

ORIGINAL

CAUSE NO. 12-201718

THE STATE OF TEXAS

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IN THE 403rd JUDICIAL

VS.

DISTRICT COURT OF

BRANDON DANIEL

TRAVIS COUNTY, TEXAS

CHARGE OF THE COURT

Ladies and Gentlemen of the Jury:

The defendant, BRANDON DANIEL, stands charged by indictment with the offense of Capital Murder, alleged to have been committed in Travis County, Texas, on or about the 6th day of April, 2012. To this indictment, the defendant, BRANDON DANIEL, has pleaded not guilty.

You are instructed that the law applicable to this case is as follows:

1.

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

A person commits the offense of capital murder when the person murders a peace officer or fireman who is acting in the lawful discharge of an official duty and who the person knows is a peace officer or fireman;

2.

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

"Peace officer" means a person elected, employed, or appointed as a peace officer. Police officers employed by the Austin Police Department are peace officers.

"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 substance or any device readily convertible to that use.

3.

A person acts intentionally, or with intent, with respect to the nature of his conduct or to 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

Filed in The District Court
of Travis County, Texas

FEB 21 2014

At 12:28 P. M.
Amalia Rodriguez-Mendoza, Clerk

the circumstances exist. 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.

4.

Voluntary intoxication does not constitute a defense to the commission of crime.

“Intoxication” means disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

5.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that the defendant, BRANDON DANIEL, on or about the 6th day of April, 2012, in the County of Travis, and State of Texas, did then and there intentionally or knowingly cause the death of an individual, namely, Jaime Padron, by shooting Jaime Padron with a firearm, and the said Jaime Padron was then and there a peace officer who was acting in the lawful discharge of an official duty, namely, responding to a 311 call for service, and the said defendant knew Jaime Padron was a peace officer, you will find the defendant guilty of the offense of Capital Murder and so say by your verdict and proceed to Paragraph 7.

But if you do not so believe, or if you have a reasonable doubt thereof, you will find the defendant “not guilty” of the offense of Capital Murder and proceed to consider whether the defendant is guilty of the offense of Murder as alleged in Paragraph 6.

6.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that the defendant, Brandon Daniel, on or about the 6th day of April, 2012, in the County of Travis and State of Texas, did commit murder, by intentionally or knowingly causing the death of an individual, namely, Jaime Padron, by shooting the said Jaime Padron with a firearm, then you will find the defendant “guilty” of Murder and so say by your verdict; but if you do not so believe or if you have a reasonable doubt thereof, you will find the defendant “not guilty” of the offense of Murder.

7.

The State has introduced evidence of extraneous crimes or bad acts other than the one charged in the indictment in this case. This evidence was admitted only for the purpose of assisting you, if it does, for the purpose of showing the defendant’s motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, if any. You cannot

consider the testimony unless you find and believe beyond a reasonable doubt that the defendant committed these acts, if any, were committed.

8.

In a criminal case the law permits a defendant to testify in his own behalf, but he is not compelled to do so, and the same law provides that the fact that a defendant does not testify shall not be considered as a circumstance against him. You will, therefore, not consider the fact that the defendant did not testify as a circumstance against him; and you will not, in considering your verdict, allude to, comment on, or in any manner refer to the fact that the defendant has not testified.

9.

You are further instructed as a part of the law in this case that the indictment against the defendant is not evidence in the case, and that the true and sole use of the indictment is to charge the offense and to inform the defendant of the offense alleged against him. The reading of the indictment to the jury in the statement of the case of the State against the defendant cannot be considered as a fact or circumstance against the defendant in your deliberations.

10.

In all criminal cases the burden of proof is on the State. 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 person has been arrested, 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 a careful and impartial consideration of all the evidence in the case.

11.

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; however, 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 the defendant and say by your verdict not guilty.

12.

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

13.

In deliberating on this cause you are not to refer to or discuss any matter or issue not in evidence before you; nor talk about this case to anyone not of your jury. And, after the reading of this charge, you shall not separate from each other until you have reached a verdict. Further, 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.

14.

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.

15.

A juror may believe any, all, none, or part of any evidence provided by a witness. You are instructed that upon your request to the bailiff, you shall be furnished any exhibits admitted as evidence in the case.

16.

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 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, and 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.

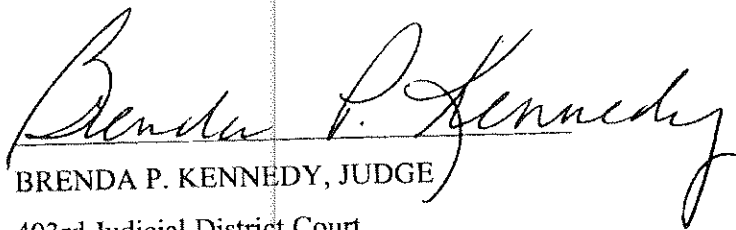
Occasionally, during jury deliberations, a dispute arises as to the testimony presented. If this should occur in this case, you shall inform the Court and request that portion of disputed testimony be read to you from the official transcript. You shall not rely on your notes to resolve the dispute because, again, 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.

17.

If the jury wishes to communicate with the Court it must do so in writing. Such writing must be signed by the presiding juror and submitted to the Court through the bailiff.

18.

After the reading of the charge and argument of counsel, you will retire and select one of your members as your foreperson. It is his or her duty to preside at your deliberations and to vote with you in arriving at a unanimous verdict. Your verdict must be unanimous and it must reflect the individual verdict of each individual juror, and not a mere acquiescence in the conclusion of the other jurors. After you have arrived at your verdicts, you may use the form attached hereto by having your foreperson complete and sign it in conformance with your verdicts.



BRENDA P. KENNEDY, JUDGE

403rd Judicial District Court

Travis County, Texas

Date/Time:

2/21/2014
12:28pm

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VS.

DISTRICT COURT OF

BRANDON DANIEL

TRAVIS COUNTY, TEXAS

VERDICT OF THE JURY

We, the Jury, find the Defendant, BRANDON DANIEL,

GUILTY

of

(guilty or not guilty)

the offense of Capital Murder, as alleged in the indictment.

Richard J. Hernandez
Richard J. Hernandez

Signature of Presiding Juror

Richard J Hernandez

Printed Name of Presiding Juror

Feb 21st 2014

Date/Time

1:35 pm

Filed In The District Court
of Travis County, Texas

FEB 21 2014

At 2:15

P.M.

Amalia Rodriguez-Mendoza, Clerk

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VS.

DISTRICT COURT OF

BRANDON DANIEL

TRAVIS COUNTY, TEXAS

VERDICT OF THE JURY

We, the Jury, find the Defendant, BRANDON DANIEL, _____ of
(guilty or not guilty)

the offense of Murder.

Signature of Presiding Juror

Printed Name of Presiding Juror

Date/Time