

CAUSE NO. 1176578

THE STATE OF TEXAS	§	IN THE 230TH DISTRICT COURT
VS.	§	OF HARRIS COUNTY, TEXAS
ADRIEN LEE CALDWELL	§	AUGUST TERM, A. D., 2008

Members of the Jury:

The defendant, Adrien Lee Caldwell, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 25th day of May, 2006, in Harris County, Texas. 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 the offense of capital murder if he intentionally commits murder, as hereinbefore defined, in the course of committing or attempting to commit the offense of aggravated sexual assault or the offense of burglary of a habitation. Aggravated sexual assault and burglary of a habitation are felony offenses.

"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.

A person commits the offense of sexual assault if the person intentionally or knowingly causes the penetration of the anus or female sexual organ of another person by any means, without that person's consent.

A person commits the offense of aggravated sexual assault if the person commits sexual assault, as hereinbefore defined, and if the person:

- (1) causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode; or
- (2) uses or exhibits a deadly weapon in the course of the same criminal episode.

A sexual assault or an aggravated sexual assault is without the consent of the other person if the defendant compels the other person to submit or participate by the use of physical force or violence.

A person commits the offense of burglary of a habitation if, without the effective consent of the owner, he:

- (1) enters a habitation with intent to commit a felony, theft, or an assault; or
- (2) enters a habitation and commits or attempts to commit a felony, theft, or an assault.

"Theft" means the unlawful appropriation of property with intent to deprive the owner of property. Appropriation of property is unlawful if it is without the owner's effective consent.

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

"Habitation" means a structure or vehicle that is adapted for the overnight accommodation of persons, and includes: (a) each separately secured or occupied portion of the structure or vehicle and (b) each structure appurtenant to or connected with the structure or vehicle.

"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.

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

"Deadly weapon" means a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury; or anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

"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.

The definition of intentionally relative to the offense of capital murder is as follows:

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.

The definitions of intentionally and knowingly relative to the offenses of sexual assault and aggravated sexual assault are as follow:

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.

The definition of intentionally relative to the offense of burglary of a habitation is as follows:

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.

Before you would be warranted in finding the defendant guilty of capital murder, you must find from the evidence beyond a reasonable doubt not only that on the occasion in question the defendant was in the course of committing or attempting to commit the felony offense of aggravated sexual assault of Melanie Parker, as alleged in this charge, but also that the defendant specifically intended to cause the death of Melanie Parker by shooting Melanie Parker with a deadly weapon, namely a firearm;
or

You must find from the evidence beyond a reasonable doubt not only that on the occasion in question the defendant was in the course of committing or attempting to commit the felony offense

of burglary of a habitation owned by Melanie Parker, as alleged in this charge, but also that the defendant specifically intended to cause the death of Melanie Parker by shooting Melanie Parker with a deadly weapon, namely a firearm, and unless you so find, then you cannot convict the defendant of the offense of capital murder.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 25th day of May, 2006, in Harris County, Texas, the defendant, Adrien Lee Caldwell, did then and there unlawfully, while in the course of committing or attempting to commit the aggravated sexual assault of Melanie Parker, intentionally cause the death of Melanie Parker by shooting Melanie Parker with a deadly weapon, namely a firearm; or

If you find from the evidence beyond a reasonable doubt that on or about the 25th day of May, 2006, in Harris County, Texas, the defendant, Adrien Lee Caldwell, did then and there unlawfully, while in the course of committing or attempting to commit the burglary of a habitation owned by Melanie Parker, intentionally cause the death of Melanie Parker by shooting Melanie Parker with a deadly weapon, namely a firearm, 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, you will acquit the defendant and say by your verdict "Not Guilty."

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a right 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 to or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against him.

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 question 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 he 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.

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 the weight to be given their testimony, but the law you shall receive in these written instructions, and you must be governed thereby.

After you retire to the jury room, you should select one of your members as your Foreman. 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 Foreman.

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.

No one has any authority to communicate with you except the officer who has you in charge. After you have retired, you may communicate with this Court in writing through this officer. Any communication relative to the cause must be written, prepared and signed by the Foreman and shall be submitted to the court through this officer. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the Court, or anyone else concerning any questions you may have.

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.

Following the arguments of counsel, you will retire to consider your verdict.


Belinda Hill, Judge
230th District Court
Harris County, TEXAS

FILED

Theresa Chang
District Clerk

OCT 29 2008

Time: 9:25 A.M.

Harris County, Texas

By: 
Deputy

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THE STATE OF TEXAS § IN THE 230TH DISTRICT COURT
 VS. § OF HARRIS COUNTY, TEXAS
 ADRIEN LEE CALDWELL § AUGUST TERM, A. D., 2008

V E R D I C T

"We, the Jury, find the defendant, Adrien Lee Caldwell, not guilty."

 Foreman of the Jury

(Please Print) Foreman

"We, the Jury, find the defendant, Adrien Lee Caldwell, guilty of capital murder, as charged in the indictment."

Charles C. Kafoglis

 Foreman of the Jury

Charles C. Kafoglis

 (Please Print) Foreman

FILED
 Theresa Chang
 District
 OCT 29 2008
 Time: 2:05 P.M.
 Harris County, Texas
 By: T. um
 Deputy