

THE STATE OF TEXAS

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IN THE 268TH JUDICIAL

VS.

DISTRICT COURT OF

BYRON D. COLEMAN

FORT BEND COUNTY, TEXAS

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The defendant, Byron D. Coleman, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 24th day of December 2016, in Fort Bend County, Texas. The defendant has pleaded not guilty. You are instructed that the law applicable to the case is as follows:

I.

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

A person commits capital murder if he intentionally commits murder in the course of committing or attempting to commit robbery.

A person commits robbery if in the course of committing theft and with the intent to obtain or maintain control of property he intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

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

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.

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



An "Attempt" to commit an offense occurs if, with the 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.

A firearm is a deadly weapon.

II.

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, aids, or attempts to aid the other person to commit the offense.

If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of the unlawful purpose and was one that should have been anticipated as a result of carrying out of the conspiracy.

The term "conspiracy" means an agreement with one or more persons that they or one or more of them engage in conduct that would constitute a felony. An agreement constituting a conspiracy may be inferred from the acts of the parties.

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

III.

Upon the law of accomplice witness testimony, you are instructed that Jeremiah Sanders was an accomplice to the offense, if any offense was committed, as alleged in the indictment. With this in mind, you are further instructed that you cannot convict the Defendant upon Jeremiah Sanders's testimony, unless you first believe that his testimony is true and shows the guilt of the Defendant as charged in the indictment, and then you cannot convict the Defendant unless Jeremiah Sanders's testimony is corroborated by other

evidence tending to connect the Defendant with the offense charged. The corroboration is not sufficient if it merely shows the commission of an 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.

IV.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that on or about December 24, 2016, in the County of Fort Bend, and State of Texas, as alleged in the indictment, the defendant, Byron D. Coleman, intentionally caused the death of Nerbert Frelow, by shooting him with a deadly weapon to-wit: a firearm and Byron D. Coleman was then and there in the course of committing or attempting to commit the offense of robbery of Nerbert Frelow, then you will find the defendant, Byron D. Coleman, "Guilty" of Capital Murder, and so say by your verdict.

If you do not so believe, or if you have a reasonable doubt thereof, you will find the defendant "Not Guilty" of Capital Murder as alleged in the indictment, then and only then proceed to consider whether the defendant is guilty of the lesser included offense of Murder.

V.

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about December 24, 2016, in Fort Bend County, Texas, the defendant, Byron D. Coleman, did then and there intentionally, knowingly, cause the death of Nerbert Frelow, by shooting him with a deadly weapon, to-wit: a firearm, then you will find the defendant guilty of the lesser-included offense of Murder.

But if you do not so believe, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not guilty" as to Murder.

VI.

The prosecution has the burden of 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 defendant's guilt after considering all the evidence before you, and these instructions, you will acquit him and say by your verdict "Not Guilty."

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.

VII.

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 issue 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 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 of the evidence in the case.

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 your retirement to consider your verdict allude to, comment on, or in any manner refer to the fact that the defendant has not testified.

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.

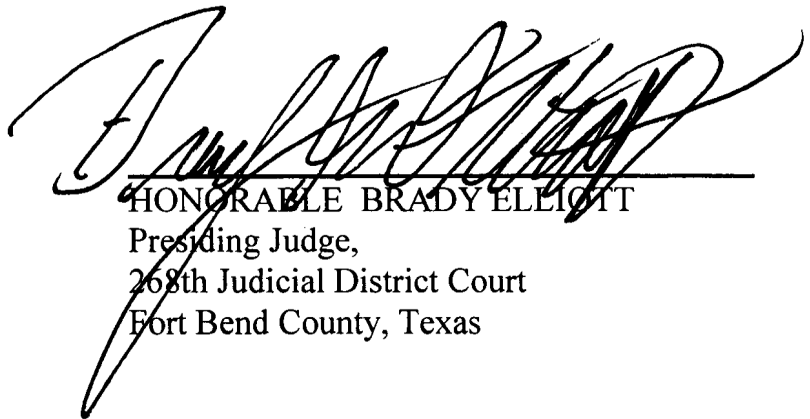
After you retire to the jury room, you should select one of your members as your Presiding Juror. It is his or her duty to preside at your deliberations, vote with you, and when you have unanimously agreed upon a verdict, to certify your verdict by using the appropriate form attached hereto, and signing the same as Presiding Juror.

During your deliberations in this case, you must not consider, discuss, or 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 the officer who has you in charge. Any communication relative to the cause must be written and prepared by the Presiding Juror 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 question 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.

After you have reached a unanimous verdict, the Presiding Juror will certify thereto by filling in the appropriate form attached to this charge and signing his or her name as Presiding Juror. Following the arguments of counsel, you will retire to consider your verdict.



HONORABLE BRADY ELLIOTT
Presiding Judge,
268th Judicial District Court
Fort Bend County, Texas

FILED
AUG 22 2018 ST
AT 9:26A M.
Ronnie Rebecca Elliott
Clerk District Court, Fort Bend Co., TX

THE STATE OF TEXAS

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IN THE 268TH JUDICIAL

VS.

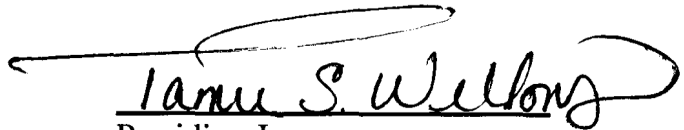
DISTRICT COURT OF

BYRON D. COLEMAN

FORT BEND COUNTY, TEXAS

**VERDICT
CAPITAL MURDER**

We, the Jury, find the defendant BYRON D. COLEMAN, GUILTY of Capital Murder as charged in the indictment.


Presiding Juror

OR

We, the Jury, find the defendant BYRON D. COLEMAN, NOT GUILTY of Capital Murder, as charged in the indictment.

Presiding Juror

FILED

AUG 22 2018 ST

AT 2:17 p M.

Donna Rebecca Elliott
Clerk District Court, Fort Bend Co., TX

THE STATE OF TEXAS

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IN THE 268TH JUDICIAL

VS.

DISTRICT COURT OF

BYRON D. COLEMAN

FORT BEND COUNTY, TEXAS

VERDICT

LESSER-INCLUDED OFFENSE OF MURDER

We, the Jury, find the defendant BYRON D. COLEMAN, GUILTY of the lesser-included offense of Murder.

Presiding Juror

OR

We, the Jury, find the defendant Byron D. Coleman, NOT GUILTY of the lesser-included offense of Murder.

Presiding Juror