

CAUSE NO. D-1-DC-15-301607

THE STATE OF TEXAS

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IN THE 403rd JUDICIAL

VS.

DISTRICT COURT OF

GREGORY JAMES DALTON

TRAVIS COUNTY, TEXAS

CHARGE OF THE COURT

Filed In The District Court
of Travis County, Texas

on July 21, 2017

at 5:00 P M

Velva L. Price, District Clerk

Ladies and Gentlemen of the Jury:

The defendant, GREGORY JAMES DALTON, stands charged with the offense of Capital Murder, alleged to have been committed in Travis County, Texas, on or about the 20th day of November, 2014, as alleged in the indictment.

To these charges, the defendant has plead "not guilty." You are instructed that the law applicable to this case is as follows:

1.

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

A person commits capital murder when such person intentionally commits the murder in the course of committing or attempting to commit the offense of robbery or burglary.

2.

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

A person commits the offense of burglary of a habitation if, without the effective consent of the owner, he enters a habitation with intent to commit a theft or any felony.

3.

A person commits theft if he unlawfully appropriates property with intent to deprive the owner of property.

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

4.

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

"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.

“Attempt” to commit an offense occurs if, with specific intent to commit an offense, a person does an act amounting to more than mere preparation that tends, but fails, to effect the commission of the offense intended.

“Bodily injury” means physical pain, illness, or any impairment of physical condition, including death.

“Theft” is the unlawful appropriation of property of another with the intent to deprive the owner of said property.

“Appropriation” and “appropriate” mean to acquire or otherwise exercise control over property other than real property. Appropriation of property is unlawful if it is without the owner’s effective consent.

“Property” as used herein means tangible or intangible personal property or documents, including money that represents or embodies anything of value.

“Deprive” means:

- (A) to withhold property from the owner permanently or for so extended a period of time that a major portion of the value of enjoyment of the property is lost to the owner;
- (B) to restore property only upon payment of reward or other compensation; or
- (C) to dispose of property in a manner that makes recovery of the property by the owner unlikely.

“Effective consent” means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner. Consent is not effective if induced by deception or coercion or force or threats.

“Owner” means a person who has title to the property, possession of the property, or a greater right to possession of the property than the person charged.

“Possession” means actual care, custody, control or management of property.

“Enter” means to intrude any part of the body or any physical object connected with the body into the building.

“Habitation” means a structure or vehicle that is adapted for the overnight accommodation of persons, and includes: (a) each separately secured or occupied portion of the

structure or vehicle; and (b) each structure appurtenant to or connected with the structure or vehicle.

5.

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

6.

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.

7.

You are instructed that an accomplice witness, as the term is hereafter used, means any person connected with the crime charged, as a party thereto, and includes all persons who are connected with the crime, as such parties, by unlawful act or omission on their part transpiring either before or during the time of the commission of the offense, and whether or not they were present and participated in the commission of the crime.

A person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both. A person is criminally responsible for an offense committed by the conduct of another if, acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs or aids or attempts to aid the other person to commit the offense.

Mere presence alone however will not constitute one a party to an offense.

You are further instructed that a conviction cannot be had upon the testimony of an accomplice unless the jury first believes that the accomplice’s evidence is true and that it shows the defendant is guilty of the offense charged against him, and even then you cannot convict unless the accomplice’s testimony is corroborated by other evidence tending to connect the defendant with the offense charged, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must also tend to connect the defendant with its commission.

You are further instructed that mere presence of the accused in the company of an accomplice witness shortly before or after the time of the offense, if any, is not in itself sufficient

corroboration of the accomplice witness's testimony even if it constitutes corroboration of the testimony of the accomplice.

The witness, Jeffrey Mendez, is an accomplice, if an offense was committed, and you cannot convict the defendant upon his testimony unless you first believe that the portion of his testimony that ascribes guilt to the defendant is true and shows that the defendant is guilty as charged, and then you cannot convict the defendant upon said testimony unless you further believe that there is other evidence in the case, outside of the evidence of said accomplice, tending to connect the defendant with the offense committed, if you find an offense was committed, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must tend to connect the defendant with its commission, and then from all the evidence you must believe beyond a reasonable doubt that the defendant is guilty of the offense charged against him.

The witness, Shawn Smith, is an accomplice, if an offense was committed, and you cannot convict the defendant upon his testimony unless you first believe that the portion of his testimony that ascribes guilt to the defendant is true and shows that the defendant is guilty as charged, and then you cannot convict the defendant upon said testimony unless you further believe that there is other evidence in the case, outside of the evidence of said accomplice, tending to connect the defendant with the offense committed, if you find an offense was committed, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must tend to connect the defendant with its commission, and then from all the evidence you must believe beyond a reasonable doubt that the defendant is guilty of the offense charged against him.

Testimony of another accomplice is not sufficient to corroborate the testimony of an accomplice. The corroboration, in other words, must be from some source other than accomplices.

8.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that the defendant, GREGORY JAMES DALTON, on or about the 20th day of November, 2014, in the County of Travis, and State of Texas, did then and there intentionally cause the death of an individual, namely, Jose Chavez, by shooting Jose Chavez with a firearm and GREGORY JAMES DALTON was in the course of committing or attempting to commit

robbery of Jose Chavez; or, if you believe from the evidence beyond a reasonable doubt that the defendant, GREGORY JAMES DALTON, on or about the 20th day of November, 2014, in the County of Travis, and State of Texas, did then and there intentionally cause the death of an individual, namely, Jose Chavez, by shooting Jose Chavez with a firearm and GREGORY JAMES DALTON was in the course of committing or attempting to commit a burglary of Jose Chavez, who was the owner of said habitation, you will find the defendant guilty of the offense of Capital Murder and so say by your verdict, but if you do not so believe, or if you have a reasonable doubt thereof, you will acquit the defendant of the offense of Capital Murder and so say by your verdict not guilty.

9.

The defendant is on trial solely on the charge contained in the indictment. In this case 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, in 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. If you do so find, then you may only consider said evidence for the limited purpose for which it was admitted, and for no other.

10.

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.

11.

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.

12.

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.

13.

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.

14.

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.

15.

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.

16.

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.

17.

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.

18.

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.

19.

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.

20.

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 to the

conclusion of the other jurors. After you have arrived at your verdict, you may use the form attached hereto by having your foreperson complete and sign it in conformance with your verdict.



CHUCK MILLER, JUDGE PRESIDING

403rd Judicial District Court

Travis County, Texas

Date/Time: July 21, 2017
2:50 PM

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THE STATE OF TEXAS

VS.

GREGORY JAMES DALTON

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IN THE 403rd JUDICIAL

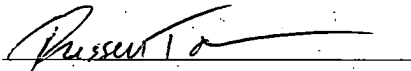
DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

VERDICT OF THE JURY

We, the Jury, find the Defendant, GREGORY JAMES DALTON, guilty
(guilty or not guilty)

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



Signature of Presiding Juror

Russell Tanner

Printed Name of Presiding Juror

7-21-2017 5:16 PM

Date/Time