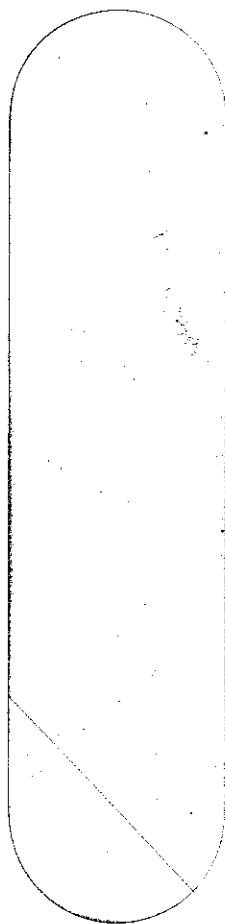


State of Ala
vs

Clarence Watters
Case No 1266

Given Charges



Charge No. 1.

The Court charges the jury that the law gives a person the 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,
Jeffery M. Maslibary Jr.
Judge.

Charge No. 2.

The Court charges the jury that it is not necessary under the evidence in this case that the defendant should have been actually in danger of death or great bodily harm at the time he shot the deceased in order for him to be justified in shooting the deceased. He had the right to act on the appearance of things at the time, taken in the light of all the evidence; and he had the right to interpret the conduct of the deceased in the light of any threats that the evidence shows the deceased to have made against the defendant. If the circumstances attending the shooting were such as to justify a reasonable man in the belief that he was in the danger of great bodily harm or death and he honestly believed such to be the case, then he had the right to shoot the deceased in his own defense, although as a matter of fact he was not in actual danger; and if the jury believes that the defendant acted under such conditions and circumstances as set out above, the burden of showing that the defendant was not free from fault in bringing on the difficulty is on the State, and if not shown the jury should acquit the defendant.

Suave,
Jeffrey J. Maschbauer Jr.
Judge

Charge No. 3

The Court charges the jury that a man has the right to use such reasonable force as may be necessary, under the circumstance by which he is surrounded, to defend himself from great bodily harm, that he has to prevent his life being taken; and he may excusably use this necessary force to repel any felonious assault.

Given
Jeffrey J. Madlebary, Jr.
Judge.

Charge No. 5.

The Court charges the jury that the law gives a person the same right to use force reasonably necessary under the circumstances to protect himself from great bodily harm as it does to prevent his life being taken, and that he may excusably use this force to save himself any felonious assault.

Swear,
Jesse J. Mashburn, Jr.
Judge.

Charge No. 7.

The Court charges the jury that if, by a preponderance of the evidence, the jury are satisfied that, at the time of the fatal encounter, defendant was afflicted with a mental disease, and that by reason of the duress of such mental disease he had so far lost the power to choose between right and wrong (although he may have known right from wrong as applied to the killing), and the alleged killing was so connected with such mental disease in the relation of cause and effect as to have been the product of it solely, the jury should acquit the defendant.

*Given,
Suffair J. Mashburn, Jr.
Judge.*

Charge No. 8.

The Court charges the jury that if the jury believe from the evidence that defendant, at the time he fired the fatal shot, was acting under duress of a mental disease which destroyed his free agency, so that his power to resist killing Rex Beech was at the time lost, and the killing was the offspring of such mental disease solely, they should acquit the defendant.

Given,
Jeffrey J. Mashburn, Jr.
Judge.

Charge No. 9.

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 Rex Beech, or that retreat would have really increased his peril, in order for him to be justified in firing the fatal shot. He had the right to act on the appearance of things at the time, taken in the light of all the evidence, and he had the right to interpret the conduct of Rex Beech in the light of any threat that the evidence proved Rex Beech 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 he honestly believed such to be the case, then he had the right to shoot 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 from fault in bringing on the difficulty is on the state, and, if not shown, the jury should acquit.

Given,
Jesse J. Mashburn, Jr.
Judge.

Charge No. 10.

The Court charges the jury that if the jury, upon considering all the evidence, have a reasonable doubt of defendant's guilt arising out of any part of the evidence, they must find defendant not guilty

Given,
Jesse J. Washburn, Jr.
Judge.

Charge No. 11.

The court charges the jury that before they can convict defendant the evidence must be so strong as to convince each juror of his guilt, beyond a reasonable doubt, and if after considering all the evidence a single juror has a reasonable doubt of defendant's guilt, arising out of any part of the evidence, they cannot convict him.

Given
Jeffrey J. Maslowsky, Jr.
Judge

Charge No. 12

The Court charges you gentlemen of the Jury that the pleas of insanity and self-defense are consistent defenses and if you find in favor of the Defendant on one or both such defenses you should render a verdict of not guilty.

Given,
Jeffair J. Masliburn, Jr.
Judge.

Charge No. 14

The Court charges the Jury that if you believe from the evidence in this case that any witness has willfully sworn falsely as to any material fact in this case you may, in your discretion, disregard the testimony of such witness entirely.

Sween,
Jeffrey J. Maschbauer, Jr.
Judge.

The Court charges the Jury that the pleas of insanity and self-defense are not inconsistent defenses and where the Defendant has offered evidence to support both these defenses and you find on one or both such defenses in favor of the Defendant, then you should render a verdict of not guilty.

Given,
Jefair J. Maslbury, Jr.
Judge.

Charge No. 15

The Court charges the Jury that if the Jury, upon considering all the evidence, have a reasonable doubt about the defendant's guilt, arising out of any part of the evidence, they should find him not guilty.

GIVEN,
J. J. Mallory, Jr.
Judge.

Charge No. 16

The Court charges the jury that if there is one single fact proved to the satisfaction of the jury which is inconsistent with the defendant's guilt, this is sufficient to raise a reasonable doubt, and the jury should acquit him.

Given,
Jefair J. Mashburn Jr.
Judge.

Charge No. 17

The court charges the jury that if the evidence, or any part thereof, after a consideration of the whole of such evidence, generates a well founded doubt of defendant's guilt, the jury must acquit him.

Given,
Jesse J. Maskebury Jr.
Judge.

Charge No. 19

The court charges the jury that if after a full consideration of all the evidence the guilt of defendant is not proven to a moral certainty, then the jury must find defendant not guilty.

Green,
Jedair J. Washburn, Jr.
Judge.

Charge No. 20

The court charges the jury that each jurymen 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,
Jeffair J. Maslberry, Jr.
Judge.

Charge No. 21

The court charges the jury that the only foundation for a verdict of guilty in this case is that the entire jury shall believe from the evidence, beyond a reasonable doubt and to a moral certainty, that the defendant is guilty as charged in the indictment, to the exclusion of every probability of his innocence, and every reasonable doubt of his guilt, and, if the prosecution has failed to furnish such measure of proof, and to so impress the minds of the jury of his guilt, they should find him not guilty.

Given,

Jelfair J. Mashburn, Jr.
Judge.

Charge No. 23

The court charges the jury that good character itself may, in connection with all the evidence, generate a reasonable doubt and entitle the defendant to an acquittal, even though without such proof of good character you would convict.

*Given,
Telfair J. Mashburn, Jr.
Judge.*

Charge No. 22

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 the evidence a probability of 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.

~~Jefferson D. Green~~
Jefferson D. Green,
Judge.

Charge No. 24

The court charges the jury that good character itself is part of the evidence in this case, and if the jury upon a consideration of all the evidence have a reasonable doubt growing out of any part of the evidence, the jury will give the defendant the benefit of such doubt and acquit him.

Givens

~~*[Scribbled out text]*~~

Telfair J. Mashburn, Jr.
Judge.

Charge No. 25

The court charges the jury that the defendant is authorized under the statute, to testify in his own behalf, and the jury have a right to give full credit to his statements.

Given,
Jesse J. Maskebary, Jr.
Judge.

Charge No. 26

The court charges the jury that the burden is upon the State, and it is the duty of the State to show, beyond a reasonable doubt and to the exclusion of every other reasonable hypothesis every circumstance necessary to show that the defendant is guilty; and, unless the State has done that in this case, it is your duty, gentlemen of the jury, to render a verdict of not guilty.

*Sweeney,
J. J. Sweeney, Jr.
Judge.*

Charge No. 27

The court charges the jury that the legal presumption of innocence is to be regarded by the jury in every case as a matter of evidence, to the benefit of which the accused is entitled; and, as a matter of evidence, it attends the accused until his guilt is, by the evidence, placed beyond a reasonable doubt.

Given,
Jefair J. Mashburn, Jr.
Judge.

Charge No. 31

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 shooting, then this defendant, on the occasion of the 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.

Given,

*Jefferson J. Mablebury, Jr.
Judge.*