

NO. 1648480D

THE STATE OF TEXAS § IN THE CRIMINAL DISTRICT
VS. § COURT NO. 4
MAURICE KELSO SMITH § TARRANT COUNTY, TEXAS

COURT'S CHARGE

MEMBERS OF THE JURY:

In any jury trial there are, in effect, two judges. I am one of the judges; the other is the jury. It is my duty to preside over the trial and to decide what evidence is proper for your consideration. It is also my duty at the end of the trial to explain to you the rules of law that you must follow and apply in arriving at your verdict.

First, I will give you some general instructions which apply in every case. Then I will give you some specific rules of law about this particular case, and finally I will explain to you the procedures you should follow in your deliberations.

You, as jurors, are the judges of the facts. But in determining what actually happened, that is, in reaching your decision as to the facts, it is your sworn duty to follow all of the rules of law as I explain them to you.

FILED
THOMAS A WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

MAR 01 2024

TIME 9:01
BY [Signature] DEPUTY

You have no right to disregard or give special attention to any one instruction, or to question the wisdom or correctness of any rule I may state to you. You must not substitute or follow your own notion or opinion as to what the law is or ought to be. It is your duty to apply the law as I explain it to you, regardless of the consequences. It is also your duty to base your verdict solely upon the evidence that has been presented to you in court.

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 this 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 the case. The prosecution has the burden of proving this 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; it is required that the prosecution's proof excludes all "reasonable doubt" concerning the Defendant's guilt.

As you determine the facts, you must consider only the evidence presented during the trial, including the sworn testimony of the witnesses and the exhibits. Remember that any statements, objections, or arguments made by the lawyers are not evidence. The function of the lawyers is to point out those things that are most significant or most helpful to their side of the case, and in so doing to call your attention to certain facts or inferences that might otherwise escape your notice. In the final analysis, however, it is your own recollection and interpretation of the evidence that controls in the case. What the lawyers say is not binding upon you.

Also, do not assume from anything I may have done or said during the trial that I have any opinion concerning any of the issues in this case. Except for the instructions to you on the law and my ruling on objections, you should disregard anything I may have said during the trial in arriving at your own findings of the facts.

In answering the issues submitted to you, you must not be swayed by mere sentiment, conjecture, sympathy, passion, prejudice, public opinion, or public feelings.

While you should consider only the evidence, you are permitted to draw such reasonable inferences from the testimony and exhibits as you feel 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 which have been established by the evidence.

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.

You are to decide whether the State has proved beyond a reasonable doubt that the Defendant is guilty of the crime charged. The Defendant is not on trial for any act not alleged in the indictment.

Our law provides a defendant may testify in his own behalf if he elects to do so. This, however, is a privilege accorded to the Defendant, and in the event he does not testify, that fact cannot be taken as a circumstance against him. In this case the Defendant has not testified,

and you are instructed that you cannot and must not refer or allude to this fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against the Defendant.

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 writing signed by the Presiding Juror, 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. It will take the court reporter quite some time to locate the particular testimony about which you disagree.

If the State's evidence does not prove the defendant guilty beyond a reasonable doubt, then the verdict shall be "not guilty".

You may return a verdict only if all twelve of you agree on the verdict.

Now, bearing in mind these instructions, the Defendant, Maurice Kelso Smith, stands charged by indictment with the offense of

capital murder, alleged to have been committed on or about the 29th day of June, 2020, in Tarrant County, Texas. To this charge the Defendant has pleaded not guilty.

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

A person commits capital murder when he murders more than one person during the same criminal transaction.

“Person” means an individual.

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

“Death” includes, for an individual who is an unborn child, the failure to be born alive.

“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.

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.

Voluntary intoxication does not constitute a defense to the commission of a crime.

You are instructed that you may consider all relevant facts and circumstances surrounding the alleged killings or killing, if any, together with all relevant facts and circumstances going to show the condition of the mind of the Defendant at the time of the offense in question, if any.

You are instructed that if there is evidence before you regarding the defendant having committed extraneous crimes, wrongs, or other bad acts, other than the one charged in the indictment in this case, you cannot consider said testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other extraneous crimes, wrongs, or other bad acts, if any were committed, and even then you may only consider the same in aiding you, if it does, in considering any 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 such acts, if any, were committed.

You are further charged that if there is any evidence before you in this case tending to show that the Defendant committed a crime, wrong, or act other than the offense alleged in the indictment, you cannot consider said evidence for any purpose unless you first find and believe beyond a reasonable doubt that the Defendant committed said crime, wrong or act. If you find and believe beyond a reasonable doubt that the Defendant committed the crime, wrong or act, you may then consider the same in determining the purpose for which it was introduced, namely, the nature of the relationship of the parties, and for no other purpose.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 29th day of June, 2020, in Tarrant County, Texas, the defendant, Maurice Kelso Smith, did then and there intentionally or knowingly cause the death of an individual, Darionne Burley by shooting her with a firearm and did intentionally or knowingly cause the death of an individual, Twin A, by shooting Darionne Burley with a firearm, and did intentionally or knowingly cause the death of an individual, Twin B, by shooting Darionne Burley with a firearm, and

the murders were committed during the same criminal transaction, then you will find the Defendant guilty of the offense of capital murder.

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

It is your duty to consult with one another and to deliberate in an effort to reach agreement if you can do so. Each of you must decide the case for yourself, but only after an impartial consideration of the evidence with your fellow jurors. During your deliberations, do not hesitate to reexamine your own opinions and change your mind if convinced that you were wrong. But do not give up your honest beliefs as to the weight or effect of the evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

Remember at all times, that you are judges of the facts. Your sole duty is to decide, if you can, whether the State has proved the Defendant guilty beyond a reasonable doubt.

You were allowed to take notes during this trial. Any notes you have taken are for your own personal use. You may take your notes back into the jury room and consult them during deliberations, but do not show or read your notes to your fellow jurors during your

deliberations. Your notes are not evidence. Each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes. You may use your notes to refresh your memory and recollection of the evidence, but you may not read out loud from your notes nor may you share your notes in any way with the other jurors. If any juror reveals his or her notes to any other juror, you or the Presiding Juror must report it to me or my staff immediately.

When you go to the jury room, the first thing that you should do is select one of your number as your presiding juror, who will help to guide your deliberations and will speak for you here in the courtroom.

During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as a telephone, cell phone, smart phone, iPhone, Blackberry, or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, You Tube or X, to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict, if any.

Any verdict you render must be unanimous.

At the conclusion of your deliberations, the presiding juror should sign the appropriate verdict form, if any.

If you need to communicate with me during your deliberations, the presiding juror should write the message, ring the jury call button on the wall, and give your written message to the bailiff. I will either reply in writing or bring you back into the court to respond to you.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight, if any, to be given to their testimony, but you are bound to receive the law from the Court, which is herein given, and be governed thereby.



**Robert Brotherton, Presiding Judge
Criminal District Court No. 4
Tarrant County, Texas**

VERDICT FORMS

We, the jury, find the Defendant, Maurice Kelso Smith, not guilty.

Presiding Juror

-OR-


**We, the jury, find the Defendant, Maurice Kelso Smith, guilty of
the offense of capital murder.**



Presiding Juror

FILED
THOMAS A WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

MAR 04 2024

TIME 10:00A
BY  DEPUTY