

NO. 07 CR 3875 F

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STATE OF TEXAS VS. VALENTIN GAONA
IN THE 214TH DISTRICT COURT
NUECES COUNTY, TEXAS

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The defendant, VALENTIN GAONA stands charged by indictment with the offense of CAPITAL MURDER, alleged to have been committed on or about the 24th day of August, 1999, in Nueces County, Texas. The defendant has pleaded not guilty.

1.

A person commits Capital Murder when such person intentionally causes the death of an individual in the course of committing or attempting to commit the offense of Arson.

2.

For the offense of capital murder, 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.

3.

A person commits the offense of arson if he starts a fire or causes an explosion with intent to destroy or damage any vegetation, fence, or structure on

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BY Grace Cantor DEPUTY

open-space land or any building, habitation, or any vehicle knowing that it is within the limits of an incorporated city or town.

4.

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

"Attempt" means to commit an act with specific intent to commit an offense where the act committed amounts to more than mere preparation but fails to effect the commission of the offense intended.

"Habitation" means a structure or vehicle that is adapted for the overnight accommodation of persons.

5.

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

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

A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances

exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the defendant's standpoint.

6.

A person is criminally responsible if the result would not have occurred but for his conduct.

7.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about the 24th day August, 1999, in Nueces County, Texas, the defendant, VALENTIN GAONA, did then and there intentionally cause the death of an individual, namely, Alfino Garcia III, by setting fire to the house occupied by Alfino Garcia III while in the course of committing or attempting to commit arson, then you will find the defendant, VALENTIN GAONA, 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, then you should acquit the defendant and say by your verdict "Not Guilty".

9.

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.

10.

At this stage of the trial, the jury will restrict its deliberations solely to the issue of guilt or innocence.

11.

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.

12.

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.

In the event you have a reasonable doubt as to the defendant's guilt after considering all the evidence before you, and these instructions, you will acquit him and say by your verdict "Not Guilty".

13.

The jury is the exclusive judge of the facts proved, of the credibility of the witnesses, and of the weight to be given their testimony. In deciding the question of guilt or innocence, the jury shall be governed by the law as it is stated in this charge.

14.

After entering the jury room, the jury must first select a presiding juror. The presiding juror presides over the deliberations, speaks for the jury when it wishes to communicate with the Court, and votes with the jury on the issues before it. Any verdict reached must be unanimous. Verdict Forms applicable to this case are attached to the charge. If a verdict is reached, it will be indicated by the presiding juror signing his or her name to the appropriate Verdict Form. Place your verdict on the page containing verdict forms.


During the deliberations, the jury may not:

- (1) communicate with anyone except the Court or the officer in charge of the jury;
- (2) separate for any purpose without permission of the Court;
- (3) discuss the case except with each other in the privacy of the jury room; or

- (4) consider or discuss matters not in evidence including personal knowledge or information about any fact or person connected with the case.

Communications to the Court must be in writing. Written communications from the jury will be delivered to the Court by the officer in charge of the jury.

After the arguments of counsel, the jury will go to the jury room to begin its deliberations.



JOSE LONGORIA
JUDGE PRESIDING

April 24, 2008

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NUECES COUNTY, TEXAS

VERDICT FORMS

USE ONLY ONE FORM:

We, the Jury, find the Defendant, VALENTIN GAONA, guilty of the offense of CAPITAL MURDER, as alleged in the indictment.



PRESIDING JUROR


OR

We, the Jury, find the Defendant, VALENTIN GAONA, not guilty.

PRESIDING JUROR

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