

10-DCR-065360A  
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Charge of the Court  
200843



No. 10-DCR-55,360-A

THE STATE OF TEXAS

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IN THE DISTRICT COURT OF

VS.

FORT BEND COUNTY, TEXAS

LORENZA ANDRE SAM

240<sup>th</sup> JUDICIAL DISTRICT

**COURT'S CHARGE TO THE JURY**

The defendant, LORENZA ANDRE SAM, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about July 6, 2010, in Fort Bend County, Texas. To this charge, the defendant has pleaded not guilty.

I.

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

A person commits capital murder when such person intentionally commits the murder in the course of committing or attempting to commit the offense of robbery or burglary of a habitation.

A person commits the offense of robbery if, in the course of committing theft and with intent to obtain and maintain control of property of another, he intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

A person commits the offense of burglary of a habitation if, without the effective consent of the owner, he enters a habitation, with intent to commit theft or a felony.

II.

By the term "enter" as used above, is meant to intrude any part of the body or any physical object connected with the body into the building.

A "habitation" is a structure that is adapted for the overnight accommodation of persons, and includes: (1) each separately or occupied portion of the structure, and (2) each structure appurtenant to or connected with the structure.

"In the course of committing theft" means conduct that occurs in an attempt to commit, during the commission, or in immediate flight after the attempt or commission of theft.

"Attempt" to commit an offense occurs if, with specific intent to commit an offense, a person does an act amounting to more than mere preparation that tends, but fails, to effect the commission of the offense intended.

"Bodily injury" means physical pain, illness, or any impairment of physical condition.

"Individual" means a human being who has been born and is alive.

"Firearm" means any device manifestly designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

"Theft" as used herein is the unlawful appropriation of the corporeal personal property of another with the intent to deprive such person of said property.

"Appropriation" and "appropriate," as those terms are used herein, mean to acquire or otherwise exercise control over property other than real property. Appropriation of property is unlawful if it is without the owner's effective consent.

"Property" as used herein means tangible or intangible personal property or documents, including money that represents or embodies anything of value.

"Deprive" as used herein means to withhold property from the owner permanently.

**"Effective consent" means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner. Consent is not effective if induced by deception or coercion or force or threats.**

**"Owner" means a person who has title to the property, possession of the property, or a greater right to possession of the property than the person charged.**

**"Possession" means actual care, custody, control or management of property.**

### III.

**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.**

### IV.

**Now, if you find from the evidence beyond a reasonable doubt that on or about July 6, 2010, in Fort Bend County, Texas, the defendant, LORENZA ANDRE SAM, did then and there while in the course of committing or attempting to commit the robbery of Leesa Nascimento, intentionally cause the death of Leesa Nascimento, by shooting her with a firearm; or if you find that on or about the July 6, 2010, in the County of Fort Bend, Texas, the defendant, LORENZA ANDRE SAM, did then and there while in the course of committing or attempting to commit burglary of a habitation owned by Leesa Nascimento, intentionally cause the death of Leesa Nascimento by shooting her with a firearm, then you will find the defendant, LORENZA ANDRE SAM, guilty of Capital Murder as charged in the indictment.**

If you have a reasonable doubt as to whether the defendant is guilty of the offense of Capital Murder as charged in the indictment, you will acquit the defendant and say by your verdict not guilty of the offense of Capital Murder and proceed to consider whether the defendant is guilty of the lesser included offense of Murder.

Now, if you find from the evidence beyond a reasonable doubt that on or about July 6, 2010, in Fort Bend County, Texas, the defendant, LORENZA ANDRE SAM, did then and there intentionally or knowingly cause the death of Leesa Nascimento, by shooting Leesa Nascimento with a firearm, then you will find the defendant, LORENZA ANDRE SAM, guilty of Murder.

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

V.

You are instructed that you may consider all relevant facts and circumstances surrounding the killing, if any, and the previous relationship existing between the accused and the deceased, if any, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the offense, if any.

Evidence of other crimes, wrongs or acts should not be considered by you to prove the character of the Defendant or to show action in conformity therewith. You are instructed if there is testimony before you in this case regarding the defendant having committed other acts other than the offense alleged against him in the indictment in this case, you cannot consider such other acts, if any, unless you first find and believe beyond a reasonable doubt that the Defendant committed such acts, if any, but if you do not believe, or if you have a reasonable doubt thereof, you will not consider such testimony

for any purpose. You may only consider said acts, if any, for purposes of establishing the Defendant's motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

#### VI.

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.

#### VII.

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 the person's trial. The law does not require a defendant to prove his or her 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 a careful and impartial consideration of all the evidence in the case.

You are instructed that the criminal indictment is not evidence of guilt. It is the means whereby a Defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered by you in passing upon the innocence or guilt of this Defendant.

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.

If any juror starts to mention the defendant's election not to testify in this case, then it is the duty of the other jurors to stop him at once.

#### VIII.

During your deliberations in this case, you must not consider, discuss or relate any matters not in evidence before you. You should not consider or mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence.

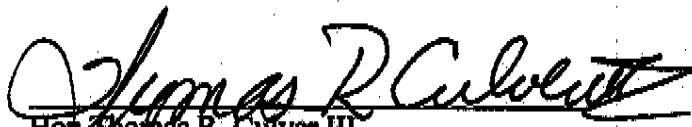
After you have retired to your jury room, you should select one of your members as your presiding juror. It is his or her duty to preside at your deliberations, vote with you and, when you have unanimously agreed upon a verdict, to certify your verdict by signing the same as presiding juror. You are the exclusive judges of the facts proved, of the credibility of the witnesses, and of the weight to be given to the evidence, but you are bound to receive the law from the Court, which is herein given to you, and be governed thereby. You may make reasonable inferences from the evidence admitted.

A form for your verdict is hereto attached; your verdict must be in writing and signed by your presiding juror. Your sole duty at this time is to determine the guilt or

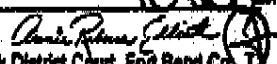
innocence of the Defendant and you are to restrict your deliberations solely to the issue of guilt or innocence of the Defendant.

No one has any authority to communicate with you except the officer who has you in charge. You may communicate with the court only in writing, signed by your presiding juror, delivered to the court by the officer who has you in charge. Do not attempt to talk to the officer, the attorneys, or the court concerning questions you may have.

After the court reads this charge, you may not separate from each other without the court's permission, nor may you talk with anyone not of your jury regarding this case. The presiding juror's duty is to preside at your deliberations and to vote with you in arriving at a unanimous verdict. After you have arrived at your verdict, you must have your presiding juror indicate the jury verdict by signing the particular form or forms that coincide with your verdict.

  
Hon. Thomas R. Culver III  
Judge Presiding  
240th District Court

**FILED**

JUL 30 2013  
AT 10:28 AM  
  
Clerk District Court, Fort Bend Co., TX

## **ALTERNATE JUROR(S) SPECIAL INSTRUCTION**

### **LADIES AND GENTLEMEN OF THE JURY:**

Your jury includes two alternate jurors. In order of selection, **Mr. Gilbert Diaz Cuellar** is Alternate Juror #1, and **Mr. Timothy Lee Brinson** is Alternate Juror #2.

The law now requires that the alternate jurors remain through the entirety of the trial process. This is so that in the event an original member of the twelve person jury becomes unable to proceed in the trial and/or deliberations of this case, the alternate juror (or jurors) will be ready to immediately step in and serve. It is important that the alternate jurors sit and listen while the original jury deliberates so that they will be prepared if they, or either of them, ultimately replace an original juror. Alternate jurors serve a very valuable purpose and without them, much additional time and expense would be necessary in the re-trial of cases. Because the law also requires a jury of only twelve (12) persons, the following additional instructions for the alternate jurors are mandatory:

- No alternate juror may participate in any of the deliberations of the jury unless, or until, I expressly authorize that participation by further written instruction; and
- No alternate juror can be selected as your jury's Presiding Juror.

It is a duty of the Presiding Juror to insure these instructions concerning alternate jurors are faithfully followed during the jury's deliberation and through the remainder of this trial.



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LORENZA ANDRE SAM

240<sup>th</sup> JUDICIAL DISTRICT

**VERDICT OF THE JURY**

We, the Jury, find the defendant, LORENZA ANDRE SAM "Not Guilty" of Capital Murder as charged in the indictment.

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Presiding Juror

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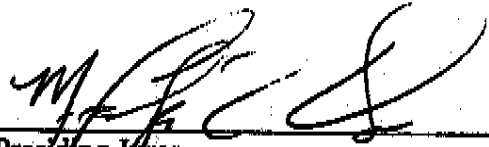
FORT BEND COUNTY, TEXAS

LORENZA ANDRE SAM

240<sup>th</sup> JUDICIAL DISTRICT

**VERDICT OF THE JURY**

We, the Jury, find the defendant, LORENZA ANDRE SAM "Guilty" of Capital Murder as charged in the indictment.

  
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Presiding Juror

*FELIX R. RIOS JR*

**FILED**

JUL 30 2013

AT

*Cherie Renee Elliot*  
Clerk District Court, Fort Bend Co., TX

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**VERDICT OF THE JURY**

We, the Jury, find the defendant, LORENZA ANDRE SAM "Not Guilty" of Murder.

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FORT BEND COUNTY, TEXAS

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**VERDICT OF THE JURY**

We, the Jury, find the defendant, LORENZA ANDRE SAM "Guilty" of Murder.

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Presiding Juror