

NO. 401-82879-2016

THE STATE OF TEXAS

§

IN THE 401ST JUDICIAL

VS.

§

DISTRICT COURT OF

MICHAEL ERIC PENNINGTON

§

COLLIN COUNTY, TEXAS

FILED
 18 FEB -1 PM 3:19
 LYNNE FINLEY
 DISTRICT CLERK
 COLLIN COUNTY, TX
 BY [Signature] DEPUTY

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, **MICHAEL ERIC PENNINGTON**, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 4th day of July, 2016, in Collin County, Texas. To this charge the defendant has pleaded not guilty.

Our law provides that a person commits the offense of murder if the person intentionally or knowingly causes the death of an individual.

A person commits capital murder when he intentionally causes the death of an individual in the course of committing or attempting to commit a burglary.

Our law provides that a person commits the offense of burglary if, without the effective consent of the owner, the person enters a habitation with intent to commit a felony.

You are instructed that the offense of murder is a felony in the State of Texas.

A person acts intentionally, or with intent, with respect to the 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 person who has been born and was alive.

“Attempt” means to commit an act with specific intent to commit an offense where the act committed amounts to more than mere preparation but fails to effect the commission of the offense intended.

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

“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 actor.

“Effective consent” includes consent by a person legally authorized to act for the owner.

CAPITAL MURDER

NOW, if you find from the evidence beyond a reasonable doubt that on or about the 4th day of July, 2016 in Collin County, Texas, the defendant, **MICHAEL ERIC PENNINGTON**, did then and there intentionally cause the death of an individual, namely, Leasa Carroll, by stabbing or cutting Leasa Carroll with a knife, and the defendant was then and there in the course of committing or attempting to commit the offense of burglary, then you will find the defendant guilty of Capital Murder as charged in the indictment.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof that the defendant is guilty of capital murder as charged, or if you cannot agree, you will consider whether he is guilty of the lesser included offense of murder as instructed below.

MURDER

If you find from the evidence beyond a reasonable doubt that on or about the 4th day of July, 2016, in Collin County, Texas, that **MICHAEL ERIC PENNINGTON** did then and there, intentionally or knowingly cause the death of Leasa Carroll by stabbing or cutting Leasa Carroll with a knife, then you will find him guilty of the lesser included offense of murder.

If you do not so believe or if you have a reasonable doubt as to the defendant's guilt of any offense defined in this charge, after considering all the evidence before you, and these instructions, you will acquit him and say by your verdict "Not Guilty".

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either capital murder on the one hand or murder on the other hand, but you have a reasonable doubt as to which of those two offenses he is guilty, then you must resolve that doubt in the defendant's favor and find him guilty of the lesser offense of murder.

GENERAL INSTRUCTIONS

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a privilege accorded a defendant, and, in the event he elects not to testify, that fact cannot be taken as a circumstance against him. In this case, the defendant has elected not to testify, and you are instructed that you cannot and must not refer or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against 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 charged with an 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 all criminal cases the burden of proof is on the State and the defendant is presumed to be innocent until the defendant's guilt is established by evidence beyond a reasonable doubt; and, in case you have a reasonable doubt of the defendant's guilt, you will acquit the defendant and say by your verdict "not guilty".

You are instructed that voluntary intoxication does not constitute a defense to the commission of any crime.

You are instructed that you are not to allow yourselves to be influenced in any degree whatsoever by what you may think or surmise the opinion of the Court to be. The Court has no right by any word or any act to indicate any opinion respecting any matter of fact involved in this case, nor to indicate any desire respecting its outcome. The Court has not intended to express any opinion upon any matter of fact in this case, and if you have observed anything which you have or may interpret as the Court's opinion upon any matter of fact in this case, you must wholly disregard it.

You are instructed that any statements of counsel made during the course of the trial or during argument not supported by the evidence, or statements of law made by counsel not in harmony with the law as stated to you by the Court in these instructions, are to be wholly disregarded.

You are further instructed that you should not question the Bailiff concerning the testimony or the law of the case, nor should you discuss the case in his presence. If you have any questions, you should reduce them to writing, to be signed by the presiding juror, and present them to the Court.

If the Jurors disagree as to the statement of any witness, they may, upon applying to the Court, have read to them from the Court Reporter's notes that portion of such witness' testimony, and only that portion, on the point in dispute.

You are instructed that the indictment is the means whereby a defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered as such when passing upon whether the defendant is guilty or not guilty.

During your deliberations in this 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.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, and no juror is permitted to communicate to any other juror anything he might have heard regarding the case from any source other than the witness stand.

You are the exclusive judges of the facts proved, of the credibility of the witnesses, and the weight to be given their testimony, but you must be governed by the law you receive in these written instructions.

After you retire to the jury room, you should select one of your members as your presiding juror. It is their duty to preside at your deliberations and vote with you. Your verdict must be unanimous and signed by the presiding juror.

Suitable forms for your verdict are attached hereto. Your verdict must be in writing and signed by your presiding juror. Your sole duty at this time is to determine whether the defendant is guilty or not guilty under the indictment in this cause and you are to restrict your deliberations to that issue.

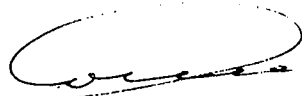
Signed this the 1st day of February, 2018.

A handwritten signature in black ink, appearing to read "Mark Rusch", written over a horizontal line.

Honorable Mark Rusch
Judge Presiding

VERDICT

We, the jury, find the defendant guilty of Capital Murder, as charged in the indictment.



Presiding Juror Signature

KARL DANIE LOUISE.

Presiding Juror Printed Name

OR,

We, the jury, find the defendant guilty of Murder, a lesser included offense to the offense charged in the indictment.

Presiding Juror Signature

Presiding Juror Printed Name

OR,

We, the jury, find the defendant not guilty.

Presiding Juror Signature

Presiding Juror Printed Name