

Instructions to the jury

- intent (may be inferred)
- malice is intentional doing of wrong ^{act}
- beyond reasonable doubt
- same (*10), but does not have to be entirely and perfectly same at the time

33807

People

vs

Preudergast

Inst Given

Filed

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John C. Schubert

Clerk

The Court instructs the jury, in the language of the Statute, that murder is the unlawful killing of a human being, in the peace of the people, with malice aforethought, either expressed or implied. The unlawful killing may be perpetrated by poisoning, striking, starving, drowning, starving, stabbing, shooting; or by any other of the various forms or means by which human nature may be overcome, and death thereby occasioned. Express malice is that deliberate intention unlawfully to take away the life of a fellow creature, which is manifested by external circumstances capable of proof. Malice shall be implied when no considerable provocation appears, or when all the circumstances of the killing show an abandoned and malignant heart.

Given.

2.

The Court instructs the jury, that whoever is guilty of murder shall suffer the punishment of death, or imprisonment in the penitentiary for his natural life, or for a term not less than fourteen years. If the accused is found guilty by a jury, they shall fix the punishment by their verdict.

Given

3.

Given

The Court instructs the jury, as a matter of law, that in considering the case, the jury are not to go beyond the evidence to hunt up doubts, nor must they entertain such doubts as are merely chimerical or conjectural. A doubt to justify an acquittal must be reasonable, and it must arise from a candid and impartial investigation of all the evidence in the case, and unless it is such that were the same kind of doubt interposed in the grave transactions of life, it would cause a reasonable and prudent man to hesitate and pause, it is not sufficient to authorize a verdict of not guilty. If, after considering all the evidence you can say you have an abiding conviction of the truth of the charge, you are satisfied beyond a reasonable doubt.

4.

The Court further instructs the jury, as a matter of law, that the doubt which the juror is allowed to retain in his own mind and under the influence of which he should frame a verdict of not guilty, must always be a reasonable doubt.

Given

A doubt produced by undue sensibility in the mind of any juror in view of the consequences of his verdict, is not a reasonable doubt, and a juror is not allowed to create sources or materials of doubt by resorting to trival and fanciful suppositions and remote conjectures as to possible states of the case different from that established by the evidence.

not

You are ^{not} at liberty to disbelieve as jurors, if from the evidence you believe as men. Your oath imposes on you no obligation to doubt where no doubt would exist if no oath had been administered.

The Court further instructs the jury, that the malice
aforethought requisite to murder need not exist for a great
length of time before the killing, but it is sufficient in
law on the question of malice if the intention to kill is
formed and exists before and at the instant of committing
the fatal deed.

Given

Given

6. The jury are instructed that the rule requiring the jury to be satisfied of the defendants guilt from the evidence beyond a reasonable doubt, in order to warrant a conviction, does not require that the jury should be satisfied beyond a reasonable doubt of each link in the chain of circumstances relied upon to establish the defendant's guilt. It is sufficient, if taking the testimony altogether the jury are satisfied beyond a reasonable doubt that the defendant is guilty. The reasonable doubt that the jury is permitted to entertain must be as to the guilt of the accused on the whole evidence and not as to any particular fact in the case.

Given

7. The Court instructs the jury, as a matter of law, that to constitute the offence charged in this case, the intent alleged in the indictment is necessary to be shown, but direct and positive testimony is not necessary to prove the intent; it may be inferred from the facts and circumstances shown by the evidence, and if you believe from the evidence beyond a reasonable doubt, that the shooting as alleged in the indictment was done deliberately and was likely to be attended with dangerous consequences, the malice or intent requisite to make out this case as charged will be presumed.

Given

8.

It is the duty of the jury to treat and consider any confessions proven to have been made by the defendant, precisely as any other testimony; and hence, if the jury believe the whole confession to be true, they will act upon the whole as truth.

But the jury may believe that which charges the prisoner and reject that which is in his favor, if they see sufficient grounds in the evidence or any inherent improbability in the statement itself; the jury are at liberty to judge of it like other evidence by all the circumstances of the case.

Given 9.

If you believe, from the evidence, beyond a reasonable doubt, that at the time of committing the alleged act the defendant was able to distinguish right from wrong, then you can not acquit him on the ground of insanity.

10.

Since

If from all the evidence in the case you believe, beyond a reasonable doubt, that the defendant committed the crime of which he is accused, in manner and form as charged in the indictment, and that at the time of the commission of such crime the defendant knew that it was wrong to commit such crime, and was mentally capable of choosing either to do or not to do the act or acts constituting such crime, and of governing his conduct in accordance with such choice, then it is your duty, under the law, to find him guilty, even though you should believe, from the evidence, that at the time of the commission of the crime he was not entirely and perfectly sane.

11.

The Court instructs the jury, that if they believe from the evidence in this case, that at the time of doing the act charged, the prisoner was not of sound mind, but was affected with insanity, and that such affection was the efficient cause of the act, and that he would not have done the act but for that affection, then he ought to be acquitted. But the Court further instructs the jury, that this unsoundness of mind, or affection of insanity, must be of such a degree as to create an uncontrollable impulse to do the act charged, by overriding the reason and judgment, and obliterating the sense of right and wrong as to the particular act done and depriving the accused of the power of choosing between them.

Given

12.

If you believe, from the evidence, beyond a reasonable doubt, that the defendant committed the crime in manner and form as charged in the indictment, and at the time of committing such act was able to distinguish right from wrong, you should find him guilty.

Given

13.

The court further instructs the jury that what is meant by circumstantial evidence in criminal cases is the proof of such facts and circumstances connected with or concerning the commission of the crime charged as tend to show the guilt or innocence of the party or parties charged, and if these facts and circumstances are sufficient to satisfy the jury of the guilt of the defendant beyond a reasonable doubt, then such evidence is sufficient to authorize a jury in finding a verdict of guilty.

Given

14.

If the jury, after considering all the evidence in this case, find from the evidence that any witness or witnesses have knowingly, wilfully and corruptly testified falsely to any fact material to the issues in this case, they have the right to entirely disregard his or their testimony, except in so far as his or their testimony is corroborated by other credible evidence, or by circumstances in evidence.

Given

15

The court instructs the jury as a matter of law that "deliberation", as used in the indictment and in these instructions means "in a cool state of blood", that is, not in the heat of passion.

That the word "malice" as used in the indictment and in these instructions, does not mean hatred or ill-will, as it commonly does, but it means, "the intentional doing of a wrongful act."

Given

16.

The court instructs the jury that the rule of law which clothes every person accused of crime with the presumption of innocence and imposes upon the State the burden of establishing his guilt beyond a reasonable doubt, is not intended to aid any one who is in fact guilty of crime to escape punishment, but is a humane provision of law intended, so far as human agencies can, to guard against the danger of any innocent person being unjustly punished.

17.

Given.

The law presumes that a person intends all the natural, probable and usual consequences of his acts; that when one person assails another violently with a dangerous weapon likely to kill, not in self defence and not in a sudden heat of passion caused by a provocation apparently sufficient to make the passion irresistible or involuntary, and the life of the party thus assailed is actually destroyed in consequence, then the legal and natural presumption is that death or great bodily harm was intended; in which case the law implies malice and such killing would be murder.