

No. 09-DCR-51,034

THE STATE OF TEXAS	{	IN THE DISTRICT COURT OF
	{	
VS.	{	FORT BEND COUNTY, TEXAS
	{	
TERENCE TRAMAINE ANDRUS	{	240 <sup>TH</sup> JUDICIAL DISTRICT

COURT'S CHARGE TO THE JURY

LADIES AND GENTLEMEN OF THE JURY:

The defendant, TERENCE TRAMAINE ANDRUS, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 15<sup>TH</sup> day of October 2008, in Fort Bend County, Texas. The defendant has entered a plea of not guilty.

I.

A person commits the offense of murder if he intentionally or knowingly causes the death of an individual.

A person commits capital murder if he intentionally or knowingly causes the death of more than one individual during the same criminal transaction.

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Charge of the Court  
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## II.

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

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.

A person is criminally responsible if the result would not have occurred but for his conduct.

## III.

Voluntary intoxication does not constitute a defense to the commission of crime and it cannot negate the existence of an element of the offense, such as intent or knowledge. "Intoxication" means disturbance of mental or physical capacity resulting from the introduction of any substance into the body

## IV.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that, on or about the 15<sup>th</sup> day of October, 2008, in Fort Bend County, Texas, the defendant, Terence Tramaine Andrus, did then and there murder more than one person during the same criminal transaction, to-wit: the said Terence Tramaine Andrus did then and there intentionally or knowingly cause the death of an individual, Avelino Diaz, by shooting him with a firearm, and the said Terence Tramaine Andrus did then and there intentionally or knowingly cause the death of an individual, Kim-Phuong Vu Bui, by shooting her with a firearm, you will find the defendant, Terence Tramaine Andrus, guilty of "Capital Murder" and say so by your verdict. However, if you do not 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."

## V.

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 it into consideration for any purpose whatsoever as a circumstance against the defendant.

## VI.

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 for, confined, 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 exclude all "reasonable doubt" concerning the defendant's guilt.

You are further charged that an indictment is no evidence as to the guilt of the defendant, and you will not consider it as such. It is simply the means whereby the defendant is informed of the nature of the offense alleged against him.


You are charged that you are the exclusive judges of the facts proven, of the credibility of the witnesses and of the weight to be given their testimony, but the law of the case you must receive from the Court as laid down in these instructions, and be governed thereby.

You are limited in your deliberations upon a verdict to the consideration and discussion of such facts and circumstances only as were admitted in evidence, or as are reasonably deducible from the evidence. You cannot legally and must not consider nor discuss any fact or circumstance not in evidence or reasonably deducible from the evidence. Nor may a juror relate to any of the other jurors any fact or circumstance of which he may

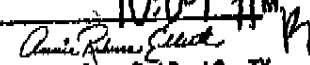
have or claim to have knowledge or information that was not introduced in evidence. Neither may any of the jurors lawfully discuss anything else, so far as the evidence is concerned, other than the evidence introduced by the parties and admitted by the Court.

You will not talk about the case with anyone not of your jury, and even among yourselves, only when you are all together in the jury room prior to being discharged by the Court. Your deliberations at this time are limited solely to the issue of guilt or innocence of the defendant of the offense charged and you are not authorized to pass upon the punishment, if any, to be imposed.

After you retire 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 the presiding juror through the officer who has you in charge. Do not attempt to talk to the officer, the attorneys, or the Court concerning any questions you may have. After argument of counsel, you will retire to the jury room, select a presiding juror and proceed with your deliberations. It is the duty of the presiding juror to preside over your deliberations and to vote with you in arriving at your verdict. Your verdict must be unanimous. After you have reached a unanimous verdict, the presiding juror will certify ~~thereof~~ <sup>thereto</sup> by filling in the appropriate form attached to this charge and signing his or her name as presiding juror.

  
Hon. Thomas R. Culver, III  
Judge Presiding

**FILED**

NOV 06 2012  
AT 10:09 AM  
  
Clerk District Court, Fort Bend Co., TX

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VS.

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FORT BEND COUNTY, TEXAS

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TERENCE TRAMAINE ANDRUS

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240<sup>TH</sup> JUDICIAL DISTRICT

VERDICT FORM

We the Jury do hereby find the Defendant, Terence Tramaire Andrus, "Guilty" of the offense of Capital Murder.

*Ron Martino*

Presiding Juror

*Ron Martino*  
*11/6/12*

**FILED**

AT NOV 06 2012  
10:58 A.M. *RS*  
*Annie Renee Edditt*  
Clerk District Court, Fort Bend Co., TX



No. 09-DCR-51,034

THE STATE OF TEXAS	{	IN THE DISTRICT COURT OF
	{	
VS.	{	FOLT BEND COUNTY, TEXAS
	{	
TERENCE TRAMAINE ANDRUS	{	240 <sup>TH</sup> JUDICIAL DISTRICT

VERDICT FORM

We the Jury do hereby find the Defendant, Terence Tramaaine Andrus, "Not Guilty" of the offense of Capital Murder.

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Presiding Juror