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MAR 31 2009  
CLERK'S OFFICE OF  
TRAVIS COUNTY, TEXAS

No. D-1-DC-07-300971

THE STATE OF TEXAS

)

IN THE 331ST DISTRICT

VS.

)

COURT OF

JOSE GUDIEL-BRENES  
alias CHRISTIAN PALACIOS

)

TRAVIS COUNTY, TEXAS

CHARGE OF THE COURT

Ladies and Gentlemen of the Jury:

The defendant, JOSE GUDIEL-BRENES alias CHRISTIAN PALACIOS, stands charged by indictment with the offense of capital murder, alleged to have been committed in Travis County, Texas, on or about the 21st day of April, 2007. To this charge the defendant has pleaded not guilty. You are instructed that the law applicable to this case is as follows:

I.

A person commits the offense of capital murder if the person intentionally causes the death of an individual and the person intentionally commits the murder in the course of committing or attempting to commit robbery.

II.

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

"Individual" means a human being who is alive.

Filed in The District Court  
of Travis County, Texas

MAR 12 2009

At 7:31 P.M.  
Amalia Rodriguez-Mendoza, Clerk

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.

IV.

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

V.

A person commits the offense of robbery if in the course of committing theft as hereinafter defined and with intent to obtain or maintain control of the property, he:

- (1) intentionally, knowingly, or recklessly causes bodily injury to another; or
- (2) intentionally or knowingly threatens or places another in fear of imminent bodily injury

or death.

A person commits theft if he unlawfully appropriates property with intent to deprive the owner of property.

"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.

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

VI.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that the defendant, JOSE GUDIEL-BRENES alias CHRISTIAN PALACIOS, on or about the 21st day of April, 2007, in the County of Travis, and State of Texas, as alleged in the indictment, did then and there intentionally cause the death of an individual, namely,

GAMALIEL JIMENEZ-BOHORQUEZ, by shooting GAMALIEL JIMENEZ-BOHORQUEZ with a firearm, and the said JOSE GUDIEL-BRENES alias CHRISTIAN PALACIOS was then and there in the course of committing or attempting to commit the offense of robbery of GAMALIEL JIMENEZ-BOHORQUEZ, you will find the defendant guilty of the offense of capital murder and so say by your verdict, but if you do not so believe, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not Guilty."

VII.

A conviction cannot be had upon the testimony of an accomplice unless the jury first believe that the accomplice's evidence is true and that it shows the defendant is guilty of the offense charged against him, and even then you cannot convict unless the accomplice's testimony is corroborated by other evidence tending to connect the defendant with the offense charged, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must tend to connect the defendant with its commission.

You are further instructed that mere presence of the accused in the company of an accomplice witness shortly before or after the time of the offense, if any, is not, in itself, sufficient corroboration of the accomplice witness' testimony.

You are charged that JUAN MANUEL IRIAS was an accomplice if any offense was committed, and you are instructed that you cannot find the defendant guilty upon the testimony of JUAN MANUEL IRIAS unless you first believe that the testimony of the said JUAN MANUEL IRIAS is true and that it shows the defendant is guilty as charged in the indictment; and even then you cannot convict the defendant, JOSE GUDIEL-BRENES alias CHRISTIAN PALACIOS, unless you further believe that there is other evidence in this case, outside the evidence of said

JUAN MANUEL IRIAS, tending to connect the defendant with the commission of the offense charged in the indictment and then from all the evidence you must believe beyond a reasonable doubt that the defendant is guilty.

VIII.

In all criminal cases, the burden of proof is on the State. 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 defendant 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.

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."

In a criminal case the law permits a defendant to testify in his own behalf but he is not compelled to do so, and the same law provides that the fact that a defendant does not testify shall

not be considered as a circumstance against him; and you will not in your retirement to consider your verdict allude to, comment on, or in any manner refer to the fact that the defendant has not testified.

You are further instructed as a part of the law in this case that the indictment against the defendant is not evidence in the case, and that the true and sole use of the indictment is to charge the offense, and to inform the defendant of the offense alleged against him. The reading of the indictment to the jury in the statement of the case of the State against the defendant cannot be considered as a fact or circumstance against the defendant in your deliberations.

In deliberating on the cause you are not to refer to or discuss any matter or issue not in evidence before you and in deliberating on your verdict, you shall not discuss or consider the punishment, if any, which may be assessed against the defendant in the event he is found guilty beyond a reasonable doubt.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, or any witness therein, and no juror is permitted to communicate to any other juror anything he may have heard regarding the case or any witness therein, from any other source than the witness stand.

You are instructed that your verdict must be unanimous and it must reflect the individual verdict of each individual juror, and not a mere acquiescence in the conclusion of the other jurors.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given to the testimony, but you are bound to receive the law from the court, which is herein given you, and be governed thereby.

A juror may believe any, all, none or part of any evidence given by any witness. You are instructed that upon request to the bailiff you shall be furnished any exhibits admitted as evidence in the case.

After the reading of this charge, you shall not be permitted to separate from each other, nor shall you talk with anyone not of your jury. After argument of counsel, you will retire and select one of your members as your foreperson. It is his or her duty to preside at your deliberations and to vote with you in arriving at a unanimous verdict. After you have arrived at your verdict, you may use the forms attached hereto by having your foreperson sign his or her name to the particular form that conforms to your verdict but in no event shall he or she sign more than one of such forms.

A handwritten signature in black ink, appearing to read "Bob Perkins", written over a horizontal line.

BOB PERKINS, Judge  
331<sup>st</sup> District Court  
Travis County, Texas

No. D-1-DC-07-300971

THE STATE OF TEXAS

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IN THE 331ST DISTRICT

VS.

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COURT OF

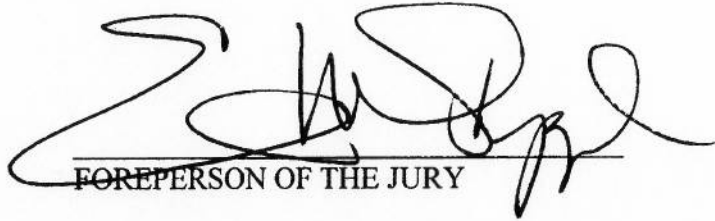
JOSE GUDIEL-BRENES  
alias CHRISTIAN PALACIOS

)

TRAVIS COUNTY, TEXAS

VERDICT OF THE JURY

We, the jury, find the defendant, JOSE GUDIEL-BRENES alias CHRISTIAN PALACIOS,  
guilty of the offense of Capital Murder as alleged in the indictment.



FOREPERSON OF THE JURY

Filed in The District Court  
of Travis County, Texas

MAR 12 2009

At 11:31 p.m.  
Amalia Rodriguez-Mendoza, Clerk

No. D-1-DC-07-300971

THE STATE OF TEXAS

)

IN THE 331ST DISTRICT

VS.

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COURT OF

JOSE GUDIEL-BRENES  
alias CHRISTIAN PALACIOS

)

TRAVIS COUNTY, TEXAS

VERDICT OF THE JURY

We, the jury, find the defendant, JOSE GUDIEL-BRENES alias CHRISTIAN PALACIOS,  
Not Guilty.

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FOREPERSON OF THE JURY



NO. 07-300971

THE STATE OF TEXAS

)

IN THE 331ST DISTRICT

VS.

)

COURT OF

*Jose Guziel - Brenes alias  
Christian Palacios*

)

TRAVIS COUNTY, TEXAS

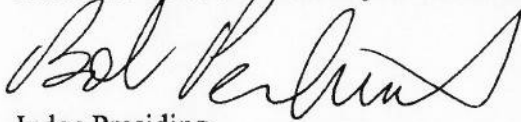
SUPPLEMENTAL CHARGE—READING BACK TESTIMONY

Ladies and Gentlemen of the Jury:

I have your request for the testimony of a witness to be read back by the court reporter.

Your request is governed by the following rule: "If the jury disagree as to the statement of any witness, they may, upon applying to the court, have read to them from the court reporter's notes that part of such witness' testimony on the point in dispute."

Therefore, if you certify that you disagree concerning the statement of a witness and specify the point on which you disagree, the court reporter will be instructed to search her notes and read to you the testimony of the witness on that point.



Judge Presiding

JURY'S CERTIFICATE

We certify that we disagree concerning the statement of Witness \_\_\_\_\_  
to attorney \_\_\_\_\_.

The statement in dispute is;

We respectfully request that the statement of the witness which is in dispute be read back to the jury.

Foreperson of the Jury