

Original Charge

CAUSE NO. D1-DC-06904119

THE STATE OF TEXAS	.	IN THE 390TH
V.	.	DISTRICT COURT OF
SELWYN PRESTON DAVIS	.	TRAVIS COUNTY, TEXAS

CHARGE OF THE COURT

Ladies and Gentlemen of the Jury:

The defendant, Selwyn Preston Davis, stands charged by indictment with the offense of capital murder, alleged to have been committed in Travis County, Texas, on or about the 22nd day of August 2006. To this charge the court has entered a plea of not guilty for the defendant. You are instructed that the law applicable to this case is as follows:

1.

A person commits the offense of capital murder if the person intentionally causes the death of an individual and the person intentionally commits the murder in the course of committing or attempting to commit burglary or robbery.

2.

"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.

"Individual" means a human being who has been born and is alive.

3.

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.

Filed in The District Court
of Travis County, Texas

OCT 04 2007

At 11:22 p.m. *[Signature]*
Amalia Rodriguez-Mendoza, Clerk

SEARCHED

A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that the conduct is reasonably certain to cause the result.

4.

A person is criminally responsible if the result would not have occurred but for his conduct.

5.

A person commits the offense of Burglary of a Habitation if, without the effective consent of the owner, the person:

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

“Enter means to intrude:

- (a) any part of the body; or
- (b) any physical object connected to the body.

“Habitation” means a structure that is adapted for the overnight accommodation of persons, and includes:

- (a) each separately secured or occupied portion of the structure; and
- (b) each structure appurtenant to or connected with the structure.

A person commits the offense of assault if he:

- (a) intentionally or knowingly or recklessly causes bodily injury to another; or
- (b) intentionally or knowingly threaten another with imminent bodily injury.

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

“Intentionally and knowingly” are hereinbefore defined above.

A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from

the standard of care that an ordinary person would exercise under all the circumstances as viewed from the defendant's standpoint.

A person commits the offense of sexual assault of a child if the person intentionally or knowingly causes the penetration of the vagina of a child by any means.

"Child" means a person younger than 17 years of age who is not the spouse of the defendant.

"Spouse" means a person who is legally married to another.

Sexual Assault of a Child is a felony.

6.

A person commits the offense of robbery if in the course of committing theft as hereinafter defined and with intent to obtain or maintain control of the property, he:

- (1) intentionally or knowingly or recklessly causes bodily injury to another; or
- (2) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

7.

A person commits theft if he unlawfully appropriates property with the intent to deprive the owner of property.

Appropriation of property is unlawful if it is without the owner's effective consent.

8.

"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.

"Appropriate" means to acquire or otherwise exercise control over property other than real property.

"Deprive" means:

- (1) to withhold property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the property is lost to the owner; or
- (2) to dispose of property in a manner that makes recovery of the property by the owner unlikely.

"Owner" means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the defendant.

"Property" means:

- (1) tangible or intangible personal property including anything severed from land; or
- (2) a document, including money, that represents or embodies anything of value.

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

"Consent" means assent in fact, whether express or apparent.

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

Consent is not effective if:

- (1) induced by deception or coercion; or
- (2) given by a person the actor knows is not legally authorized to act for the owner.

9.

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

Intoxication means disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

10. (Capital Murder)

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that the defendant, Selwyn Preston Davis, on or about the 22nd day of August, 2006, in the County of Travis, and State of Texas, as alleged in the indictment did then and there intentionally cause the death of an individual, namely, Regina Lara, by stabbing or cutting Regina Lara with a knife, which in the manner of its use or intended use was capable of causing death or serious bodily injury, and the said Selwyn Preston Davis was then and there in the course of committing or attempting to commit the offense of Burglary of a Habitation of Regina Lara, who was the owner of said habitation,

(In determining whether the defendant is guilty of the offense of Capital Murder in the course of Burglary of a Habitation, you need not be unanimous as to the way that the Burglary of a Habitation was committed, so long as each of you individually believes beyond a reasonable doubt that the defendant committed the intentional murder of Regina Lara in the course of committing Burglary of a Habitation.)

Or if you believe from the evidence beyond a reasonable doubt, that the defendant, Selwyn Preston Davis, on or about the 22nd day of August, 2006, in the County of Travis, and State of Texas, as alleged in the indictment did then and there intentionally cause the death of an individual, namely Regina Lara, by stabbing or cutting Regina Lara with a knife which in the manner of its use or intended uses was capable of causing death or serious bodily injury, and the said Selwyn Preston Davis was then and there in the course of committing or attempting to commit the offense of Robbery of Regina Lara, you will find the defendant guilty of the offense of Capital Murder and so say by your verdict, but if you do not so believe, or if you have a reasonable doubt thereof, you will acquit the defendant of the offense of Capital Murder and proceed to consider whether the defendant is guilty of the lesser offense of Murder as described below.

11.

Now if you believe beyond a reasonable doubt that the defendant, Selwyn Preston Davis, killed Regina Lara, but you have a reasonable doubt as to whether Selwyn Preston Davis burglarized the home of Regina Lara or robbed Regina Lara, or you have a reasonable doubt as to whether the death of Regina Lara occurred in the commission or attempted commission or in immediate flight after the attempt or commission of the burglary or robbery, if any, of Regina Lara, then you cannot convict the defendant of Capital Murder, but you will consider whether the defendant is guilty of the lesser included offense of Murder.

12. (Lesser-Included Offense of Murder)

Now bearing in mind the foregoing definitions and instructions, if you believe from the evidence beyond a reasonable doubt that on or about the 22nd day of August, 2006 the defendant, Selwyn Preston Davis, did then and there intentionally cause the death of an individual, Regina Lara, by stabbing or cutting the said Regina Lara with a knife, a deadly weapon, you will find the defendant guilty of Murder and so say by your verdict; but if you do not so believe or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not Guilty."

13.

In a criminal case the law permits a defendant to testify in his own behalf, but he is not compelled to do so, and the same law provides that the fact that a defendant does not testify shall

not be considered as a circumstance against him. You will, therefore, not consider the fact that the defendant did not testify as a circumstance against him; and you will not in considering your verdict allude to, comment on, or in any manner refer to the fact that the defendant has not testified.

14.

The defendant is on trial solely on the charge contained in the indictment. In reference to evidence, if any, that the defendant has previously participated in recent transactions or acts, other than but similar to that which is charged in the indictment in this case, you are instructed that you cannot consider such other transactions or acts, if any, for any purpose unless you find and believe beyond a reasonable doubt that the defendant participated in such transactions or committed such acts, if any; and even then you may only consider the same for the purpose of determining his intent, or motive or plan or preparation, if it does and for no other purpose.

15.

You are further instructed as a part of the law in this case that the indictment against the defendant is not evidence in the case, and that the true and sole use of the indictment is to charge the offense, and to inform the defendant of the offense alleged against him.

The reading of the indictment to the jury in the statement of the case of the State against the Defendant cannot be considered as a fact or circumstance against the Defendant in your deliberations.

16.

In all criminal cases the burden of proof is on the State. 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 a 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 the defendant and say by your verdict "not guilty."

You are charged that it is only from the witness stand 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 heard regarding the case or any witness therein, from any source other than the witness stand.

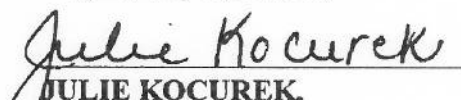
In deliberating on this cause you are not to refer to or discuss any matter or issue not in evidence before you; nor talk about this case to anyone not of your jury; and after the reading of this charge, you shall not separate from each other until you have reached a verdict. Further, you shall not discuss or consider the punishment, if any, which may be assessed against the defendant in the event he is found guilty beyond a reasonable doubt.

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

If the jury wishes to communicate with the Court, it shall notify the bailiff, who shall inform the Court thereof. Any communication relative to the cause must be in writing, signed by the foreperson, and shall be submitted to the Court through the bailiff.

After the reading of the charge and argument of counsel, you will retire and select one of your members as your foreperson. It is his or her duty to preside at your deliberations and to vote with you in arriving at a verdict. Your verdict must be unanimous, and after you have arrived at your verdict, you may use one of the forms attached hereto by having your foreperson sign his or her name to the particular form that conforms to your verdict.

Respectfully submitted,


JULIE KOCUREK,
Presiding Judge

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THE STATE OF TEXAS	.	IN THE 390TH
V.	.	DISTRICT COURT OF
SELWYN PRESTON DAVIS	.	TRAVIS COUNTY, TEXAS

VERDICT OF THE JURY
(Verdict Form One)

We, the Jury, find the defendant, Selwyn Preston Davis :

Guilty of Capital Murder while in the course of committing Burglary.
(guilty or not guilty)

Not Guilty of Capital Murder while in the course of committing Robbery.
(guilty or not guilty)

Filed in The District Court
of Travis County, Texas

OCT 04 2007

At 3:40 P.M.
Amalia Rodriguez-Mendoza, Clerk

Lydia Wolf
Foreperson

Please proceed to consider the next verdict form if and only if your verdict is "not guilty" to Capital Murder while in the course of committing Burglary of a Habitation and Capital Murder while in the course of committing Robbery.

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VERDICT OF THE JURY
 (Verdict Form Two)

We, the Jury, find the defendant, Selwyn Preston Davis,

_____ **of the offense of Murder.**
 (guilty or not guilty)

Foreperson