

Alice J. Duck, Circuit Clerk

Baldwin County

BAY MINETTE, ALA.

*Refuse & Shays
Carmis Lassiter*

Refused
Jefair J. Mashburn, Jr.
Judge

Charge 1: The court charges the jury that if you believe the evidence in this case you must find the defendant not guilty.

Charge 2:

The court charges the jury that if you believe the evidence in this case you cannot find the defendant guilty of murder in the first degree.

Refused
Telfair M. Massey, Jr.
Judge

Charge 3:

The court charges the jury that if you believe the evidence in this case you cannot find the defendant guilty of murder in the second degree.

Refused
J. M. Masbury, Jr.
Judge

Charge 4:

The court charges the jury that if you believe the evidence in this case you cannot find the defendant guilty of manslaughter in the first degree.

Refused
Sulfair J. Mathis Jr.
Judge

Charge E:

The court charges the jury that if defendant cut deceased under a bona fide belief that he was in impending danger of limb and he had under all circumstances reasonable cause to believe that he was in imminent danger at the time the cutting was done, it would be immaterial whether there was such danger or not.

Refused
Jelfair J. Marshall, Jr.
Judge.

Charge 0:

The court charges the jury that as fair minded and honest men, the law enjoins upon you gentlemen, the imperative duty of giving defendant the benefit of every reasonable doubt arising from the evidence before you can find him guilty.

Refused
J. Fair J. Mashburn, Jr.
Judge

Charge G:

The court charges the jury that if the circumstances attending the killing of deceased were such as would justify a reasonable man in the belief that he was in danger of great bodily harm or death and that he could not retreat without adding to his peril and defendant believed such to be the case, he was justified in cutting the deceased, although he was not in actual danger and retreat would not have added to his peril and if defendant acted under such circumstances the burden of showing that defendant was not free from fault in bringing on the difficulty is on the state.

*Refused
Selfiey. Mathew, Jr.
Judge.*

Charge M:

The court charges the jury that if the defendant cut under a bona fide belief that his life was in danger, and had under the circumstances reasonable cause to believe that he was in imminent danger at the moment he cut deceased, it would be immaterial whether there was such actual danger or not.

Refused
J. Fair J. Mashburn, Jr.
Judge.

Charge I:

The court charges the jury that if they find from the evidence that the deceased, at the time he was cut, was making an assault on the defendant, and that the defendant, in resisting said assault, used force not greatly disproportionate to the character of the assault, and death accidentally resulted, this would be self-defense, and the jury should acquit him.

Suven
Telfair J. Mashburn, Jr.
Judge

Charge 5: I charge you gentlemen of the jury that if you believe from the evidence that the defendant had quit the affray with Junior Jordan and was returning to the truck with the intention of leaving the scene of the difficulty and while on his way back to the truck the deceased made a felonious assault upon him and that the defendant was free from fault in bringing on that difficulty and his life or limb was in imminent or apparent danger and he had no reasonable mode of escape, then he had the right to resist the assault of the deceased and to use such force as necessary in defense of his person.

Reuben
Selfair J. Mashburn, Jr.
Judge

Charge 6:

Given
Selfair J. Middlebury,
Judge.

I charge you gentlemen of the jury that if the evidence has generated in your minds a reasonable doubt that the defendant had abandoned the difficulty between himself and Junior Jordan and was returning to the truck that Charles Lassiter was driving for the purpose of leaving the scene of the difficulty and the deceased made a felonious assault upon him and that the defendant was free from fault in bringing on that difficulty and his life or limb was in imminent or apparent danger and he had no reasonable mode of escape, then he had the right to resist the assault of the deceased and to use such force as necessary in defense of his person.

Charge A:

The court charges the jury that if they are not satisfied beyond all reasonable doubt, to a moral certainty, and to the exclusion of every other reasonable hypothesis, but that of the guilt of the defendant, then they should find him not guilty, and it is not necessary to raise a reasonable doubt that the jury should find from all evidence a probability of the defendant's innocence, but such a doubt may arise even when there is no probability of his innocence in the testimony and if the jury have not an abiding conviction to a moral certainty of his guilt, it is the duty of the jury to acquit him.

Sven
Selmer J. Mashbury Jr.
Judge.

Charge B:

The court charges the jury that if after looking at all evidence in this case and considering it fully, your minds are left in such a state of uncertainty that you cannot say beyond a reasonable doubt that the defendant is guilty of the offense charged, then this is such a doubt as would entitle the defendant to an acquittal and you should so find.

Surrey
Telfair G. Middlebury Jr.
Judge.

Charge C:

The court charges the jury that if there is, from the evidence, a reasonable probability of defendant's innocence, the jury should acquit the defendant.

Given
Jelfair H. Mashbury Jr.
Judge

Charge F:

The court charges the jury that the bare fear of the commission of the offense, to prevent which the defendant used a deadly weapon, is not sufficient to justify it; but the circumstances must be sufficient to excite the fear of a reasonable man, and the attacking party must have acted under the influence of such fear along. It is not necessary, however, to justify the use of a deadly weapon, that the danger be actual. It is enough that it be apparent danger; such an appearance as will induce a reasonable person in defendant's position to believe that he was in immediate danger of great bodily harm. Upon such appearances the party may act with safety; nor will he be held accountable, though it would afterwards appear that the indication upon which he acted was wholly fallacious, and that he was in no actual peril. The rule in such a case is this: what would a reasonable person, a person of ordinary caution, judgment and observation, in the position of the defendant, seeing what he saw and knowing what he knew, honestly believe from the situation and these surroundings? If such reasonable person, so placed, would have been justified in believing himself in imminent danger, then the defendant would be justified in believing himself in such peril and in acting upon such appearance.

Given

Jeffrey J. Maschbauer
judge

Charge H:

The court charges the jury that it is not necessary under the evidence in this case that the defendant should have been in actual danger of death or great bodily harm at the time he killed the deceased or that retreat would have really increased his peril, in order for him to be justified in killing deceased. He had a right to act on the appearance of things at the time, taken in the light of all evidence and he had a right to interpret the conduct of deceased in the light of any threat that the evidence proved the deceased to have made against the defendant. If the circumstances attending the killing were such as to justify a reasonable man in the belief that he was in danger of great bodily harm or death and that he could not have retreated without adding to his peril and honestly believed such to be the case, then he had a right to strike in his own defense, although as a matter of fact he was not in actual danger and retreat would not have endangered his personal safety; and if the jury believe from the evidence that the defendant acted under such conditions and circumstances as above set forth, the burden of showing that he was not free of fault in bringing on the difficulty is on the state, and if not shown the jury should acquit the defendant.

Given
Defining. Maslbury
Judge.

Charge J:

The court charges the jury that if, after looking at all the evidence in this case, your minds are left in such a state of doubt or uncertainty that you cannot say beyond a reasonable doubt, whether the defendant acted upon a well founded and reasonable belief that it was necessary to take the life of the deceased to save himself from great bodily harm or death or that he cut deceased before such impending necessity arose, then this is such a doubt as will entitle this defendant to an acquittal and you should so find.

Sweet
Jefair J. Mashburn, Jr.
Judge

Charge K:

The court charges the jury that the law gives a person the same right to use such force as may be reasonably necessary under the circumstances by which he is surrounded to protect himself from great bodily harm as it does to prevent his life being taken. He may excusably use this necessary force to save himself from any felonious assault.

Given
Jelfair J. Masliburn, Jr.
Judge

Charge L:

The court charges the jury that the defendant is under no duty to show or explain who was in fault in bringing on the fatal encounter, if the evidence shows that it reasonably and honestly appeared to the defendant that he was in imminent peril to life or great bodily harm, and that an attempt to escape would increase the peril.

Given

Suffair J. Mashburn Jr.
Judge

Charge N:

The court charges the jury that the innocence of the defendant is presumed until his guilt is established by the evidence in all the material aspects of the case beyond a reasonable doubt, to moral certainty, and it may also be said that evidence of guilt must be strong and cogent and unless it is so strong and cogent as to show that defendant is guilty to a moral certainty, defendant should be acquitted.

Given
Fair J. Mosbury Jr.
Judge

Given
Jelfair J. Marshall Jr.
Judge.

X

Charge P:

The court charges the jury that if on a consideration of all the evidence in this case you find the evidence so nearly balanced that the mere weight of it is on the side of the state and not so heavy and strong as to satisfy you to a moral certainty that it is true you cannot find defendant guilty.

Charge S:

The court charges the jury that each juror must be separately satisfied beyond a reasonable doubt and to a moral certainty that defendant is guilty of the crime charged or you cannot convict him.

Given
Selfair J. Mashburn, Jr.
Judge

Given
Zelfair J. Mashbury, Jr.
Judge

Charge T:

The court charges the jury that, if they are reasonably satisfied from the evidence in this case that the deceased had threatened to take the life of the defendant, and such threats had been communicated to defendant before or at the time of the fatal cutting, then this defendant, on the occasion of this killing, would have been authorized and justified in taking more prompt and decisive means of defense than if such threats had never been made and communicated, provided the defendant was without fault in bringing on the difficulty or entering willingly therein, and his life at the time was in imminent peril, or reasonably appeared to be, and he honestly believed that it was in peril, and under such circumstances as just stated the defendant was under no duty to retreat if you are reasonably satisfied from the evidence in the case that the deceased was at the time about to make an immediate murderous attack upon the defendant, or the defendant reasonably and honestly believed that deceased was about to make such attack.

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BAY MINETTE, ALA.

Charges

Received