

IN THE 238TH JUDICIAL DISTRICT COURT
OF MIDLAND COUNTY, TEXAS

THE STATE OF TEXAS

VS.

ROBERT MARSHALL PICKARD

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§

NO. CR31284

CHARGE OF THE COURT

Ladies and Gentlemen of the Jury:

THE ACCUSATION

In this case, Defendant, ROBERT MARSHALL PICKARD, is charged by indictment of the felony offense of ARSON. On the Defendant's plea of not guilty, you are directed to apply the law in these instructions to the evidence you heard during the trial.

**1.
THE LAW**

Unless you are given a specific definition of a word or term, you may rely on the commonly accepted meaning.

The following definitions apply to the evidence in this case:

A person commits the offense of arson if he starts a fire, regardless of whether the fire continues after ignition, or causes an explosion with intent to destroy or damage any building, habitation or vehicle, knowing that it is within the limits of an incorporated city or town.

"Habitation" means a structure that is adapted for the overnight accommodation of persons.

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.

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 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.

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

2.

According to these instructions and definitions if you find and believe from the evidence beyond a reasonable doubt that the Defendant, ROBERT MARSHALL PICKARD, on or about the 21st day of June, 2005, in the County of Midland and State of Texas, as alleged in the indictment did then and there start a fire by igniting combustible material with the intent to destroy or damage a habitation owned by Robert Pickard and generally located at 5000 Heather Road, Midland, Texas, in said county and State, and knowing that the

said habitation was located within the limits of an incorporated city or town, to-wit: Midland, Texas, then if you so find and believe beyond a reasonable doubt, you will find the Defendant guilty of the offense of ARSON;

- OR -

In the alternative, if you find and believe beyond a reasonable doubt that some person other than ROBERT MARSHALL PICKARD, on or about the 21st day of June, 2005, did start a fire by igniting combustible material with the intent to destroy or damage a habitation owned by ROBERT MARSHALL PICKARD, located at 5000 Heather Road in Midland, Midland County, Texas, and you further believe from the evidence beyond a reasonable doubt that the Defendant, ROBERT MARSHALL PICKARD, acting with the intent to promote or assist the commission of the offense of ARSON by the said other person, did then and there solicit, encourage, direct, aid, or attempt to aid the other person to commit the offense of ARSON, then if you so believe beyond a reasonable doubt, you will find the defendant guilty of the offense of ARSON 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 ARSON and say by your verdict "not guilty".

3.

PRESUMPTION OF INNOCENCE

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. "Element of an offense" means (a) the forbidden conduct; (b) the

required culpability; and (c) the required result (if any). "Conduct" means an act or omission and its accompanying mental state. "Required culpability" means the mental state required by law such as intent, knowledge, recklessness or criminal negligence. 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 State is not required to prove guilt beyond all possible doubt, but the State is required to prove guilt beyond a reasonable doubt.

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 sole purpose of the indictment is to charge the offense, and to inform the Defendant of the offense alleged against the Defendant. The reading of the indictment to the jury is the statement of the case of the State of Texas against the Defendant, and cannot be considered as a fact or circumstance against the Defendant in your deliberations.

4.
JURY DELIBERATIONS

In deliberating on the cause, you must not refer to or discuss any matter or issue except the evidence before you; and in your deliberations on the guilt or innocence of the Defendant, you must not discuss or consider any

punishment which may be assessed against the Defendant in the event the Defendant is found guilty beyond a reasonable doubt.

You are instructed that it is only from the testimony of witnesses and from exhibits admitted by the Court that the jury is permitted to receive evidence regarding the case. Only the testimony of witnesses and those items that have been offered and admitted in evidence can be considered by the jury. No juror is permitted to communicate to any other juror anything heard regarding the case from any source other than the evidence admitted in Court.

You have been permitted to take notes during the testimony in this case. In the event any of you took notes, you may rely on your notes during your deliberations. However, in your deliberations, give no more and no less weight to the views of a fellow juror just because that juror did or did not take notes. Your notes are not official transcripts. They are personal memory aids, just like the notes of the judge and the notes of the lawyers and should serve only as a stimulant to your memory.

Texas law does not permit transcripts of testimony to be given to the jury. However, in the event you have a dispute as to the testimony of a witness, you may have that portion of the testimony in dispute read to you by having the presiding juror send a written request to the Court identifying the witness and that portion of the testimony that is in dispute. The court reporter can then search for that testimony and when located, you will be returned to open court to have the testimony in dispute read to you by the court reporter.

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 and be governed by the law given to you by the Court.

After argument of counsel, you will retire and select one of your members as your presiding juror. It is the duty of the presiding juror to preside at your deliberations and to vote with you in arriving at a unanimous verdict. After you have arrived at your verdict, you may use the attached verdict forms by having your presiding juror sign his or her name to the particular form that states your verdict.

DATED: _____

JUDGE PRESIDING

IN THE 238TH JUDICIAL DISTRICT COURT
OF MIDLAND COUNTY, TEXAS

THE STATE OF TEXAS

VS.

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NO. CR31284

VERDICT OF THE JURY

We the jury, find beyond a reasonable doubt that the Defendant, ROBERT MARSHALL PICKARD, is guilty of the offense of ARSON as alleged in the indictment.

DATE

PRESIDING JUROR

IN THE 238TH JUDICIAL DISTRICT COURT
OF MIDLAND COUNTY, TEXAS

THE STATE OF TEXAS

VS.

ROBERT MARSHALL PICKARD

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NO. CR31284

VERDICT OF THE JURY

We the jury find the Defendant not guilty of the offense of ARSON.

DATE

PRESIDING JUROR