

THE STATE OF TEXAS

IN THE 102ND DISTRICT COURT

VS.

OF

JONATHAN FULTON SMITH

RED RIVER COUNTY, TEXAS

CHARGE TO THE JURY

"Bench Filing"

Red River County, Texas

Judge: Jeff Addison

On 23 day of March, 22

At 9:47 am / pm

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, JONATHAN FULTON SMITH, stands charged by Indictment with the offense of Capital Murder alleged to have been committed on or about August 3, 2018, in Red River County, Texas.

To this offense, the Defendant has pled *Not Guilty*.

1.

Our law provides that 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 arson.

A person commits arson if he starts a fire, regardless of whether the fire continues after ignition, or causes an explosion with intent to destroy or damage a habitation knowing that it is located on property belonging to another; when the person is reckless about whether the burning or explosion will endanger the life of some individual or the safety or property of another

2.

"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 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.

3.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about the 3RD day of August, 2018, the defendant, JONATHAN FULTON SMITH, did commit the offense of Capital Murder by then and there intentionally cause the death of an individual, namely Jessica Lynn Clark Walling, by smoke inhalation, and the defendant was then and there in the course of committing or attempting to commit the offense of arson of a habitation which was occupied by Jessica Lynn Clark Walling, as charged in the indictment, you will find the Defendant guilty.

If you do not so find, or if you have a reasonable doubt thereof, you will find the defendant not guilty.

4.

In this case, the defendant has elected not to testify. That fact cannot be taken as a circumstance against him. You are instructed that you cannot and must not refer nor allude to that fact throughout your deliberations, nor take it into consideration for any purpose whatsoever as a circumstance against the defendant.

5.

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 the evidence in this case.

6.

The burden of proof in all criminal cases rests upon the State throughout the trial and never shifts to the defendant.

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 doubt; it is required that the prosecution's proof excludes all "reasonable doubt" concerning the defendant's guilt.

7.

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 of the weight to be given their testimony, but you are bound by the law received from the Court, which is herein given to you, and be governed thereby.

During your deliberations in the 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.

8.

After argument of counsel, you will retire to the jury room, select one of your members as your presiding juror and consider your verdict. It is the duty of the presiding juror 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 presiding juror.

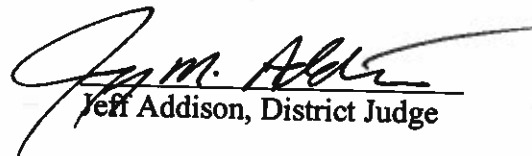
After you have retired, if the jury desires that it be furnished with the exhibits, if any, admitted as evidence in this case, you may request same in writing signed by your presiding juror.

After you have retired, you may communicate with this Court in writing through the officer who has you in charge. 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.

9.

After you have reached a unanimous verdict and the presiding juror has certified thereto by filling in the appropriate form attached to this charge and signing his name as presiding juror, you will advise the Court, in writing signed by your presiding juror and given to the bailiff, that you have reached a verdict and are ready to return into court with your verdict.

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.


Jeff Addison, District Judge