

COPY

NO. 73250

THE STATE OF TEXAS

§

IN THE 27TH JUDICIAL DISTRICT

FILED

VS.

§

DISTRICT COURT OF

4:00 pm o'clock

DAVID GENE RISNER

§

BELL COUNTY, TEXAS

JUN -6 2016

CHARGE OF THE COURT

JOHANNA STATON
District Court, Bell County, Texas
By: [Signature]
Deputy Clerk
Signed: [Signature]

MEMBERS OF THE JURY:

The defendant, David Gene Risner, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 19th day of June, 2014, in Bell County, Texas. To this charge, the defendant has plead not guilty.

1.

In a criminal case, the law permits the defendant to testify in his own behalf; but the same law provides that his failure to testify shall not be considered as a circumstance against him; and you will not in your retirement to consider your verdict allude to, comment on, or in any manner refer to the fact that the defendant has not testified.

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, indicted for, or otherwise charged with an 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 this 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.

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 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.

In deliberating on the cause you are not to refer to or discuss any matter or issue not in evidence before you; and in determining the guilt or innocence of the defendant, you shall not discuss or consider the punishment, if any, which may be assessed against the defendant in the event he is found guilty.

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.

You have a right to consider all of the facts that are shown by the evidence, and to draw natural and reasonable inferences from such facts. You alone have the authority and the duty to determine what the facts are in this case. In evaluating the evidence, you must totally disregard what you believe is my opinion about any factual matter.

You are the sole and 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.

You must not consider facts that have not been introduced into evidence or legal principles not contained in this charge. It is improper for a juror to discuss or consider anything which they know or have learned outside of the testimony presented to you, and the law contained in this charge. If a juror should discover that they have any outside information, they must not mention this information to any other juror, nor consider it themselves in arriving at a verdict.

Questions and comments of the attorneys do not constitute testimony and must not be considered as evidence. You must also disregard any statement of the attorneys that is inconsistent with the law contained in this charge.

2.

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

Such offense, however, is capital murder when the murder, if any, is committed upon a peace officer who is acting in the lawful discharge of an official duty and whom the person knows is a peace officer.

You are instructed that a police officer is a peace officer.

3.

“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 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.

4.

Now, if you find from the evidence beyond a reasonable doubt that on or about June 19 2014, in Bell County, Texas, the defendant, David Gene Risner, did intentionally or knowingly cause the death of Lee Dixon by shooting him with a deadly weapon to wit: a firearm and Lee Dixon was a peace officer who was acting in the lawful discharge of his official duty, to wit: investigating a criminal complaint, and the said Defendant knew Lee Dixon was a peace officer then you will find the defendant guilty of capital murder.

If and only if you find the defendant not guilty of the offense of capital murder or if you have a reasonable doubt thereof, you will next consider whether the defendant is guilty of the offense of murder.

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

“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.

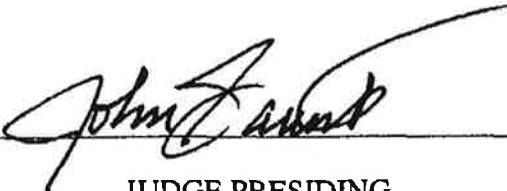
A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

Now, if you find from the evidence beyond a reasonable doubt that on or about June 19 2014, in Bell County, Texas, the defendant, David Gene Risner, did intentionally or knowingly cause the death of Lee Dixon by shooting him with a deadly weapon, to wit: a firearm, then you will find the defendant guilty of murder.

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

5.

After the reading of this Charge, you shall not be permitted to separate from each other, nor shall you talk with anyone not of your jury. After argument of counsel, you will retire and select one of your members as your presiding juror. It is his or her duty to preside at your deliberations and to vote with you in arriving at a unanimous verdicts. After you have arrived at your verdict, you may use the forms attached hereto by having your presiding juror sign his or her name to the particular forms that conform to your verdicts.


JUDGE PRESIDING

DEPARTMENT OF THE DISTRICT CLERK
1000 ...
WASHINGTON, D.C.



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THE STATE OF TEXAS
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IN THE 27TH JUDICIAL DISTRICT COURT OF
BELL COUNTY, TEXAS
.....a.m.pm o'clock
JUN 6 2016

FILED

JOANNA STATION
District Court, Bell County, Texas
By: [Signature] Deputy Clerk

VERDICT OF THE JURY
CAPITAL MURDER

We, the Jury, find beyond a reasonable doubt that the Defendant David Gene Risner, is GUILTY of the offense of Capital Murder as alleged in the indictment.

Do Not Disclose Per Article 35.29 CCP
Foreman of the Jury

VERDICT OF THE JURY
MURDER

We, the Jury, find beyond a reasonable doubt that the Defendant David Gene Risner, is GUILTY of the offense of Murder as alleged in the indictment.

Presiding Juror

VERDICT OF THE JURY
NOT GUILTY

We, the Jury, find the Defendant, David Gene Risner, NOT GUILTY.

Presiding Juror

