

THE STATE OF TEXAS

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IN THE 19th JUDICIAL

V.

DISTRICT COURT OF

US CARNELL PETETAN, JR.
AKA CARNELL PETETAN, JR.

McLENNAN COUNTY, TEXAS

CHARGE OF THE COURT
(GUILT/INNOCENCE)

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, US Carnell Petetan, Jr., stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about September 23, 2012, in McLennan County, Texas. To this charge the Defendant has pleaded not guilty.

Our law provides that a person commits murder when he intentionally or knowingly causes the death of an individual.

Our law provides that a person commits Capital Murder when he intentionally causes the death of an individual in the course of committing or attempting to commit burglary or kidnapping or retaliation.

Our law provides that a person commits burglary when, without the effective consent of the owner, the person enters a habitation with the intent to commit a felony or assault, or enters a habitation and commits or attempts to commit a felony or assault.

Our law provides that a person commits assault when he intentionally or knowingly threatens another with imminent bodily injury.

Our law provides that a person commits kidnapping when he intentionally or knowingly abducts another person.

Charge FILED
21 Day of Apr, 2014
at 12:53 o'clock PM
KAREN C. MATKIN
DISTRICT CLERK
McLennan County, Texas
By Glenn Schradu
Deputy

Verdict FILED
21 Day of Apr, 2014
at 5:15 o'clock PM
KAREN C. MATKIN
DISTRICT CLERK
McLennan County, Texas
By Crystal Howard
Deputy

Our law provides that a person commits retaliation when he intentionally or knowingly harms or threatens to harm another by an unlawful act in retaliation for or on account of the service or status of another as a witness, or prospective witness, or person who has reported the occurrence of a crime; or to prevent or delay the service of another as a witness, or prospective witness, or person who has reported the occurrence of a crime.

“Actor” means a person whose criminal responsibility is in issue in a criminal action.

“Another” means a person other than the actor.

“Individual” means a human being who is alive.

“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.

“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 force, threat, or fraud.

“Owner” means a person who has title to the property, possession of the property whether lawful or no, or a greater right to the property than the actor.

“Possession” means actual care, custody, control or management.

“Habitation” means a structure or vehicle that is adapted for the overnight accommodation of persons.

“Felony” means an offense so designated by law or punishable by death or confinement in a penitentiary.

“Abduct” means to restrain a person with intent to prevent her liberation by using or threatening to use deadly force.

“Unlawful” means criminal or tortious or both and includes what would be criminal or tortious but for a defense not amounting to justification or privilege.

A person acts intentionally, or with intent, with respect to the nature of his conduct or 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 the result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

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.

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.

You are instructed that if there is any testimony before you in this case regarding the Defendant having committed offenses other than the offense alleged against him in the indictment in this case, you cannot consider said testimony for any purpose unless you find and believe beyond a reasonable doubt that the Defendant committed such other offenses, if any

were committed, and even then you may only consider the same in determining the Defendant's motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, and for no other purpose.

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 or confined or indicted or otherwise charged with the offense gives no rise to an 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, 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 exclude 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 and say by your verdict "Not Guilty".

The burden of proof in all criminal cases rests upon the State throughout the trial and never shifts to the Defendant.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that on or about September 23, 2012, the Defendant, US Carnell Petetan, Jr., did intentionally cause the death of Kimberly Petetan by shooting said Kimberly Petetan with a

firearm, a deadly weapon, in the course of committing or attempting to commit burglary or kidnapping or retaliation, you will find the Defendant guilty of Capital Murder as charged in the indictment.

It is not necessary that all of you agree on whether the Murder, if any, occurred during the course of committing or attempting to commit, burglary or kidnapping or retaliation. But in order to find the Defendant guilty of Capital Murder all of you must agree beyond a reasonable doubt that the Defendant intentionally committed the Murder of Kimberly Petetan and that he did it during the commission or attempted commission of one or more of the other felony offenses charged in the indictment.

OR

If you believe from the evidence beyond a reasonable doubt that on or about September 23, 2012, a person or persons other than US Carnell Petetan, Jr. did intentionally cause the death of Kimberly Petetan by shooting said Kimberly Petetan with a firearm, a deadly weapon, in the course of committing or attempting to commit burglary or kidnapping or retaliation, and if you further believe from the evidence beyond a reasonable doubt that the Defendant, US Carnell Petetan, Jr., acting with intent to promote or assist the commission of the offense, solicited, encouraged, directed, aided, or attempted to aid another in the commission of the offense, you will find US Carnell Petetan, Jr. guilty of Capital Murder as charged in the indictment.

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.”

If you have a reasonable doubt that the Defendant is guilty of Capital Murder, you will find the Defendant not guilty of Capital Murder and next consider whether the Defendant is guilty of the offense of Murder.

If you find from the evidence beyond a reasonable doubt that on or about September 23, 2012, in McLennan County, Texas, the Defendant, US Carnell Petetan, Jr., did intentionally or knowingly cause the death of Kimberly Petetan by shooting said Kimberly Petetan with a firearm, a deadly weapon unknown to the Grand Jury, but you have a reasonable doubt as to whether the Defendant was then and there engaged in the commission or attempted commission of burglary or kidnapping or retaliation, if any, then you will find the Defendant guilty of 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 Murder on the other hand, but you have a reasonable doubt as to which of said offense he is guilty, then you must resolve that doubt in the Defendant's favor and find him guilty of the lesser offense of Murder.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, and no juror is permitted to communicate to any other juror anything he might have heard regarding the case from any source other than the witness stand.

After argument of counsel, you will retire and select one of your members as your presiding juror. It is the duty of your presiding juror to preside at your deliberations and to vote with you in arriving at a verdict, 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 presiding juror.

In deliberating on this case you are not to refer to any matter or issue not in evidence before you, nor talk about this case to anyone not of your jury.

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 the Court in writing, signed by your presiding juror, through the officer who has you in charge. Do not attempt to talk with the officer, the attorneys, or the Court concerning any questions you may have.

Any communication from the jury to the Court must be written, prepared by the Presiding Juror, signed by the Presiding Juror, and submitted to the Court through the Bailiff. Therefore, if you wish to communicate with the Court about any matter your Presiding Juror shall prepare your communication in writing, sign it, deliver it to the Bailiff, and the Bailiff will deliver it to the Court.

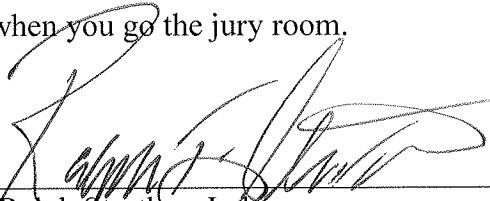
The law does not permit the general re-reading of testimony. However, if you as jurors disagree as to the testimony of any witnesses, you may, upon applying to the Court through your presiding juror, request to have read the Court Reporter's notes on that portion of the witness's testimony in dispute. If the jury requests the reading of certain testimony, the Court will allow the testimony to be read back to the jury only if the jury, in a writing signed by the presiding juror: (1) states that it is requesting that testimony be read back; (2) states that it has a disagreement about a specific statement of a witness or a particular point in dispute; and (3) identifies the name of the witness who made the statement. The Court will then have the Court Reporter read back only that part of the testimony that is in disagreement.

During the trial it was permissible for you to take notes. You may carry those notes to the jury room for your personal use during deliberation on the court's charge. You may not share your notes with other jurors; however, you may discuss the contents of your notes. Your personal recollection of the evidence takes precedence over any notes you have taken. A juror may not

rely on the notes of another juror.

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 shall have this written charge with you when you go the jury room.



Ralph Strother, Judge
19th Judicial District Court
McLennan County, Texas

READ TO THE JURY ON
APRIL 21, 2014
AT 2:20 P. .M.

VERDICT FORMS

We, the jury, find the Defendant, US Carnell Petetan, Jr., aka Carnell Petetan, Jr., guilty of Capital Murder, as charged in the indictment in Cause Number 2013-2331-C1.

R Craig Colwick
Presiding Juror
Printed Name: R CRAIG COLWICK

-OR-

We, the jury, find the Defendant, US Carnell Petetan, Jr., aka Carnell Petetan, Jr., guilty of the lesser offense of Murder, as charged in the indictment in Cause Number 2013-2331-C1.

Presiding Juror
Printed Name: _____

-OR-

We, the jury, find the Defendant, US Carnell Petetan, Jr., aka Carnell Petetan, Jr., not guilty as charged in the indictment in Cause Number 2013-2331-C1.

Presiding Juror
Printed Name: _____

VERDICT RECEIVED ON
APRIL 21, 2014
AT 5:15 P. .M.