

"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.

A person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both.

Each party to an offense may be charged with commission of the offense.

A person is criminally responsible for an offense committed by the conduct of another if, acting with intent to promote or assist the commission of the offense, he encourages, directs, aids or attempts to aid the other person to commit the offense.

Mere presence alone will not constitute one a party to an offense.

A conviction cannot be had upon the testimony of an accomplice unless the jury first believes that the accomplice's evidence is true and that it shows the Defendant is guilty of the offense charged against him, and even then you cannot convict unless the accomplice's testimony is corroborated by other evidence tending to connect the Defendant with the offense charged, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must tend to connect the Defendant with its commission. Any person who is a party to an offense, as described above, would be an accomplice to the same offense.

If you believe from the evidence beyond a reasonable doubt that an offense was committed and you further believe from the evidence that Jonathan Garrett was a party to said offense, if any, or if you have a reasonable doubt thereof, then you are instructed that you cannot find the Defendant guilty upon the testimony of Jonathan Garrett unless you first believe that the testimony of said Jonathan Garrett is true and that it shows the Defendant is guilty as charged in the indictment; and even then you cannot convict the Defendant, Donnell Terrain Session, unless you further believe that there is other evidence in this case, outside the evidence of said Jonathan Garrett, tending to connect the Defendant with the commission of the offense charged in the indictment and then from all the evidence you must believe beyond a reasonable doubt that the Defendant is guilty.

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.

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".

Now, if you find from the evidence beyond a reasonable doubt that the Defendant, Donnell Terrain Session, in Tarrant County, Texas, on or about the 11th day of March 2005, did then and there intentionally cause the death of an individual, Torian Wiley, by shooting him with a firearm and on the 11th day of March 2005, acting with intent to promote or assist the commission of the offense, the Defendant encouraged, directed, aided or attempted to aid Calvin King to intentionally cause the death of Benny Lemmons by shooting him with a firearm, and both murders were committed during the same criminal transaction; OR

If you find from the evidence beyond a reasonable doubt that the Defendant, Donnell Terrain Session, in Tarrant County, Texas, on or about the 11th day of March 2005, did then and there intentionally cause the death of an individual, Torian Wiley, by shooting him with a firearm, and on the 11th day of March 2005, acting with intent to promote or assist the commission of the offense, the Defendant encouraged, directed, aided or attempted to aid Calvin King to intentionally cause the death Benny Lemmons by shooting Benny Lemmons with a firearm, and both murders were committed pursuant to the same scheme or course of conduct but during different criminal transactions, then you will find the Defendant guilty of the offense 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 of the offense of capital murder and next consider whether the Defendant is guilty of the offense of murder.

Now, if you find from the evidence beyond a reasonable doubt that the Defendant, Donnell Terrain Session, in Tarrant County, Texas, on or about the 11th day of March 2005, did then and there intentionally or knowingly cause the death of an individual, Torian Wiley, by shooting him with a firearm; OR

If you find from the evidence beyond a reasonable doubt that the Defendant, Donnell Terrain Session, in Tarrant County, Texas, on or about the 11th day of March 2005, did then and there intentionally, with the intent to cause serious bodily injury to Torian Wiley, commit an act clearly dangerous to human life, namely, shooting Torian Wiley with a firearm, which caused the death of Torian Wiley, then you will find the Defendant guilty of the offense 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 and say by your verdict "Not Guilty."

The indictment in this case is no evidence whatsoever of the guilt of the Defendant. It is a written instrument necessary in order to bring this case into court for trial, and you will not consider the indictment as any evidence in this case or as any circumstance whatsoever against the Defendant.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight 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.

You are charged that it is only in open court that the jury is permitted to receive evidence regarding the case, or any witness therein, and no juror is permitted to communicate to any other juror anything he or she may have seen or heard regarding the case or any witness therein, from any source other than in open court.

Your verdict must be by a unanimous vote of all members of the jury. In your deliberations you shall consider the charge as a whole and you must not refer to or discuss any matters not in evidence.

At times throughout the trial the Court may have been called upon to rule on the question of whether or not certain offered evidence might properly be admitted. You are not to concern yourselves with the reasons for the Court's ruling nor draw any inferences therefrom. Whether offered evidence is admissible is a question of law and in admitting evidence to which an objection is made, the Court does not determine what weight should be given such evidence; nor does the Court pass on the credibility of the witness. You must not consider any evidence offered that has been rejected by the Court. As to any question to which an objection was sustained, you must not engage in conjecture as to what the answer might have been or as to the reason for the objection.

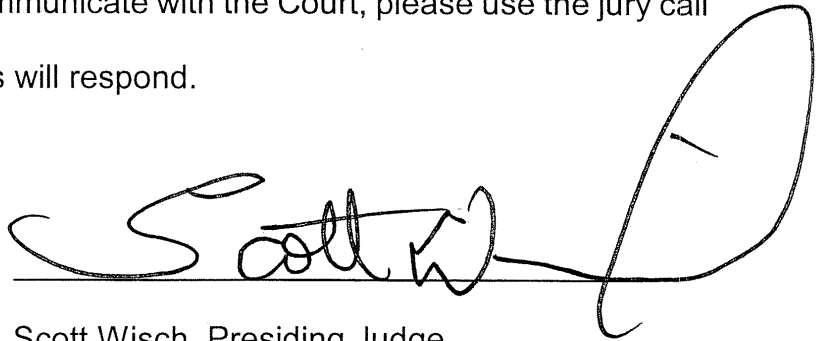
You are instructed that you are not to allow yourselves to be influenced in any degree whatsoever by what you may think or surmise the opinion of the Court to be. The Court has no right by any word or any act to indicate any opinion respecting any matter of fact involved in this case, nor to indicate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

After you retire to the jury room, you should select one of your members as your Presiding Juror. Any member of the jury may serve as Presiding Juror. It is the Presiding Juror's 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 and signing the same as your Presiding Juror.

At this time you will confine your deliberations solely to the issue of whether the Defendant is guilty or not guilty of the offenses set forth in this charge.

Should the jury desire to have any or all of the admitted exhibits delivered to you for your deliberations, your Presiding Juror shall so notify the Court in writing and the requested exhibits will be delivered.

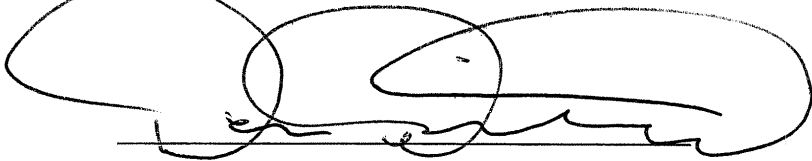
After you have retired, you may communicate with the Court in writing through the bailiff who has you in charge. Your written communication must be signed by the Presiding Juror. Do not attempt to talk to the bailiffs, the attorneys, or the Court regarding any question you may have concerning the trial of the case. After you have reached a unanimous verdict or if you desire to communicate with the Court, please use the jury call button on the wall and one of the bailiffs will respond.

A handwritten signature in black ink, appearing to read "Scott Wisch", written over a horizontal line. The signature is stylized and includes a large, loopy flourish on the right side.

Scott Wisch, Presiding Judge
372nd Judicial District Court
Tarrant County, Texas

VERDICT FORMS

We, the Jury, find the Defendant, Donnell Terrain Session, not guilty.



PRESIDING JUROR

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

NOV 19 2007

2:47 PM

TIME _____
BY AK DEPUTY

-OR-

We, the Jury, find the Defendant, Donnell Terrain Session, guilty of the offense of capital murder, as charged in the indictment.

PRESIDING JUROR

-OR-

We, the Jury, find the Defendant, Donnell Terrain Session, guilty of the offense of murder.

PRESIDING JUROR