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A.M. 427 P.M.
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DAVID R. LLOYD
District Clerk, Johnson County, Texas
BY [Signature] DEPUTY

CAUSE NO. F43132

THE STATE OF TEXAS §
VS. BY §
SCOTTIE LOUIS FORCEY §

FILED
A.M. 102 P.M.
AUG 28 2009
DAVID R. LLOYD
District Clerk, Johnson County, Texas
BY [Signature] DEPUTY

IN THE 249TH DISTRICT COURT
OF JOHNSON COUNTY, TEXAS

CHARGE OF THE COURT

Ladies and Gentlemen of the Jury:

The Defendant SCOTTIE LOUIS FORCEY stands charged by Indictment in Count One with the felony offense of Capital Murder, alleged to have been committed in Johnson County, Texas on or about July 23, 2008 in Johnson County, Texas.

To this charge the Defendant has pled not guilty. You are instructed that the law applicable to this case is as follows:

I.

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 when such person intentionally commits the murder in the course of committing or attempting to commit the offense of robbery.

II.

Our law provides that 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 and maintain control of property of another, he intentionally or knowingly threatens or places another in fear of imminent bodily injury or death or intentionally or knowingly or recklessly causes bodily injury to another.



The term "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.

"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.

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

"Theft" as used herein is the unlawful appropriation of the corporeal personal property of another with the intent to deprive such person of said property.

"Appropriation" and "appropriate," as those terms are used herein, mean 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" as used herein means to withhold property from the owner permanently.

"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 or force or threats.

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

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

Our law provides a person is criminally responsible as a party to an offense 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 an offense may be charged with commission of the offense. All traditional distinctions between accomplices and principals are abolished and each party to an offense may be charged and convicted without alleging that he acted as a principal or accomplice.

Our law further provides that 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, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense.

III.

An "Individual" means a human being who has been born and is alive.

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.

IV.

Now bearing in mind the foregoing instruction, if you believe from the evidence beyond a reasonable doubt that the Defendant, SCOTTIE LOUIS FORCEY, on or about July 23, 2008, in the County of Johnson and State of Texas, did then and there intentionally cause the death of an individual, namely, Karen Burke, , by shooting her with a firearm, and the Defendant was then and there in the course of committing or attempting to commit the offense of robbery of Karen Burke, then you will find the Defendant guilty of the offense of Capital Murder as charged in the Indictment 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 of the offense of Capital Murder and next consider the lesser-included offense of Murder.

V.

Now bearing in mind the foregoing instruction, if you believe from the evidence beyond a reasonable doubt that the Defendant, SCOTTIE LOUIS FORCEY, on or about July 23, 2008, in the County of Johnson and State of Texas, did then and there intentionally or knowingly cause the death of an individual, namely, Karen Burke, by shooting her with a firearm, then you will find the Defendant guilty of the lesser-included offense of 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 of the offense of Murder and next consider the lesser-included offense of Manslaughter.

VI.

A person commits the offense of manslaughter if he recklessly causes the death of an individual.

A person acts recklessly or is reckless with respect to the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

VII.

Now bearing in mind the foregoing instructions, if you believe from the evidence, beyond a reasonable doubt that the Defendant, SCOTTIE LOUIS FORCEY, on or about July 23, 2008, in the County of Johnson and State of Texas, did then and there recklessly cause the death of an individual,

namely, Karen Burke, by shooting her with a firearm, then you will find the Defendant guilty of the lesser-included offense of Manslaughter 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 of the offense of Manslaughter and next consider the lesser-included offense of Criminally Negligent Homicide.

VIII.

A person commits the offense of criminally negligent homicide if he causes the death of an individual by criminal negligence.

A person acts with criminal negligence, or is criminally negligent, with respect to the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

IX.

Now bearing in mind the foregoing instructions, if you believe from the evidence, beyond a reasonable doubt that the Defendant, SCOTTIE LOUIS FORCEY, on or about July 23, 2008, in the County of Johnson and State of Texas, did then and there with criminal negligence cause the death of an individual, namely, Karen Burke, by shooting her with a firearm, then you will find the Defendant guilty of the lesser-included offense of Criminally Negligent Homicide 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."

X.

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. 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 charge 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.

XI.

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a privilege 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 or allude to that fact throughout your deliberations or take into consideration for any purposes whatsoever as a circumstance against the defendant.

XII.

In all prosecutions for murder, the state or the defendant shall be permitted to offer testimony as to all relevant facts and circumstances surrounding the killing, if any, and the previous

relationship existing between the accused and the deceased, if any, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the shooting in question, if any.

You are further instructed as a part of the law in this case that the Indictment against the Defendant is not evidence in the case. The true and sole use of the Indictment is to charge the offense and to inform the Defendant of the offense alleged. The reading of the Indictment to the jury in the statement of the case of the State against the Defendant cannot be considered as a fact or circumstance against the Defendant in your deliberations.

In deliberating on the cause you are not to refer to or discuss any matter or issue not in evidence before you. In determining the guilt or innocence of the Defendant, you shall not discuss or consider punishment, if any, which may be assessed against the defendant in the event the Defendant is found guilty beyond a reasonable doubt.

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. No juror is permitted to communicate to any other juror anything he or she may have heard regarding the case or any witness therein from any source other than the witness stand.

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 to you, and be governed thereby.

After argument of counsel, you will retire and select one of your members as a presiding juror. It is the presiding juror's duty to preside at your deliberations and to vote with you in arriving at a unanimous verdict. After you have arrived at your verdict, you may use one of the forms

attached hereto by having the presiding juror sign his or her name to the particular form that conforms to your verdict, but in no event shall he or she sign more than one of such forms.

After you have retired to consider your verdict, no one has any authority to communicate with you except the officer who has you in charge. You may communicate with this Court in writing, signed by your presiding juror, through the officer who has you in charge. Do not attempt to talk to the officer, the attorneys or the Court concerning questions you may have.



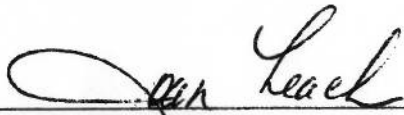
PRESIDING JUDGE
249TH DISTRICT COURT

CAUSE NO. F43132

THE STATE OF TEXAS § IN THE 249TH DISTRICT COURT
VS. § OF
SCOTTIE LOUIS FORCEY § JOHNSON COUNTY, TEXAS

VERDICT OF THE JURY

We, the Jury, find the Defendant, SCOTTIE LOUIS FORCEY, guilty of the offense of Capital Murder, as alleged in the Indictment.



PRESIDING JUROR

OR

We, the Jury, find the Defendant, SCOTTIE LOUIS FORCEY, guilty of the lesser-included offense of Murder.

PRESIDING JUROR

OR

We, the Jury, find the Defendant, SCOTTIE LOUIS FORCEY, guilty of the lesser-included offense of Manslaughter.

PRESIDING JUROR

(CONTINUED ON NEXT PAGE)

OR

We, the Jury, find the Defendant, SCOTTIE LOUIS FORCEY, guilty of the lesser-included offense of Criminally Negligent Homicide.

PRESIDING JUROR

OR

We, the Jury, find the Defendant, SCOTTIE LOUIS FORCEY, not guilty.

PRESIDING JUROR