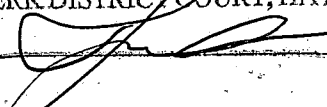


FILED this 11 day of January
2024 12:00 P.M.
CLERK DISTRICT COURT, HAYS CO. TX
By:  Deputy

CAUSE NO. CR-18-0144-C

THE STATE OF TEXAS § IN THE DISTRICT COURT
VS. § 22ND JUDICIAL DISTRICT
STEWART THOMAS § HAYS COUNTY, TEXAS
METTZ

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The defendant, Stewart Thomas Metz, is accused of Capital Murder. The defendant has pleaded “not guilty,” and you have heard all the evidence that will be presented on whether the defendant has been proved guilty.

Both sides will soon present final arguments. Before they do so, I must now give you the instructions you must follow.

You will have a written copy of these instructions to take with you and to use during your deliberations.

First, I will tell you about some general principles of law that must govern your decision of the case. Then I will tell you about the specific law applicable to this case. Finally, I will instruct you on the rules that must control your deliberations.

GENERAL PRINCIPLES

The Indictment

The indictment is not evidence of guilt. The indictment is only a document required to bring the case before you. The indictment cannot be considered in any way by the jury. Do not consider the fact that the defendant has been arrested,

confined, indicted, or otherwise charged. You may not draw any inference of guilt from any of these circumstances.

Presumption of Innocence

The defendant is presumed innocent of the charge. 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 law does not require a defendant to prove his innocence or produce any evidence at all. 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 presumption of innocence alone is sufficient to acquit the defendant.

Burden of Proof

The burden of proof throughout the trial is always on the State. The defendant does not have the burden to prove anything. The State must prove every element of the offense beyond a reasonable doubt to establish guilt for the offense. It is not required that the prosecution prove guilt beyond all possible doubt. If the State proves every element beyond a reasonable doubt, then you must find the defendant guilty. If the State does not prove every element of the offense beyond a reasonable doubt, then you must find the defendant not guilty. If, after you have considered all of the evidence and these instructions, you have a reasonable doubt about whether the defendant is guilty, you must find the defendant not guilty.

Jury as Fact Finder

As the jurors, you review the evidence and determine the facts and what they prove. You judge the believability of the witnesses and what weight to give their testimony.

In judging the facts and the believability of the witnesses, you must apply the law provided in these instructions.

Evidence

The evidence consists of the testimony and exhibits admitted in the trial. You must consider only evidence to reach your decision. You must not consider, discuss, or mention anything that is not evidence in the trial. You must not consider or mention any personal knowledge or information you may have about any fact or person connected with this case that is not evidence in the trial.

You are instructed that some evidence has been admitted before you which was objected to as hearsay but allowed by the Court as an exception to hearsay. You are not to consider the truth of the matter asserted in the hearsay but may consider it only for the purpose of aiding the investigation.

Statements made by the lawyers are not evidence. The questions asked by the attorneys are not evidence. Evidence consists of the testimony of the witnesses and materials admitted into evidence.

Nothing the judge has said or done in this case should be considered by you as an opinion about the facts of this case or influence you to vote one way or the other.

You should give terms their common meanings, unless you have been told in these instructions that the terms are given special meanings. In that case, of course, you should give those terms the meanings provided in the instructions.

While you should consider only the evidence, you are permitted to draw reasonable inferences from the testimony and exhibits that are justified in the light of common experience. In other words, you may make deductions and reach

conclusions that reason and common sense lead you to draw from the facts that have been established by the evidence.

You are to render a fair and impartial verdict based on the evidence admitted in the case under the law that is in these instructions. Do not allow your verdict to be determined by bias, prejudice, or sympathy.

Admitted Exhibits

You may, if you wish, examine exhibits. If you wish to examine an exhibit, the foreperson will inform the court and specifically identify the exhibit you wish to examine. Only exhibits that were admitted into evidence may be given to you for examination.

Testimony

Certain testimony will be read back to you by the court reporter if you request. To request that testimony be read back to you, you must follow these rules. The court will allow testimony to be read back to the jury only if the jury, in a writing signed by the foreperson, (1) states that it is requesting that testimony be read back, (2) states that it has a disagreement about a specific statement of a witness or a particular point in dispute, and (3) identifies the name of the witness who made the statement. The court will then have the court reporter read back only that part of the statement that is in disagreement.

Evidence of Other Crimes or Bad Acts by the Defendant

During the trial, you heard evidence that the defendant may have committed wrongful acts not charged in the indictment. The State offered the evidence as proof of the defendant's identity, motive, intent, knowledge, or absence of mistake or accident as these factors relate to the offense charged in the indictment. You are not

to consider evidence of such a wrongful act at all unless you find, beyond a reasonable doubt, that the defendant did, in fact, commit the wrongful act. Those of you who believe the defendant did the wrongful act may consider it.

Even if you do find that the defendant committed a wrongful act, you may consider this evidence only for the limited purpose I have described. You may not use this evidence to prove that the defendant is a bad person and for this reason was likely to commit the charged offense.

The Verdict

The law requires that you render a verdict of either “guilty” or “not guilty.” The verdict of “not guilty” simply means that the State’s evidence does not prove the defendant guilty beyond a reasonable doubt.

You may return a verdict only if all twelve of you agree on this verdict. When you reach a verdict, the foreperson should notify the court.

Note Taking

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 may, however, discuss the contents of your notes with the other jurors. 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 or 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.

Defendant's Right to Remain Silent

The defendant has a constitutional right to remain silent. The defendant may testify on his own behalf. The defendant may also choose not to testify. The defendant's decision not to testify cannot be held against him, and it is not evidence of guilt. You must not speculate, guess, or even talk about what the defendant might have said if he had taken the witness stand or why he did not. The foreperson of the jury must immediately stop any juror from mentioning the defendant's decision not to testify.

Voluntary Intoxication

"Intoxication" means a disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

Voluntary intoxication is not a defense to the commission of a crime.

INSTRUCTIONS OF THE COURT CAPITAL MURDER

Accusation

The State accuses the defendant of having committed the offense of Capital Murder. Specifically, the accusation is that the defendant, intentionally or knowingly caused the death of Kenneth Copeland, a peace officer acting in the lawful discharge of an official duty, by shooting Kenneth Copeland with a firearm, and the defendant knew Kenneth Copeland was a peace officer.

Relevant Statutes

To prove that the defendant is guilty of capital murder, the State must prove,

beyond a reasonable doubt, four elements. The elements are that—

1. the defendant intentionally or knowingly caused the death of an individual; and
2. the individual was a peace officer; and
3. the individual was acting in the lawful discharge of an official duty; and
4. the defendant knew the individual was a peace officer.

A person knows an individual is a peace officer if the person is aware that the person is a peace officer.

Definitions

Intentionally

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.

Knowingly

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

Firearm

“Firearm” means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

Peace Officer

“Peace officer” includes police officers of an incorporated city,

town, or village and reserve municipal police officers who hold a permanent peace officer license.

Application of Law to Facts

You must determine whether the State has proved, beyond a reasonable doubt, four elements. The elements are that in Hays County, Texas on or about December 4, 2017—

1. the defendant intentionally or knowingly caused the death of Kenneth Copeland by shooting him with a firearm;
2. Kenneth Copeland was a peace officer;
3. Kenneth Copeland was acting in the lawful discharge of an official duty; and
4. the defendant knew Kenneth Copeland was a peace officer.

Before you may convict the defendant of Capital Murder, each of you must agree that the State has proved, beyond a reasonable doubt, each of elements 1, 2, 3, and 4, listed above.

If you all agree the State has proved, beyond a reasonable doubt, each of the four elements listed above, you must find the defendant “guilty” of Capital Murder and so indicate on the attached verdict form.

If you all agree the State has failed to prove, beyond a reasonable doubt, one or more of elements 1, 2, 3 or 4, listed above, you must find the defendant “not guilty” as to Capital Murder and so indicate on the attached verdict form.

RULES THAT CONTROL DELIBERATIONS

You must follow these rules while you are deliberating and until you reach a verdict. After the closing arguments by the attorneys, you will go into the jury room.

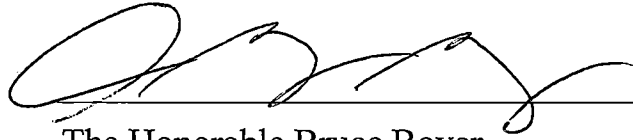
Your first task will be to pick your foreperson. The foreperson should conduct the deliberations in an orderly way. Each juror has one vote, including the foreperson. The foreperson must supervise the voting, vote with other members on the verdict, and sign the verdict sheet.

While deliberating and until excused by the trial court, all jurors must follow these rules:

1. You must not discuss this case with any court officer, or the attorneys, or anyone not on the jury.
2. You must not discuss this case unless all of you are present in the jury room. If anyone leaves the room, then you must stop your discussions about the case until all of you are present again.
3. You must communicate with the judge only in writing, signed by the foreperson and given to the judge through the officer assigned to you.
4. You must not conduct any independent investigations, research, or experiments. Do not look up any words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with other jurors.
5. You must tell the judge if anyone attempts to contact you about the case before you reach your verdict.

Your sole duty at this point is to determine whether the defendant has been proved guilty. You must restrict your deliberations to this matter.

After you have arrived at your verdict, you are to use the form attached to these instructions. You should have your foreperson sign his or her name to the particular section of the form that conforms to your verdict.

A handwritten signature in black ink, appearing to read 'Bruce Boyer', is written over a horizontal line. The signature is fluid and cursive.

The Honorable Bruce Boyer
22nd Judicial District Court
Hays County, Texas