLERK
JUDICIAL DISTRICT OF JASPER COUNTY, TEXAS

BY Kathy Kent DEPUTY CLERK
2011 DEC 16 PM 5:24

JASPER COUNTY, TEXAS
DISTRICT CLERK
Kathy Kent



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FILED

IN THE DISTRICT COURT OF JASPER COUNTY, TEXAS

1ST JUDICIAL DISTRICT

THE STATE OF TEXAS

§

VS.

§

CAUSE NO. 10,824JD

SHANE JERMAINE MATTHEWS

§

CHARGE OF THE COURT

Members of the Jury:

The defendant, SHANE JERMAINE MATTHEWS, stands charged by indictment with the offense of capital murder, alleged to have been committed in Jasper County, Texas, on or about the 13th day of December, 2009. To this charge the defendant has pleaded not guilty. You are instructed that the law applicable to this case is as follows:

I.

A person commits the offense of capital murder if the person intentionally causes the death of an individual and the person intentionally commits the murder in the course of committing or attempting to commit robbery.

II.

"Attempt" means to commit an act with specific intent to commit an offense where the act committed amounts to more than mere preparation but fails to effect the commission of the offense intended.

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

III.

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 the conduct is reasonably certain to cause the result.

IV.

A person is criminally responsible as a party to an offense of capital murder if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both. Each party to the offense of capital murder may be charged with the commission of the offense. Mere presence alone will not constitute one a party to an offense.

A person is criminally responsible for the offense of capital murder committed by the conduct of another if acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense.

If, in the attempt to carry out a conspiracy to commit the offense of robbery, capital murder is committed by one of the conspirators, all conspirators are guilty of the capital murder actually committed, though having no intent to commit it, if the capital murder was committed in furtherance of the robbery and was one that should have been anticipated as a result of the carrying out of the conspiracy.

A person commits criminal conspiracy if, with intent that a robbery be committed

- (1) he agrees with one or more person that they or one of them engage in conduct that would constitute robbery; and
- (2) he or one or more of them performs an overt act in pursuance of the agreement.

An agreement constituting a conspiracy may be inferred from acts of the parties

V.

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

- (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.

A person commits theft if he unlawfully appropriates property with intent to deprive the owner of property.

Appropriation of property is unlawful if it is without the owner's effective consent

"In the course of committing theft" means conduct that occurs in an attempt to commit, during the commission, or in immediate flight after the attempt or commission of theft.

"Appropriate" means to acquire or otherwise exercise control over property other than real property.

"Deprive" means:

- (1) 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;
- (2) to restore property only upon payment of reward or other compensation; or

(3) to dispose of property in a manner that makes recovery of the property by the owner unlikely.

"Owner" means a person who has title to the property, possession of the property whether lawful or not, or a greater right to possession of the property than the defendant.

"Property" means:

- (1) tangible or intangible personal property including anything severed from land, or
- (2) a document, including money, that represents or embodies anything of value

"Bodily injury" means physical pain, illness, or any impairment of physical condition.

"Consent" means assent in fact, whether express or apparent.

"Effective consent" includes consent by a person legally authorized to act for the owner.

Consent is not effective if induced by deception or coercion.

VI

Upon the law of accomplice witness testimony, you are instructed that Miesha Kelly is an accomplice, if any offense was committed as alleged in the indictment. You are further instructed that:

A conviction cannot be had upon the testimony of an accomplice unless the jury first believes that the accomplice's testimony is true and that it shows the defendant is guilty of the offense charged against him, or any other offense herein charged. Even then you cannot convict unless the accomplice's testimony is corroborated by other evidence tending to connect the defendant with the offense charged. You are further instructed that one or more accomplice witnesses cannot corroborate each other. The corroboration is not sufficient if it merely shows the commission of the offense. The mere presence of the accused in the company of an accomplice witness shortly before, during or after the time of the offense, if any, is not in itself sufficient corroboration of the accomplice witness testimony. The other corroborating evidence must tend to connect the defendant with the commission of the offense alleged.

If you believe from the evidence beyond a reasonable doubt that the offense of capital murder was committed, then you cannot convict the defendant, SHANE JERMAINE MATTHEWS, based upon the testimony of Miesha Kelly unless you first believe the testimony is true and that it shows the defendant is guilty as charged in the indictment. Even then you cannot convict the defendant unless you further believe that there is other evidence in the case, outside of the testimony of Miesha Kelly tending to connect the defendant with the commission of the offense charged in the indictment; and then from all the evidence you must believe beyond a reasonable doubt that the defendant is guilty of the offense charged.

If you further believe from the evidence beyond a reasonable doubt that the offense of capital murder was committed and you further believe from the evidence that the witnesses Jason Brown or Melissa Adams was an accomplice or both were accomplices to capital murder, or if you have a reasonable doubt thereof, then you cannot convict the defendant, SHANE JERMAINE MATTHEWS, based upon the testimony of Jason Brown or Melissa Adams or both unless you first believe the testimony is true and that it shows the defendant is guilty as charged in the indictment. Even then you cannot convict the defendant unless you further believe that there is other evidence in the case, outside of the testimony of Jason Brown or Melissa Adams or both tending to connect the defendant with the commission of the offense charged in the indictment; and then from all the evidence you must believe beyond a reasonable doubt that the defendant is guilty of the offense charged.

In a criminal prosecution in which an actor's criminal responsibility is based on the conduct of another, the actor may be convicted on proof of commission of the offense and that he was a party to its commission, and it is no defense that the person whose conduct the actor is criminally responsible for has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense or a different type or class of offense, or is immune from prosecution.

VII

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that the defendant, SHANE JERMAINE MATTHEWS, individually or as a party as that term has been previously defined, on or about the 13th day of December, 2009, in the County of Jasper, and State of Texas, did then and there intentionally cause the death of an individual, Jessie Palomo, Jr., by shooting Jessie Palomo, Jr. with a firearm and the said SHANE JERMAINE MATTHEWS, individually or as a party as that term has been previously defined, was then in the course of committing or attempting to commit the offense of robbery of Jessie Palomo, you will find the defendant guilty of the offense of Capital Murder and so say by your verdict, but if you do not so believe, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not Guilty."

VIII.

In all criminal cases the burden of proof is on the State. 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.

In a criminal case the law permits a defendant to testify in his own behalf but he is not compelled to do so, and the same law provides that the fact that a defendant does not testify shall not be considered as a circumstance against him. You will, therefore, not consider the fact that the defendant did not testify as a circumstance against him; and you will not in your retirement to consider your verdict allude to comment on, or in any manner refer to the fact that the defendant has not testified.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, or any witness therein, and no juror is permitted

to communicate to any other juror anything he may have heard regarding the case or any witness therein, from any source other than the witness stand.

In deliberating on the cause you are not to refer to or discuss any matter or issue not in evidence before you; nor talk about this case to anyone not of your jury; and after the reading of this charge you shall not separate from each other until you have reached a verdict.

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 you, and be governed thereby.

You have been permitted to take notes during the testimony in this case. In the event any of you took notes, you may rely on your notes during your deliberations. However, you may not share your notes with the other jurors and you should not permit the other jurors to share their notes with you. You may, however, discuss the contents of your notes with the other jurors. You shall not use your notes as authority to persuade your fellow jurors. In your deliberations, give no more and no less weight to the views of a fellow juror just because that juror did or did not take notes. Your notes are not official transcripts. They are personal memory aids, just like the notes of the judge and the notes of the lawyers. Notes are valuable as a stimulant to your memory. On the other hand, you might make an error in observing or you might make a mistake in recording what you have seen or heard. Therefore, you are not to use your notes as authority to persuade fellow jurors of what the evidence was during the trial.

Occasionally, during jury deliberations, a dispute arises as to the testimony presented. If this should occur in this case, you shall inform the Court and request that the Court read the portion of disputed testimony to you from the official transcript. You shall not rely on your notes to resolve the dispute because those notes, if any, are not official transcripts. The dispute must be settled by the official transcript, for it is the official transcript, rather than any juror's notes, upon which you must base your determination of the facts and, ultimately, your verdict in this case.

After argument of counsel, you will retire and select one of your members as your foreperson. It is his or her duty to preside at your deliberations and to vote with you in arriving at a verdict. Your verdict must be unanimous, and after you have arrived at your verdict, you may use one of the forms attached hereto by having your foreperson sign his or her name to the particular form that conforms to your verdict.



Presiding Judge

Kathryn Kent
DISTRICT CLERK
JASPER COUNTY, TEXAS

2011 DEC 16 AM 9:43

FILED

IN THE DISTRICT COURT OF JASPER COUNTY, TEXAS

1ST JUDICIAL DISTRICT

THE STATE OF TEXAS

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VS.

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CAUSE NO. 10,824JD

SHANE JERMAINE MATTHEWS

§

VERDICT OF THE JURY

Form A

We, the Jury, find the defendant, SHANE JERMAINE MATTHEWS, guilty of the offense of Capital Murder as charged in the indictment


Foreperson

FORM B

We, the Jury, find the defendant, SHANE JERMAINE MATTHEWS, "Not Guilty".

Foreperson

Robby Kent
DISTRICT CLERK
JASPER COUNTY, TEXAS

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