

THE STATE OF TEXAS
VS.
JOSEPH FLENTON TORREY

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IN CRIMINAL DISTRICT COURT
NUMBER ONE IN AND FOR
TARRANT COUNTY, TEXAS

FILED
THOMAS A WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

COURT'S CHARGE

FEB 07 2008

TIME 5:11 AM
BY SW DEPUTY

MEMBERS OF THE JURY:

The defendant, Joseph Flenton Torrey, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 17th day of January 2007, in Tarrant County, Texas. To this charge, the defendant has pleaded not guilty.

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

A person commits the offense of "capital murder" if he intentionally commits the murder in the course of committing or attempting to commit the offense of robbery or if the person murders more than one person during the same criminal transaction.

A person commits the offense of "robbery" if in the course of committing theft and with intent to obtain or maintain control of the property, a person intentionally or knowingly causes bodily injury to another.

"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.

"Theft" is committed if a person unlawfully appropriates property with the intent to deprive the owner of the property.

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

"Deprive" means 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.

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

"Effective consent" includes consent by a person authorized to act for the owner. Consent is not effective if induced by deception or coercion.

"Property" means tangible or intangible personal property or a document, including money that represents or embodies anything of value.

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

"Firearm" means any device designed, made or adapted to expel a projectile through a barrel by using ^{the} energy generated by an explosion or burning

SW

substance or any device readily convertible to that use.

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 the result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

You are instructed that if there is any testimony before you in this case regarding the defendant's having committed crimes, wrongs or acts other than the crime alleged 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 crimes, wrongs or acts, if any were committed, and even then you may only consider those other crimes, wrongs or acts in determining the proof of opportunity, preparation, or plan, if any, in connection with the crimes alleged in the indictment in this case, and for no other purpose.

A conviction cannot be had upon the testimony of an accomplice witness unless the testimony is corroborated by other evidence tending to connect the defendant with the offense committed; and the corroboration is not sufficient if it merely shows the commission of the offense. An accomplice is someone who participates with the accused before, during, or after the commission of the crime. The witness, Fa'nae Anderson, is an accomplice as a matter of law.

Now if you find from the evidence beyond a reasonable doubt, that Joseph Flenton Torrey in Tarrant County, Texas on or about the 17th day of January 2007 did intentionally cause the death of an individual, Brian Wilson, by shooting him with a firearm and did intentionally cause the death of an individual, Nicholas Davis, by shooting him with a firearm and both murders were committed during the same criminal transaction, OR did intentionally cause the death of an individual, Brian Wilson, by shooting him with a firearm and the said defendant was then and there in the course of committing or attempting to commit the offense of robbery OR did intentionally cause the death of an individual, Nicholas Davis, by shooting him with a firearm and the said defendant was then and there in the course of committing or attempting to commit the offense of robbery, then you will find the defendant guilty of the offense of capital murder.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty of capital murder as charged in the indictment.

You are instructed that our law provides that in the event a defendant chooses not to testify, that fact cannot be taken as a circumstance against him. Joseph Flenton Torrey has chosen 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 him.

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.

Your verdict must be by a unanimous vote of all members of the jury. In deliberating on this case, you shall consider the charge as a whole and you must not refer to nor discuss any matters not in evidence.

In all criminal cases, the burden of proof is on the State. The burden of proof rests upon the State throughout the trial and never shifts to the defendant.

The indictment in this case is no evidence whatsoever of the guilt of the defendant. It is a mere pleading that is necessary in order to bring this case into court for trial and you will not consider it for any purpose.

All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proven beyond a reasonable doubt. The fact that a defendant has been arrested, confined, indicted for, or otherwise charged with an offense gives no rise to any 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.

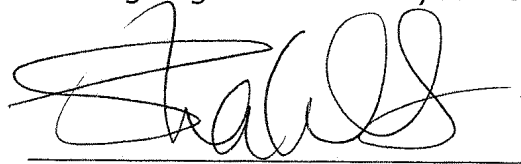
You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case and no juror is permitted to communicate to any other juror anything he may have heard regarding the case or any witness therein, from any other source than the witness stand.

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 you are bound to

receive the law from the Court, which is given in these written instructions, and be governed thereby.

Any further communication must be in writing signed by your foreman through the bailiff to the Court, except as to your personal needs which may be communicated orally to the bailiff in charge. After you have reached a unanimous verdict or if you desire to communicate with the Court, please use the jury call button on the wall and one of the bailiffs will respond.

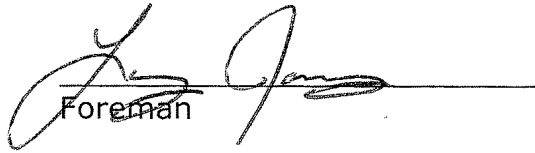
After you retire to the jury room, you should select one of your members as your foreman. It is his or her duty to preside at your deliberations, to vote with you, and when you have reached a unanimous verdict, to certify to your verdict by using one of the attached forms and signing the same as your foreman.

A handwritten signature in black ink, appearing to read 'Sharen Wilson', written over a horizontal line.

JUDGE SHAREN WILSON
Criminal District Court No. 1
Tarrant County, Texas

VERDICT FORMS

We, the jury, find the defendant, Joseph Flenton Torrey, guilty of the offense of capital murder as charged in the indictment.


Foreman

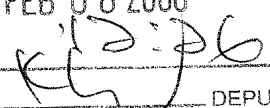
-OR-

We, the jury, find the defendant, Joseph Flenton Torrey, not guilty of the offense of capital murder as charged in the indictment.

Foreman

FILED
THOMAS A. WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

FEB 08 2008

TIME _____
BY  DEPUTY