

NO. 1359184R

THE STATE OF TEXAS                    §        IN THE 396<sup>TH</sup> JUDICIAL  
VS.    §        DISTRICT COURT  
JOHNNY CALVIN SCOTT                §        TARRANT COUNTY, TEXAS

COURT'S CHARGE

MEMBERS OF THE JURY:

In any jury trial there are, in effect, two judges. I am one of the judges; the other is the jury. It is my duty to preside over the trial and to decide what evidence is proper for your consideration. It is also my duty at the end of the trial to explain to you the rules of law that you must follow and apply in arriving at your verdict.

First, I will give you some general instructions which apply in every case.

Then I will give you some specific rules of law about this particular case, and

finally I will explain to you the procedures you should follow in your deliberations.

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

MAY 02 2014

TIME 2:50 p.m. (initials)  
BY \_\_\_\_\_ DEPUTY

You, as jurors, are the judges of the facts. But in determining what actually happened, that is, in reaching your decision as to the facts, it is your sworn duty to follow all of the rules of law as I explain them to you.

You have no right to disregard or give special attention to any one instruction, or to question the wisdom or correctness of any rule I may state to you. You must not substitute or follow your own notion or opinion as to what the law is or ought to be. It is your duty to apply the law as I explain it to you, regardless of the consequences. It is also your duty to base your verdict solely upon the evidence that has been presented to you in court.

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 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.

As you determine the facts, you must consider only the evidence presented during the trial, including the sworn testimony of the witnesses and the exhibits. Remember that any statements, objections, or arguments made by the lawyers are not evidence. The function of the lawyers is to point out those things that are most significant or most helpful to their side of the case, and in so doing

to call your attention to certain facts or inferences that might otherwise escape your notice. In the final analysis, however, it is your own recollection and interpretation of the evidence that controls in the case. What the lawyers say is not binding upon you.

Also, do not assume from anything I may have done or said during the trial that I have any opinion concerning any of the issues in this case. Except for the instructions to you on the law, you should disregard anything I may have said during the trial in arriving at your own findings as to the facts.

While you should consider only the evidence, you are permitted to draw such reasonable inferences from the testimony and exhibits as you feel are justified in the light of common experience. In other words, you may make deductions and reach conclusions that reason and common sense lead you to draw from the facts which have been established by the evidence.

You are to decide whether the State has proved beyond a reasonable doubt that the Defendant is guilty of the crime charged. The Defendant is not on trial for any act not alleged in the indictment.

Our law provides a defendant may testify in his own behalf if he elects to do so. This, however, is a privilege accorded to the defendant, and in the event he does not testify, that fact cannot be taken as a circumstance against him. In this case the Defendant has not testified, and you are instructed that you cannot and must not refer or allude to this fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against the Defendant.

Now, bearing in mind these instructions, the Defendant, Johnny Calvin Scott, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 19th day of August, 2012, in Tarrant County, Texas. To this charge the Defendant has pleaded not guilty.

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

A person commits capital murder when he murders more than one person during the same criminal transaction.

“Person” means an individual.

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

“Death” includes, for an individual who is an unborn child, the failure to be born 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.

You are instructed that you may consider all relevant facts and circumstances surrounding the killings, 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 in question, if any.

You are instructed that if there is any testimony before you in this case regarding the Defendant's having committed bad acts 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 bad acts, if any were committed, and even then you may only consider the same in determining the motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake

or accident, of the Defendant if any, in connection with the offense, if any, alleged against him in the indictment in this case, and for no other purpose.

Voluntary intoxication is no defense to the commission of a criminal offense.

You are further charged as the law in this case that the State is not required to prove the exact date alleged in the indictment, but may prove the offense, if any, to have been committed at any time prior to the presentment of the indictment, and before the expiration of the statute of limitations. For the offenses of capital murder and murder, there is no statute of limitations for prosecution.

You are instructed that you may, but are not required to accept as conclusive any fact judicially noticed.

In the trial of this case, there was judicial notice taken that the date of the return of the indictment in this case was February 13, 2014.



Now, if you find from the evidence beyond a reasonable doubt that on or about the 19<sup>th</sup> day of August, 2012, in Tarrant County, Texas, the Defendant, Johnny Calvin Scott, did then and there intentionally or knowingly cause the death of an individual, Vanessa Murrell, by cutting her with a box cutter or with a sharp object, the exact nature of which is unknown to the grand jury, or by impeding the normal breathing or circulation of blood of Vanessa Murrell in a manner and by a means unknown to the grand jury, or by a combination of the two, and did then and there intentionally or knowingly cause the death of an individual, Baby Murrell, an unborn child by causing the death of Vanessa Murrell, the mother of Baby Murrell, and both murders were committed during the same criminal transaction; or if you find from the evidence beyond a reasonable doubt that on or about the 19<sup>th</sup> day of August, 2012, in Tarrant County, Texas, the Defendant, Johnny Calvin Scott, did then and there intentionally or knowingly cause the death of an individual, Vanessa Murrell, by cutting her with a box cutter or with a sharp object, the exact nature of which is unknown to the grand

jury, or by causing asphyxia of Vanessa Murrell in a manner and by a means unknown to the grand jury, or by a combination of the two, and did then and there intentionally or knowingly cause the death of an individual, Baby Murrell, an unborn child by causing the death of Vanessa Murrell, the mother of Baby Murrell, and both murders were committed during the same criminal transaction, then you will find the Defendant guilty of the offense of capital murder.

Unless you find beyond a reasonable doubt, or if you have a reasonable doubt thereof, or if you are unable to agree, you will 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 the 19<sup>th</sup> day of August, 2012, in Tarrant County, Texas, the Defendant, Johnny Calvin Scott, did then and there intentionally or knowingly cause the death of an individual, Vanessa Murrell, by cutting her with a box cutter or with a sharp object, the exact nature of which is unknown to the grand jury, or by impeding the normal breathing or circulation of blood of Vanessa Murrell in a manner and by a means unknown to the grand jury, or by a combination of the two; or if you find from the evidence beyond a reasonable doubt that on or about the 19<sup>th</sup> day of August, 2012, in Tarrant County, Texas, the Defendant, Johnny Calvin Scott, did then and there intentionally or knowingly cause the death of an individual, Vanessa Murrell, by cutting her with a box cutter or with a sharp object, the exact nature of which is unknown to the grand jury, or by causing asphyxia of Vanessa Murrell in a manner and by a means unknown to the grand jury, or by a combination of the two, then you will find the Defendant guilty of the offense of murder.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, then you will acquit the Defendant, and say by your verdict "Not Guilty."

You are instructed that under our law a statement of a defendant made while he was in jail or in custody of an officer and while under interrogation shall be admissible in evidence if it appears that the same was freely and voluntarily made without compulsion or persuasion. However, before a statement made orally to officers may be considered voluntary, it must be shown by legal evidence beyond a reasonable doubt that prior to making such oral statement that the accused has been warned by the person to whom the statement is made, or by a magistrate, that (1) he has the right to remain silent and not make any statement, (2) that anything said by the defendant will be used against him at trial, (3) that the statement will be used against him in court, (4) that he has the right to terminate the questioning at any time during the interview or questioning, and (5) that he is entitled to the services of an attorney, his own or, if he is unable to employ one, a court-appointed attorney, to advise him prior to and during any questioning or interrogation.

So, in this case, if you find from the evidence, or if you have a reasonable doubt thereof, that prior to the time the defendant gave the alleged statements to Jeremy Rhoden, if he did give them, the said Jeremy Rhoden did not warn defendant in the respects enumerated above, or as to any one of such requirements, then you will wholly disregard the alleged confessions or statements and not consider them for any purpose nor any evidence obtained as a result thereof. If, however, you find beyond a reasonable doubt that the aforementioned warning was given the defendant prior to his having made such statements, if he did make it, still, before you may consider such statements as evidence in this case, you must find from the evidence beyond a reasonable doubt that prior to making such statements, if he did, the defendant knowingly, intelligently and voluntarily waived the rights hereinbefore set out in the said warning, and unless you so find, or if you have a reasonable doubt thereof, you will not consider the statements, if any, for any purpose whatsoever or any evidence obtained as a result of the statements, if any.

**You are instructed that no evidence obtained by an officer or other person in violation of any provisions of the Constitution or laws of the State of Texas, or the Constitution or laws of the United States of America, shall be admitted in evidence against the accused on the trial of any criminal case.**

**Therefore, if you believe that any evidence presented against the Defendant was seized in violation of any provision of the Constitution or laws of the State of Texas, or of the Constitution or laws of the United States of America which was admitted before you or if you have a reasonable doubt whether such evidence so admitted was seized in violation of the Constitution or laws of the State of Texas, or of the Constitution or laws of the United States of America then you will not consider such evidence for any purpose.**

**You are instructed that if there is any testimony before you regarding the Defendant having been previously incarcerated, if he was, you can only consider that testimony, if you do, for the sole purpose of determining the explanation or support of the opinions of Dr. Antoinette McGarahan and for no other purpose.**

It is your duty to consult with one another and to deliberate in an effort to reach agreement if you can do so. Each of you must decide the case for yourself, but only after an impartial consideration of the evidence with your fellow jurors. During your deliberations, do not hesitate to reexamine your own opinions and change your mind if convinced that you were wrong. But do not give up your honest beliefs as to the weight or effect of the evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

Remember at all times, you are judges of the facts. Your sole duty is to decide whether the State has proved the Defendant guilty beyond a reasonable doubt.

When you go to the jury room, the first thing that you should do is select one of your number as your presiding juror, who will help to guide your deliberations and will speak for you here in the courtroom.



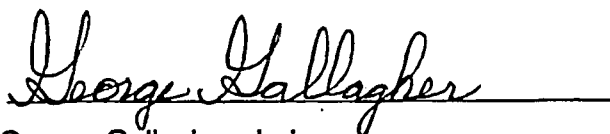
During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as a telephone, cell phone, smart phone, iPhone, Blackberry, or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, You Tube or Twitter, to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict, if any.

Any verdict you render must be unanimous.

At the conclusion of your deliberations, the presiding juror should sign the appropriate verdict form, if any.

If you need to communicate with me during your deliberations, the presiding juror should write the message, ring the jury call button on the wall, and give it to the bailiff. I will either reply in writing or bring you back into the court to answer your message.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given to their testimony, but you are bound to receive the law from the Court, which is herein given, and be governed thereby.

A handwritten signature in cursive script that reads "George Gallagher". The signature is written in black ink and is positioned above a solid horizontal line.

George Gallagher, Judge  
396<sup>th</sup> Judicial District Court  
Tarrant County, Texas

VERDICT FORMS

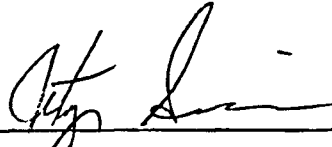
We, the jury, find the Defendant, Johnny Calvin Scott, not guilty.

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Presiding Juror

-OR-

We, the jury, find the Defendant, Johnny Calvin Scott, guilty of the offense of capital murder.



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Presiding Juror

-OR-

We, the jury, find the Defendant, Johnny Calvin Scott, guilty of the offense of murder.

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Presiding Juror