

OF WHICH CAN BE CHANGED, SUCH AS PERSONAL PROPERTY, NAMELY, CASH, RINGS, WATCHES AND ITEMS OF THAT NATURE.

IN THIS CASE, THE COMMONWEALTH ALLEGES THAT CURRENCY, UNITED STATES CURRENCY, WAS TAKEN IN THE THEFT.

IF, AFTER CONSIDERING ALL OF THE EVIDENCE, YOU FIND THAT THE COMMONWEALTH HAS ESTABLISHED BEYOND A REASONABLE DOUBT ALL OF THE ELEMENTS WHICH I HAVE STATED, YOU MUST FIND THE DEFENDANT GUILTY OF ROBBERY IN WHICH HE THREATENED SERIOUS BODILY INJURY. OTHERWISE, YOU MUST FIND THE DEFENDANT NOT GUILTY OF ROBBERY.

UNDER BILL OF INFORMATION 597, JUNE TERM 1976, THE DEFENDANT IS CHARGED WITH MURDER. AS I HAVE TOLD YOU BEFORE, YOU HAVE THE POWER TO RETURN ONE OF FIVE POSSIBLE AND PROPER ALLOWABLE AND AVAILABLE VERDICTS IN YOUR DELIBERATIONS PERTAINING TO THIS BILL OF INDICTMENT CHARGING MURDER. THAT IS: (1) GUILTY OF MURDER IN THE FIRST DEGREE; (2) GUILTY OF MURDER IN THE SECOND DEGREE; (3) GUILTY OF MURDER IN THE THIRD DEGREE; (4) GUILTY OF THE CHARGE OF VOLUNTARY MANSLAUGHTER; AND (5) NOT GUILTY.

THUS, YOU SEE, MEMBERS OF THE JURY, THAT YOUR DUTIES ARE NUMEROUS. NOT ONLY ARE YOU TO DETERMINE

"MURDER OF THE THIRD DEGREE.

ALL OTHER KINDS OF MURDER SHALL BE MURDER OF THE THIRD DEGREE.

MURDER OF THE THIRD DEGREE IS THE UNLAWFUL KILLING OF A HUMAN BEING WITH MALICE, BUT WITH AN INTENTION MERELY TO INFILCT GRIEVOUS BODILY HARM, TO WOUND, TO MAIM, FRIGHTEN, OR TO CAUSE SERIOUS BODILY INJURY TO HIS VICTIM AND NOT TO TAKE HUMAN LIFE, AND YET, AS A RESULT OF THE INFILCTION OF THE INJURY, DEATH RESULTS.

THIRD DEGREE MURDER INCLUDES ANY UNLAWFUL KILLING OF A HUMAN BEING WITH MALICE, BUT WHERE NO INTENTION TO KILL EXISTS OR CAN REASONABLY AND FULLY BE INFERRED. THUS, IF THERE IS AN UNLAWFUL KILLING WHERE THERE IS WICKEDNESS OF DISPOSITION, HARDNESS OF HEART, CRUELTY, RECKLESSNESS OF CONSEQUENCES, AND A MIND REGARDLESS OF SOCIAL DUTY, BUT IF NO INTENTION TO KILL CAN BE INFERRED, EITHER EXPRESSED OR IMPLIED, FROM THE FACTS, THEN THE VERDICT SHOULD BE GUILTY OF MURDER IN THE THIRD DEGREE.

MALICE IN MURDER OF THE THIRD DEGREE IS THE MALICIOUS DESIGN TO DO HARM BUT NOT TO KILL. THIRD DEGREE MURDER IS, THEREFORE, THE UNLAWFUL TAKING OF A HUMAN LIFE

(AT 3:50 P.M. THE DEFENDANT ENTERED THE COURTROOM AND WAS SEATED WITH DEFENSE COUNSEL AND THE DISTRICT ATTORNEY WAS ALSO PRESENT.)

(AT 3:55 P.M. THE JURY WAS PRESENT IN THE COURTROOM.)

THE COURT: WILL THE FOREMAN PLEASE RISE?

(WHEREUPON JUROR NO. 8, HAROLD A. WALLACE, STANDS AS THE JURY FOREMAN.)

THE COURT: DID YOU HAVE A QUESTION?

FOREMAN: YES, SIR. WE WOULD LIKE TO HAVE THE LEGAL DEFINITION OF FIRST DEGREE AND SECOND DEGREE AND THIRD DEGREE.

THE COURT: FIRST, SECOND AND THIRD DEGREE?

FOREMAN: YES, SIR.

THE COURT: WELL, LET ME SEE IF I CAN GO OVER IT AGAIN A LITTLE SLOWER. PERHAPS YOU CAN UNDERSTAND WHAT IT IS.

WHAT IS MURDER OF THE FIRST DEGREE? THE ACT OF ASSEMBLY OR STATUTE UNDER WHICH THE DEFENDANT IS BEING TRIED, EXPRESSLY DEFINES

KILLING IN THIS CASE WAS DONE IN THE COURSE OF THE ROBBERY, THEN IT WOULD BE MURDER OF THE SECOND DEGREE BECAUSE IT IS A FELONY MURDER. THEN, YOUR JOB WOULD BE TO DETERMINE BEYOND THAT WHETHER IT HAS BEEN PROVEN BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS THE PERSON COMMITTING THE KILLING, AND THAT HIS ACT WAS THE CAUSE OF DEATH, OR THAT THE DEATH WOULD NOT HAVE OCCURRED BUT FOR THE DEFENDANT'S ACT, OR THAT HE WAS AN ACCOMPLICE OF THE ACTUAL PERPETRATORS OF KILLING WHICH RESULTED IN THE DEATH OF WILLIAM BOYD.

MURDER OF THE THIRD DEGREE. ALL MURDER WHICH IS NOT MURDER OF THE FIRST DEGREE OR MURDER OF THE SECOND DEGREE SHALL BE MURDER OF THE THIRD DEGREE. SECTION 2502(C) OF THE CRIMES CODE PROVIDES VERBATIM, OR WORD FOR WORD, AS FOLLOWS:

• • • - "MURDER OF THE THIRD DEGREE. ALL OTHER KINDS OF MURDER SHALL BE MURDER OF THE THIRD DEGREE.

MURDER OF THE THIRD DEGREE IS THE UNLAWFUL KILLING OF A HUMAN BEING

WITH MALICE, BUT WITH AN INTEN-  
TION MERELY TO INFILCT GRIEVOUS  
BODILY HARM, TO WOUND, TO MAIM,  
FRIGHTEN, OR TO CAUSE SERIOUS  
BODILY INJURY TO HIS VICTIM AND  
NOT TO TAKE HUMAN LIFE; AND YET,  
AS A RESULT OF THE INFILCTION OF  
THE INJURY, DEATH RESULTS."

THIRD DEGREE MURDER INCLUDES ANY UNLAW-  
FUL KILLING OF A HUMAN BEING WITH MALICE, BUT  
WHERE NO INTENTION TO KILL EXISTS OR CAN REASON-  
ABLY AND FULLY BE INFERRED. THUS, IF THERE IS  
AN UNLAWFUL KILLING WHERE THERE IS WICKEDNESS  
OF DISPOSITION, HARDNESS OF HEART, CRUELTY,  
RECKLESSNESS OF CONSEQUENCES, AND A MIND REGARD-  
LESS OF SOCIAL DUTY, BUT IF NO INTENTION TO  
KILL CAN BE INFERRED OR COLLECTED FROM THE  
FACTS, THEN THE VERDICT SHOULD BE GUILTY OF  
MURDER IN THE THIRD DEGREE.

MALICE IN MURDER OF THE THIRD DEGREE IS  
THE MALICIOUS DESIGN TO DO HARM BUT NOT TO  
KILL. THIRD DEGREE MURDER IS THEREFORE THE

UNLAWFUL TAKING OF A HUMAN LIFE WITH MALICE AFORETHOUGHT, WITH NO SPECIFIC INTENTION TO KILL, BUT WITH AN INTENTION TO INFILCT GRIEVOUS BODILY HARM AND NOT TO TAKE HUMAN LIFE. YET, AS A RESULT OF THE INJURY INFILCTED, DEATH RESULTED.

NOW, LET ME SEE IF I CAN GIVE YOU A SUMMARY OF WHAT I HAVE SAID SO FAR. LET ME BRIEFLY SUMMARIZE THE LAW PERTAINING TO MURDER.

MURDER OF THE FIRST DEGREE IS AN UNLAWFUL, WILFUL, DELIBERATE AND PREMEDITATED KILLING WITH MALICE. IT IS ACCCOMPANIED BY A SPECIFIC INTENT TO KILL. THE PRINCIPAL QUESTION TO BE ANSWERED IS WHETHER OR NOT THE KILLER HAD THE WILFUL, DELIBERATE AND PREMEDITATED SPECIFIC INTENT TO KILL AT THE TIME OF THE KILLING. FURTHER, IF ALL OF THE ELEMENTS OF THE FIRST DEGREE ARE PROVED BEYOND A REASONABLE DOUBT, SUCH A CRIMINAL HOMICIDE IS STILL MURDER OF THE FIRST DEGREE; EVEN IF OCCURRING DURING THE ACTUAL COMMISSION, THE ATTEMPT TO COMMIT OR FLIGHT AFTER THE COMMISSION OF A FELONY, SUCH AS ROBBERY, AND THEREFORE, IT WOULD BE MURDER OF THE FIRST DEGREE AND NOT MURDER OF THE SECOND DEGREE.

MURDER OF THE SECOND DEGREE IS WHERE THE DEATH OCCURRED WHILE THE DEFENDANT WAS ENGAGED AS THE ACTUAL PERPETRATOR OR AN ACCOMPLICE DURING THE COMMISSION OF OR AN ATTEMPT TO COMMIT THE CRIME OF ROBBERY.

MURDER OF THE THIRD DEGREE INCLUDES ALL UNLAWFUL KILLING WITH MALICE, BUT WITH NO INTENTION TO KILL EXISTS OR CAN REASONABLY AND FULLY BE INFERRED. MOREOVER, IF THE CRIMINAL HOMICIDE WHICH WOULD OTHERWISE BE MURDER OF THE THIRD DEGREE OCCURRED DURING THE ACTUAL COMMISSION, THE ATTEMPT TO COMMIT OR FLIGHT AFTER THE COMMISSION OF A ROBBERY, IT IS MURDER OF THE SECOND DEGREE AND NOT MURDER OF THE THIRD DEGREE.

NOW, I TAKE IT THAT ANSWERS YOUR QUESTION. PLEASE GO BACK AND DELIBERATE.

MR. HAMILTON: MAY I SEE YOUR HONOR AT SIDE-BAR?

THE COURT: YES, SURE.

(THE FOLLOWING COLLOQUY OCCURRED AT SIDE-BAR:)

IN THE SUPREME COURT OF THE  
UNITED STATES

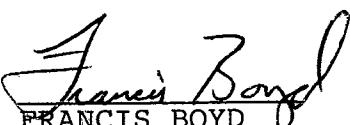
EX PARTE FRANCIS BOYD  
CV-97-7160  
19-2061

May 21, 2021

CERTIFICATE OF SERVICE

I, PETITIONER, FRANCIS BOYD CAUSED A COPY OF THE ENCLOSED PETITION FOR EXTEAORDINARY WRIT HABEAS CORPUS TO BE SENT TO THE ADDRESS BELOW BY MAILING A COPY TO THE ATTORNEY GENERALS OFFICE OF PENNSYLVANIA, POSTAGE PRE-PAID, FIRST CLASS MAIL IN CHESTER, PA ON THIS DATE FEBRUARY 14, 2021.

ATTORNEY GENERAL'S OFFICE  
4th & WALNUT STREET STRAWBERRY SQUARE  
HARRISBURG, PA. 17120

BY:   
FRANCIS BOYD  
PETITIONER  
PRO-SE

DATED: May 21, 2021