

THE STATE OF TEXAS § IN THE 351ST DISTRICT COURT
VS. § OF HARRIS COUNTY, TEXAS
VELLAR CLARK, III § NOVEMBER TERM, A. D., 2007

Members of the Jury:

The defendant, Vellar Clark, III, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 26th day of March, 2006, in Harris County, Texas. The defendant has pleaded not guilty.

A person commits the offense of murder if he:

- (1) intentionally or knowingly causes the death of an individual; or
- (2) intends to cause serious bodily injury and intentionally or knowingly commits an act clearly dangerous to human life that causes the death of an individual.

A person commits the offense of capital murder if he intentionally commits murder, as hereinbefore defined in paragraph (1), and the person intentionally or knowingly causes the death of more than one person during the same criminal transaction.

"Person" means an individual, corporation, or association.

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

"Deadly weapon" means a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury; or anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

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

"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.

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 it is your duty to consider the evidence of all relevant facts and circumstances surrounding the deaths and the previous relationship, if any, existing between the accused and Gwen Sneed together with all relevant facts and circumstances going to show the condition of the mind of the defendant at the time of the alleged offense.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 26th day of March, 2006, in Harris County, Texas, the defendant, Vellar Clark, III, did then and there unlawfully, during the same criminal transaction, intentionally or knowingly cause the death of Gwen Sneed by shooting Gwen Sneed with a deadly weapon to-wit a firearm, and intentionally or knowingly cause the death of an unborn child of Gwen Sneed, by shooting Gwen Sneed with a deadly weapon to-wit a firearm, then you will find the defendant guilty of capital murder, as charged in the indictment.

Unless you 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."

A person is criminally responsible if the result would not have occurred but for his conduct, operating either alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result and the conduct of the defendant clearly insufficient.

A person is nevertheless criminally responsible for causing a result if the only difference between what actually occurred and what he desired, contemplated, or risked is that:

- (1) a different offense was committed; or
- (2) a different person or property was injured, harmed, or otherwise affected.

Now, if you believe from the evidence beyond a reasonable doubt that the defendant, Vellar Clark, III, in Harris County, Texas, on or about the 26th day of March, 2006, did then and there unlawfully and intentionally or knowingly shoot a firearm at Gwen Sneed, having intent or knowledge that serious bodily injury or death would occur to Gwen Sneed, but instead caused the death of both Gwen Sneed and an unborn child of Gwen Sneed with the use of a deadly weapon, to-wit a firearm, then you will find the defendant guilty of capital murder, as charged in the indictment.

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."

You are the exclusive judges of the facts proved, of the credibility of the witnesses and the weight to be given their testimony, but the law you shall receive in these written instructions, and you must be governed thereby.

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, 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 Foreman.

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.

No one has any authority to communicate with you except the officer who has you in charge. After you have retired, you may communicate with this Court in writing through this officer. Any communication relative to the cause must be written, prepared and signed by the Foreman and shall be submitted to the court through this officer. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the Court, or anyone else concerning any questions you may have.

Your sole duty at this time is to determine the guilt or innocence of the defendant under the indictment in this cause and restrict your deliberations solely to the issue of guilt or innocence of the defendant.

Following the arguments of counsel, you will retire to consider your verdict.



Mark Kent Ellis, Judge
351st District Court
Harris County, TEXAS

FILED
Theresa Chang
District Clerk

DEC 04 2007

Time: _____
Harris County, Texas

By _____
Deputy

CAUSE NO. 1091884

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VS.
VELLAR CLARK, III

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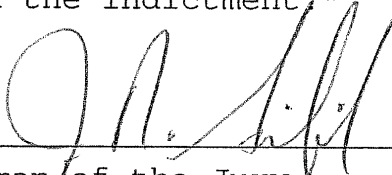
CHOOSE ONE

"We, the Jury, find the defendant, Vellar Clark, III, not guilty."

Foreman of the Jury

(Please Print) Foreman

"We, the Jury, find the defendant, Vellar Clark, III, guilty of capital murder, as charged in the indictment."



Foreman of the Jury

JAMES D. SIEGFRIED

(Please Print) Foreman