



IN THE DISTRICT COURT OF CLEVELAND COUNTY

STATE OF OKLAHOMA

STATE OF OKLAHOMA, STATE OF OKLAHOMA } S.S.  
CLEVELAND COUNTY }

Plaintiff, FILED

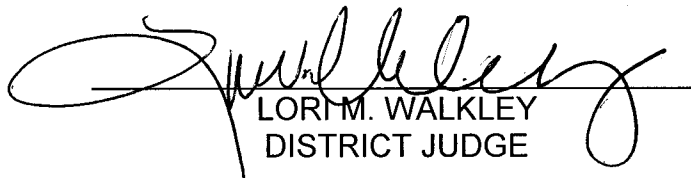
vs. OCT 16 2017 Case No. CF-2014-1792 LW

ALTON ALEXANDER NOLEN, In the office of the  
Defendant. Court Clerk MARILYN WILLIAMS

INSTRUCTIONS TO THE JURY

GIVEN THIS 10 DAY OF OCTOBER, 2017.

BY

  
LORI M. WALKLEY  
DISTRICT JUDGE

## INSTRUCTION NO. 48

By your verdict in the first part of this trial you have already found the defendant guilty of the crime of Count I: Murder in the First Degree. You must determine the proper punishment.

You must first determine if the Defendant is mentally retarded as it is defined below. This must be done before deciding what sentence to impose. A Defendant who is mentally retarded cannot be sentenced to death. It is the Defendant's burden to prove by a preponderance of the evidence that he is mentally retarded. Preponderance of the evidence means more probable than not.

A person is mentally retarded if he has significantly subaverage general intellectual functioning along with significant limitations in adaptive functioning.

"Significantly subaverage general intellectual functioning" means an intelligence quotient of seventy (70) or below. An intelligence quotient of seventy (70) or below on an individually administered, scientifically recognized standard intelligence quotient test administered by a licensed psychiatrist or psychologist is evidence of significantly subaverage general intellectual functioning. A score on an intelligence quotient test may differ from a person's actual intelligence quotient because of the possibility of measurement error, and you must take into account the standard error of measurement for the test administered in determining the intelligence quotient.

"Significant limitations in adaptive functioning" means significant limitations in two or more of the following adaptive skill areas; communication, self-care, home living, social skills, community use, self-direction, health, safety, functional academics, leisure skills and work skills.

The onset of the defendant's mental retardation must have been noticeable before the age of eighteen (18) years; however, the intelligence quotient test does not have to have been administered before the age of eighteen (18) years.

In reaching your decision, you must determine:

(1) Does the Defendant have an intelligence quotient of seventy (70) or below?

(2) Does the Defendant have significant limitations in adaptive functions in at least two of the following skill areas: communication; self-care; home living; social skills; community use; self-direction; health and safety; functional academics; leisure skills; and work skills?

(3) Is there evidence that the Defendant's onset of the mental retardation was noticeable before the Defendant was eighteen (18) years of age?

If you unanimously find by a preponderance of the evidence that the answer to each of these questions is yes, then you must find that the Defendant is mentally retarded and so indicate on your verdict form.

If you unanimously find that the answer to any of these questions is no, then you must find that the Defendant is not mentally retarded and so indicate on your verdict form.

If you either unanimously find that the Defendant is not mentally retarded or you are unable to reach a unanimous decision, you will be allowed to consider the information regarding Alton Nolen's intellectual capacity and adaptive functioning in the final stage of the trial.

The issue of punishment is not before you at this time.

### **INSTRUCTION NO. 49**

After you have retired to consider your verdict enter upon your deliberations. If you have questions during your deliberations, you may submit them to the bailiff, and I will attempt to answer them as fully as the law permits. When you have agreed on a verdict, your foreperson alone will sign it, and you will, as a body, return it in open court. Your verdict must be unanimous. Forms of verdict will be furnished. You will now listen to the argument of counsel, which is a proper part of this trial.

VERDICT FORM  
IN THE DISTRICT COURT OF THE TWENTY FIRST JUDICIAL DISTRICT OF  
THE STATE OF OKLAHOMA SITTING IN AND FOR CLEVELAND COUNTY

STATE OF OKLAHOMA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. CF-14-1792 LW
	)	
ALTON ALEXANDER NOLEN,	)	
	)	
Defendant.	)	

**VERDICT**  
**COUNT I—MURDER, FIRST DEGREE—DETERMINATION OF MENTAL**  
**RETARDATION**

We, the jury, empaneled and sworn in the above-entitled cause, do, upon our oaths, fix Defendant's punishment as follows:

Defendant is:

\_\_\_\_\_ We unanimously find by a preponderance of the evidence that the Defendant is mentally retarded, as defined by the Court's instructions

\_\_\_\_\_ We unanimously find that the Defendant is not mentally retarded, as defined by the Court's instructions.

\_\_\_\_\_ We are unable to unanimously find by a preponderance of the evidence that the Defendant is mentally retarded, as defined by the Court's instructions.

\_\_\_\_\_  
FOREPERSON