

NO. B-18-0389-CR

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

OF ECTOR COUNTY, TEXAS

KEVIN LEE ROBERTS

161ST JUDICIAL DISTRICT

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The Defendant, KEVIN LEE ROBERTS, stands charged by Indictment with the offense of Capital Murder, alleged to have been committed on or about the 13th day of December, 2017, in Ector County, Texas. The Defendant has pled not guilty.

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 robbery.

A person commits the offense of Robbery if, in the course of committing Theft and with intent to obtain and maintain control of property of another, he intentionally or knowingly causes bodily injury to another.

"In the course of committing Theft" means conduct that occurs in an attempt to commit, during the commission or in immediate flight after the attempt or commission of theft.

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

"Bodily injury" means physical pain, illness, or any impairment of physical condition.

"Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

"Theft" is the unlawful appropriation of the corporeal personal property of another with the intent to deprive such person of said property.

→ hand to property.

"Appropriation" and "appropriate" mean to acquire or otherwise exercise control over property other than real property. Appropriation of property is unlawful if it is without the owner's effective consent.

"Property" as used herein means tangible or intangible personal property or documents, including money that represent or embodies anything of value.

"Deprive" as used herein means to withhold property from the owner permanently.

"Effective consent" means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner. Consent is not effective if induced by deception or coercion or force or threats.

"Owner" means a person who has title to the property, possession of the property, or a greater right to the possession of the property than the person charged.

"Possession" means actual care, custody, control or management of property.

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

"Deadly weapon" means anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

~~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.~~ * knife

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.

You are further charged as the law in this case that the State is not required to prove the exact date alleged in the indictment but may prove the offense, if any, to have been committed at any time prior to the presentment of the indictment so long as said offense, if any, occurred within the statute of limitations. There is no statute of limitations for Murder or Capital Murder.

The State has introduced evidence of extraneous crimes or bad acts other than the one charged in the indictment in this case. This evidence was admitted only for the purpose of assisting you, if it does, for the purpose of showing the defendant's motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, or consciousness of guilt, if any. You cannot consider the testimony unless you find and believe beyond a reasonable doubt that the defendant committed these acts, if any, were committed.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 13th day of December, 2017, in Ector County, Texas, the Defendant, KEVIN LEE ROBERTS, did then and there intentionally cause the death of an individual, namely, ASHLEY WILLIAMS, by cutting or stabbing ASHLEY WILLIAMS with a deadly weapon, to-wit: a knife, or by choking or strangling ASHLEY WILLIAMS, and the defendant, KEVIN

ROBERTS was then and there in the course of committing or attempting to commit the offense of robbery of ASHLEY WILLIAMS, then you will find the Defendant guilty of Capital Murder, as charged in the Indictment.

Unless you find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of Capital Murder and next consider whether the Defendant is guilty of the offense of Murder.

If you find from the evidence beyond a reasonable doubt that on or about the 13th day of December, 2017, in Ector County, Texas, the defendant KEVIN LEE ROBERTS, did intentionally or knowingly cause the death of ASHLEY WILLIAMS by cutting or stabbing ASHLEY WILLIAMS with a deadly weapon, to-wit: a knife, or by choking or strangling ASHLEY WILLIAMS, but you have a reasonable doubt as to whether the defendant was then and there engaged in the commission of or attempting to commit the offense of robbery of ASHLEY WILLIAMS, at the time of the cutting or stabbing ASHLEY WILLIAMS with a deadly weapon, to-wit: a knife, or by choking or strangling ASHLEY WILLIAMS, if any, then you will find the defendant guilty of Murder.

~~Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of Murder and say by your verdict "Not Guilty".~~

You are instructed that you may consider all relevant facts and circumstances surrounding the killing, if any, and the previous relationship existing between the accused and the deceased, if any, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the cutting or stabbing or choking or strangling in question, if any.

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 the evidence in the case.

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


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 must be governed by, you shall receive in these written instructions.

After you retire to the jury room, you should select one of your members as your Foreperson. 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 to your verdict by using the appropriate form attached hereto, and signing the same as Foreperson.

No one has any authority to communicate with you except the officer who has you in charge. 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.

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. After you have reached a unanimous verdict, the Foreperson will certify thereto by filling in the appropriate form attached to this charge and signing his or her name as Foreperson.


JUDGE PRESIDING.

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OF ECTOR COUNTY, TEXAS

KEVIN LEE ROBERTS

161ST JUDICIAL DISTRICT

VERDICT

We, the Jury, find the Defendant, KEVIN LEE ROBERTS, "Not Guilty" of the offense of Capital Murder but "Guilty" of the offense of Murder.

FOREPERSON

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KEVIN LEE ROBERTS

161ST JUDICIAL DISTRICT

VERDICT

We, the Jury, find the Defendant, KEVIN LEE ROBERTS, "Not Guilty".

FOREPERSON