

CAUSE NO. CR09-066

THE STATE OF TEXAS

§ IN THE DISTRICT COURT OF

VS.

§ RUSK COUNTY, TEXAS

BLAINE KEITH MILAM

§ 4TH JUDICIAL DISTRICT

COURT'S CHARGE

LADIES AND GENTLEMEN OF THE JURY:

The defendant, Blaine Keith Milam, stands charged by indictment with the offense of capital murder, alleged to have been committed in Rusk County, Texas, on or about the 2nd day of December, 2008. The defendant has pleaded not guilty.

I.

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

A person commits capital murder when such person intentionally or knowingly murders an individual under six years of age.

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

II.

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.

III.

All persons are parties to an offense who are guilty of acting together in the commission of an

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offense. 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.

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. Mere presence alone will not constitute one a party to an offense.

IV.

You are instructed that you may consider 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 offense, if any.

V.

Now, if you find from the evidence beyond a reasonable doubt that on or about December 2, 2008, in Rusk County, Texas, the defendant, Blaine Keith Milam, either acting alone or as a party, did knowingly cause the death of Amora Bain Carson by (1) striking Amora Bain Carson with the Defendant's hand or hands, or (2) striking Amora Bain Carson with a blunt object, the exact nature of which is unknown to the Grand Jurors, or (3) striking Amora Bain Carson against a blunt object, the exact nature of which is unknown to the Grand Jurors, or (4) strangling Amora Bain Carson, and you further find beyond a reasonable doubt that Amora Bain Carson was an individual under six years of age, then you will find the defendant guilty of capital murder.

Unless you find so beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of capital murder and consider whether he is guilty of the lesser offense of injury to a child.

VI.

Our law provides that a person commits an offense if he intentionally or knowingly causes serious bodily injury to a child who is fourteen (14) years of age or younger.

VII.

"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.

"Act" means a bodily movement, whether voluntary or involuntary, and includes speech.

"Conduct" means an act or omission and its accompanying mental state.

VIII.

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.

IX.

Now, if you find from the evidence beyond a reasonable doubt that on or about December 2, 2008, in Rusk County, Texas, the defendant, Blaine Keith Milam, either acting alone or as a party, did then and there knowingly cause serious bodily injury to Amora Bain Carson, by (1) striking Amora Bain Carson with the Defendant's hand or hands, or (2) striking Amora Bain Carson with a blunt object, the exact nature of which is unknown to the Grand Jurors, (3) striking Amora Bain Carson against a blunt object, the exact nature of which is unknown to the Grand Jurors, or (4) strangling Amora Bain Carson, and that Amora Bain Carson was then and there a child fourteen (14)

years of age or younger, then you will find the defendant guilty of knowingly causing serious bodily injury to a child fourteen years of age or younger.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of knowingly causing serious bodily injury to Amora Bain Carson and say by your verdict, "Not Guilty."

X.

If you find from the evidence beyond a reasonable doubt that the defendant is either guilty of capital murder, on the one hand, or is guilty of knowingly causing serious bodily injury to such child, on the other hand, but you have a reasonable doubt as to which of the two he is guilty, then you shall resolve that doubt in the defendant's favor and find him guilty of the lesser offense of knowingly causing serious bodily injury to a child fourteen years of age or younger.

If you have a reasonable doubt as to whether the defendant is guilty of any offense inquired about in this charge, then you will find the defendant not guilty.

XI.

You are instructed that if you find the defendant guilty of any offense inquired about in this charge, you will also answer a special issue concerning a deadly weapon.

"Deadly weapon" means 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.

XII.

A defendant in a criminal case is not bound by law to testify in his own behalf, but the failure of any defendant to so testify shall not be taken as a circumstance against him nor shall the same be alluded to nor commented upon by the jury, and you must not refer to, mention, comment upon or discuss the failure of the defendant to testify in this case, and any juror doing so may be guilty of contempt of court. If any juror starts to mention the defendant's failure to testify in this case, then it is the duty of the other jurors to stop him at once.

XIII.

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."

XIV.

After you retire to the jury room, you should select one of your members as your Presiding Juror. 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 Presiding Juror. Your verdict must be unanimous.

No one has any authority to communicate with you except the officer who has you in charge. 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 before you. In determining the guilt or innocence of the defendant, you shall not discuss or consider the punishment, if any, which may be assessed against the defendant in the event he is found guilty beyond a reasonable doubt.

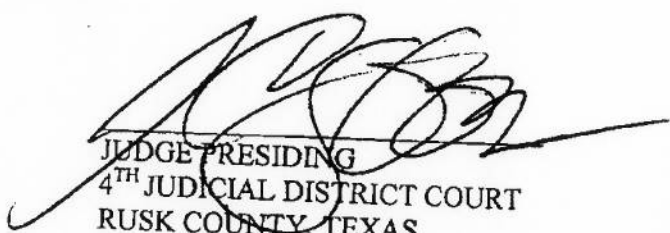
As jurors, you are the exclusive judges of the facts proved, the credibility of the witnesses, and the weight to be given their testimony. That is, you may believe all, any part, or none of the testimony of any witness you have heard in this case. However, in matters of law, you are governed by any instructions previously given by the Court and the instructions contained in this charge.

It is your duty, as jurors, to consult with one another and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to re-examine your own views and change

your opinions if convinced they are erroneous. But do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

After you have retired, you may communicate with this Court in writing through the officer who has you in charge. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the Court, or anyone else concerning any question you may have. After you have reached a unanimous verdict, the Presiding Juror will certify thereto by filling in the appropriate form attached to this Charge and signing his or her name as Presiding Juror.

SIGNED this 17th day of May, 2010.


JUDGE PRESIDING
4TH JUDICIAL DISTRICT COURT
RUSK COUNTY, TEXAS

FILED
In the District Court of
Rusk County, Texas
on this the 17 day of MAY 20 10
at 9:27 o'clock A M.
JEAN HODGES, CLERK
By [Signature] Deputy

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THE STATE OF TEXAS

§ IN THE DISTRICT COURT OF

VS.

§ RUSK COUNTY, TEXAS

BLAINE KEITH MILAM

§ 4TH JUDICIAL DISTRICT

VERDICT OF THE JURY
(use only one)

WE, THE JURY, find the defendant, Blaine Keith Milam "guilty" of the offense of Capital Murder as charged in the Indictment.

FILED
In the District Court of
Rusk County, Texas
on this the 11 day of MAY 20 10
at 10:05 o'clock P M.
By JEAN HODGES, CLERK
[Signature] Deputy

[Signature]
PRESIDING JUROR

WE, THE JURY, find the defendant, Blaine Keith Milam "guilty" of the lesser included offense of Knowingly Causing Injury to a Child.

PRESIDING JUROR

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VS. § RUSK COUNTY, TEXAS
BLAINE KEITH MILAM § 4TH JUDICIAL DISTRICT

SPECIAL ISSUE
(choose one)

WE, THE JURY, find from the evidence beyond a reasonable doubt that the defendant, Blaine Keith Milam did use or exhibit a deadly weapon, to-wit: the defendant's hand or hands, or an object, the exact nature of which is unknown to the Grand Jurors, during the commission of the offense for which we have found him guilty.

FILED
In the District Court of
Rusk County, Texas
on this the 11 day of MAY 20 10
at 10:05 o'clock P M.
JEAN HODGES, CLERK
By [Signature] Deputy

[Signature]
PRESIDING JUROR

WE, THE JURY, do not find from the evidence beyond a reasonable doubt that the defendant, Blaine Keith Milam did use or exhibit a deadly weapon, to-wit: the defendant's hand or hands, or an object, the exact nature of which is unknown to the Grand Jurors, during the commission of the offense for which we have found him guilty.

PRESIDING JUROR