

06-DCR-048164A
CHCO
Charge of the Court
2482408



No. 06-DCR-45164A

THE STATE OF TEXAS

VS.

ISAIAS SANTOS III

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IN THE DISTRICT COURT OF

FORT BEND COUNTY, TEXAS

400TH JUDICIAL DISTRICT

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The defendant, ISAIAS SANTOS III, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 21st day of January, 2004, in Fort Bend County, Texas. The defendant has pleaded not guilty.

I.

A person commits the offense of murder if he intentionally or knowingly causes the death of an individual.

A person commits capital murder when such person murders more than one person during the same criminal transaction.

II.

"Individual" means a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.

A person acts intentionally, or with intent, with respect to a result of his conduct when it is his conscious objective or desire to cause the result.

A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

III.

All persons are parties to an offense who are guilty of acting together in the commission of the offense. A person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or both.

A person is criminally responsible for an offense committed by the conduct of another if, acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense.

If, in an attempt to carry out a conspiracy to commit one felony; another felony is committed by one of the coconspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of the unlawful purpose and was one that should have been anticipated as a result of carrying out the conspiracy.

Mere presence alone will not constitute one as being a party to an offense.

IV.

Now, if you find from the evidence beyond a reasonable doubt that on or about January 21, 2004 in Fort Bend County, Texas, the defendant, Isaias Santos III, acting alone or as a party (as previously defined in the charge) did then and there murder more than one person during the same criminal transaction, to wit: the said Defendant did then and there intentionally or knowingly cause the deaths of Vivian Moreno and Michael Montalvo during the same criminal transaction by shooting Vivian Moreno and Michael Montalvo with a gun, then you will find the defendant, Isaias Santos III, guilty of capital murder as charged in the indictment.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of murder and say by your verdict "Not Guilty."

V.

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a privilege accorded a defendant, and in the event he elects not to testify, that fact cannot be taken as a circumstance against him. In this case, the defendant has elected not to testify, and you are instructed that you cannot and must not refer or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against the defendant.

VI.

A grand jury indictment is the means whereby a defendant is brought to trial in a felony prosecution. It is not evidence of guilt nor can it be considered by you in passing upon the issue of guilt of the defendant. The burden of proof in all criminal cases rests upon the State throughout the trial, and never shifts to the defendant.

All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that a person has been arrested, confined or indicted for, or otherwise charged with, the offense gives rise to no inference of guilt at his trial. The law does not require a defendant to prove his innocence or produce any evidence at all. The presumption of innocence alone is sufficient to acquit the defendant, unless the jurors are satisfied beyond a reasonable doubt of the defendant's guilt after careful and impartial consideration of all the evidence in the case.

The prosecution has the burden of proving the defendant guilty and it must do so by proving each and every element of the offense charged beyond a reasonable doubt and if it fails to do so, you must acquit the defendant. It is not required that the prosecution prove guilt beyond all possible doubt; it is required that the prosecution's proof excludes all "reasonable doubt" concerning the defendant's guilt.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and the weight to be given their testimony, but the law you shall receive in these written instructions, and you must be governed thereby.

You are limited in your deliberations upon a verdict to the consideration and discussion of such facts and circumstances only as were admitted in evidence, or as are reasonably deducible from the evidence. You cannot legally and must not consider nor discuss any fact or circumstance not thus in evidence or reasonably deducible from the evidence. Nor may a juror relate to any of the others any fact or circumstance of which he may have or claim to have knowledge or information, that was not introduced in evidence. Neither may any of the jurors lawfully discuss anything else, so far as the evidence is concerned, other than the evidence introduced by the parties and admitted by the Court.

You will not talk about this case with anyone not of your jury, and even among yourselves, only when you are all together in the jury room prior to being discharged by the court.


Your deliberations at this time are limited solely to the issue of guilt or innocence of the Defendant of the offense charged and you are not authorized to pass upon punishment, if any, to be imposed.

After argument of counsel, you will retire to the jury room and you should select one of your members as your presiding juror. It is his or her duty to preside at your deliberations and to vote with you in arriving at your verdict. Your verdict must be unanimous.

After you have retired, you may communicate with this court in writing through the officer who has you in charge. Any communication relative to the cause must be written and prepared by the presiding juror and shall be submitted to the court through this officer. Do not attempt to talk to the officer who has you in charge, the attorneys, or the court, or anyone else concerning any questions you may have.

After you have reached a unanimous verdict, the presiding juror will certify thereto by filling in the appropriate form attached to this charge and signing his or her name as Presiding Juror.

After argument of counsel, you may retire to consider your verdict.


Honorable Clifford J. Vacek
Presiding Judge
400th Judicial District Court

FILED

MAY 16 2013

AT 2:09 P.M.

Clerk District Court, 400th Judicial District, TX

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THE STATE OF TEXAS

VS.

ISAIAS SANTOS III

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IN THE DISTRICT COURT OF

FORT BEND COUNTY, TEXAS

400TH JUDICIAL DISTRICT

VERDICT -NOT GUILTY

We the Jury do hereby find the Defendant, Isaias Santos III, "Not Guilty" of the offense of Capital Murder as charged in the indictment.

Presiding Juror

Printed Name

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IN THE DISTRICT COURT OF

FORT BEND COUNTY, TEXAS

400TH JUDICIAL DISTRICT

VERDICT - GUILTY

We the Jury do hereby find the Defendant, Isaias Santos III, "Guilty" of the offense of Capital Murder as charged in the indictment.

George M Rambo
Presiding Juror

George M Rambo
Printed Name

FILED

MAY 16 2013

AT 4:30 P.M.

Christina Smith
Clerk District Court, Fort Bend Co., TX EML