

CAUSE NO. F15-75896

THE STATE OF TEXAS

§

IN CRIMINAL DISTRICT

V.

§

COURT NO. 4

REYNALDO PALOMO

§

DALLAS COUNTY, TEXAS

JURY INSTRUCTIONS

MEMBERS OF THE JURY:

The defendant, REYNALDO PALOMO, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about June 29th, 2015, in Dallas County, Texas. To this charge, the defendant has pleaded not guilty.

You are instructed that the law applicable to this case is as follows:

Offense Definitions

A person commits Capital Murder if he intentionally causes the death of an individual while in the course of committing or attempting to commit Robbery.

A person commits Murder if (1) intentionally or knowingly causes the death of an individual or (2) intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual or (3) he commits or attempts to commit a felony, other than Manslaughter, and in the course of and in furtherance of the commission or attempt or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

A person commits Aggravated Robbery if he commits Robbery, as defined below, and he (1) causes serious bodily injury to another or (2) uses or exhibits a deadly weapon.

A person commits Robbery if, in the course of committing Theft, as that term is herein defined, and with intent to obtain or maintain control of the property of another, the person intentionally or knowingly causes bodily injury to another.

You are instructed that the offense of Robbery is a felony.

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

Voluntary intoxication does not constitute a defense to the commission of a crime. "Intoxication" means disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

Term Definitions

"Appropriation" and "appropriate" 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.

“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.

“Deadly weapon” means a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury.

“Deprive” means to withhold property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the property is lost to the owner.

“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 force, threat, or fraud.

“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.

“Individual” means a human being who is alive.

“Owner” means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the person charged.

“Person” means an individual.

“Possession” means actual care, custody, control, or management of property.

“Property” means tangible or intangible personal property including anything severed from land, or a document, including money, that represents or embodies anything of value.

“Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Mental State Definitions

The following definition applies to 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.

The following definitions apply to the offenses of Murder and Aggravated Robbery:

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 his conduct is reasonably certain to cause the result.

Criminal Responsibility for Conduct of Another

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 by both. Each party to an offense may be charged with commission of the offense.

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 aids or attempts to aid the other person to commit the offense. Mere presence alone will not constitute one a party to an offense.

If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, then 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 the carrying out of the conspiracy. Capital Murder, Aggravated Robbery, and Robbery are felony offenses.

Accomplice Witnesses

An “accomplice” means anyone connected with the crime that is or could be charged as a party to the offense.

A conviction cannot be had upon the testimony of an accomplice unless the jury first believes that the accomplice’s testimony 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 instructed that the witness Miguel Machado is an accomplice. You cannot convict the defendant upon the testimony of Miguel Machado unless you first believe that his testimony is true and that it shows the defendant is guilty as charged in the indictment. Even then, you cannot convict the defendant unless you further believe that there is other evidence in this case, outside of the testimony of Miguel Machado, 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.

Capital Murder

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about June 29th, 2015, in Dallas County, Texas, the defendant, REYNALDO PALOMO, either individually or acting as a party, as that term has been defined, did intentionally cause the death of MARIA VALESQUEZ, an individual, by shooting her with a firearm, a deadly weapon, while in the course of committing or attempting to commit the offense of Robbery of MIKE ALBANNA, then you will find the defendant guilty of Capital Murder as charged in the indictment.

If you do not so find, or if you have a reasonable doubt thereof, or if you cannot agree, you will next consider whether the defendant is guilty of the lesser included offense of Murder.

Murder

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about June 29th, 2015, in Dallas County, Texas, the defendant, REYNALDO PALOMO, either individually or acting as a party, as that term has been defined, did intentionally or knowingly cause the death of MARIA VALESQUEZ an individual, by shooting her with a firearm, a deadly weapon, then you will find the defendant guilty of Murder as included in the indictment.

OR

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about June 29th, 2015, in Dallas County, Texas, the defendant, REYNALDO PALOMO, individually or acting as a party, as that term has been defined, intended to cause serious bodily injury and committed an act clearly dangerous to human life, to-wit: shooting MARIA VALESQUEZ with a firearm, a deadly weapon, that caused the death of MARIA VALESQUEZ then you will find the defendant guilty of Murder.

If you do not so find, or if you have a reasonable doubt thereof, or if you cannot agree, you will next consider whether the defendant is guilty of the lesser included offense of Aggravated Robbery.

Aggravated Robbery

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about June 29th, 2015, in Dallas County, Texas, the defendant, REYNALDO PALOMO, individually or acting as a party, as that term has been defined, while in the course of committing Robbery of MIKE ALBANNA, did use or exhibit a deadly weapon, to-wit: a firearm, then you will find the defendant guilty of Aggravated Robbery as included in the indictment.

If you do not so find, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "not guilty."

If you should find from the evidence beyond a reasonable doubt that the defendant is guilty of Capital Murder, Murder, or Aggravated Robbery, but you have a reasonable doubt as to which offense he is guilty of, then you should resolve that doubt in the defendant's favor and find the defendant guilty of the included offense of Aggravated Robbery.

If you have a reasonable doubt as to whether the defendant is guilty of any offense set forth in this charge, you will acquit the defendant and say by your verdict "not guilty."

Constitutional Rights

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 her trial. The law does not require a defendant to prove her innocence or produce any evidence at all. The presumption of innocence alone is sufficient to acquit the defendant, unless you are satisfied beyond a reasonable doubt of the defendant's guilt after careful and impartial consideration of all the evidence in this case.

The State 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. This burden rests upon the State throughout the trial and never shifts to the defendant. If the State fails to meet its burden, you must acquit the defendant.

It is not required that the State prove the defendant's guilt beyond all possible doubt; it is required that the State's proof excludes all "reasonable doubt" concerning the defendant's guilt.

You are instructed that the defendant may testify in his own behalf if he chooses to do so, but if he elects not to do so, that fact cannot be taken by you as a circumstance against him or prejudice him in any way. The defendant has elected not to testify in this phase of the trial, and you are instructed that you cannot and must not refer to or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever.

Evidentiary Instructions

You are instructed that you are not to allow yourselves to be influenced in any degree whatsoever by what you may think or surmise the opinion of the Court to be.

At times throughout the trial, the Court has been called upon to pass on the question of whether or not certain offered evidence might properly be admitted. Do not be concerned with the reasons for such rulings and draw no inferences from them. Whether offered evidence is admissible is purely a question of law. In admitting evidence to which an objection is made, the Court does not determine what weight should be given such evidence; nor does it pass on the credibility of the witness. As to any offer of evidence that has been rejected by the Court, you of course must not consider the same. As to any question to which an objection was sustained, you must not conjecture as to what the answer might have been or as to the reason for the objection.

You are instructed that if there is any testimony before you in this case regarding the defendant's having committed an offense other than the offense alleged against him in the indictment in this case, you cannot consider that testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offense, if any was committed, and even then you may only consider it in determining the motive, opportunity, intent, preparation, plan, knowledge, or state of mind of the defendant, and for no other purpose.

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

Concluding Instructions

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

In deliberating on this case, you are not to refer to or discuss any matter or issue not in evidence before you, and you are not to talk about this case to anyone not of your jury.

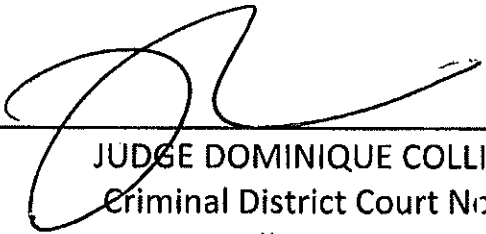
Mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feeling is to play no part in your deliberations.

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 and to follow the law from the Court.

After you have retired to consider the verdict, no one has any authority to communicate with you except the bailiff who has you in charge. You may

communicate with this Court in writing, signed by your presiding juror, through the bailiff who has you in charge. Do not attempt to talk to the bailiff, the attorneys, or the Court concerning any question you may have.

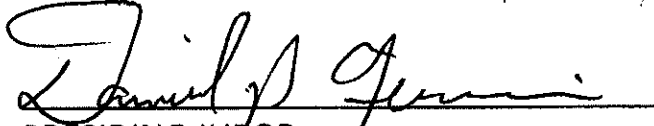
After argument of counsel, you will retire and select one of your members as your presiding juror. It is the duty of your presiding juror to preside at your deliberations and to vote with you in arriving at a verdict. Your verdict must be unanimous, and after you have arrived at your verdict, you may use one of the attached forms by having your presiding juror sign the particular form that conforms to your verdict.



JUDGE DOMINIQUE COLLINS
Criminal District Court No. 4
Dallas County, Texas

VERDICT FORMS
(Sign only one verdict form)

We, the jury, unanimously find the defendant guilty of Capital Murder as charged in the indictment.


PRESIDING JUROR
Printed Name: Daniel P German

OR

We, the jury, unanimously, find the defendant guilty of Murder as included in the indictment.

PRESIDING JUROR
Printed Name: _____

OR

We, the jury, unanimously, find the defendant guilty of Aggravated Robbery as included in the indictment.

PRESIDING JUROR
Printed Name: _____

OR

We, the jury, find the defendant not guilty.

PRESIDING JUROR
Printed Name: _____

**JUDGMENT
CERTIFICATE OF THUMBPRINT**

THE STATE OF TEXAS

CAUSE NO. F 15-758.96

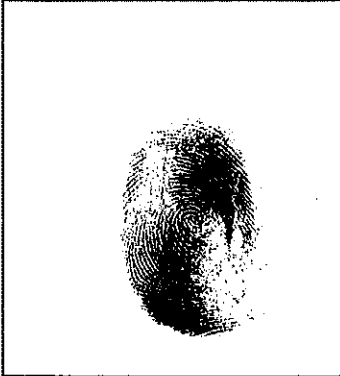
VS.

Reynaldo Palomo

a

DISTRICT COURT 4

DALLAS COUNTY, TEXAS



RIGHT THUMB



DEFENDANT'S Rt HAND

THIS IS TO CERTIFY THAT THE FINGERPRINTS ABOVE ARE THE ABOVE-NAMED DEFENDANT'S FINGERPRINTS TAKEN AT THE TIME OF DISPOSITION OF THE ABOVE STYLED AND NUMBERED CAUSE.

DONE IN COURT THIS 15 DAY OF Dec, 2016

Ruffin 603

BAILIFF/DEPUTY SHERIFF

*INDICATE HERE IF PRINT OTHER THAN DEFENDANT'S RIGHT THUMBPRINT IS PLACED IN BOX:

____ LEFT THUMBPRINT

____ LEFT/RIGHT INDEX FINGER

____ OTHER, _____

SIGNED AND ENTERED ON THIS 15 DAY OF Dec, 2016.

[Signature]
PRESIDING JUDGE