

IN THE DISTRICT COURT OF EL PASO COUNTY, TEXAS
409TH JUDICIAL DISTRICT

ORIGINAL

THE STATE OF TEXAS

VS.

JESSE VASQUEZ

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CAUSE No. 20130D02392

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

After the attorneys have presented their summations, you will go to the jury room. You will then select one of your members as your Presiding Juror. It shall be your Presiding Juror's duty to preside over your discussions of and deliberations upon the case, vote with you and when you have unanimously agreed upon a verdict by signing the same as your Presiding Juror.

You will have this Charge with you in the jury room, and shall refer to it for guidance during your deliberations. Suitable forms for your verdict are attached hereto; 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 under the Indictment in this case; and restrict your deliberations solely to the issue of whether the Defendant is Guilty or Not Guilty.

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 as it is given to you in this Charge, and you are bound to be governed thereby.

You shall consider only the evidence and exhibits presented here in the courtroom through the witnesses who have testified. If you want to have the exhibits with you in the jury room for your deliberations, advise the bailiff. In deliberating on this case, you shall not talk to anyone except the members of the jury about it until you have been finally discharged from service on this jury.

If you want to communicate with the Court, explain what you want in writing and deliver your message, signed by your presiding juror, to the bailiff, who will deliver it to the Court. Do not orally explain to the bailiff what you want.

You are instructed that the Grand Jury Indictment is not evidence of guilt, it is a means whereby the 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 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

Boldface lettering of words or phrases in this Charge indicate that such words or phrases are defined in this Charge and nothing else.

DEFINITIONS

A person commits **Capital Murder** when he intentionally commits the murder in the course of committing or attempting to commit Burglary of Habitation.

A person commits **Murder** when he intentionally or knowingly causes the death of an individual.

A person commits "**Burglary of a Habitation**" if, without the effective consent of the owner, the person enters a habitation with intent to commit or attempt to commit a felony

You are instructed that 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.

You are instructed that a person acts **knowingly**, or with knowledge, with respect to the nature of his conduct or to the 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 the result of his conduct when he is aware that his 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 actor's standpoint.

A person commits "**Aggravated Assault**" if the person intentionally, knowingly, or recklessly cause bodily injury and uses or exhibits a deadly weapon during the commission of the offense or intentionally and knowingly threatens another with imminent bodily injury and uses or exhibits a deadly weapon during the commission of the offense.

A person commits an "**Assault**" if the person intentionally, knowingly, or recklessly causes bodily injury to another person,

"**Deadly Weapon**" means anything manifestly designed made, or adapted for the purpose of inflicting death or serious bodily injury, or anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

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

The Defendant, JESSE VASQUEZ, stands charged by Indictment with Count: I Capital Murder and Counts II-V Aggravated Assault, alleged to have occurred on or about the 23rd day of February 2013. To these charges the Defendant has pleaded Not Guilty.

Count: I

Now if you find from the evidence beyond a reasonable doubt that on or about the 23rd day of February 2013 in El Paso County, Texas the Defendant, JESSE VASQUEZ, did then and there intentionally or knowingly cause the death of an individual, namely, MIRIAM AGUIRRE by cutting her about the neck with a knife, and the Defendant was then and there in the course of committing or attempting to commit the offense of Burglary of Habitation,

Then you will find the Defendant, JESSE VASQUEZ, guilty as charged in Count I of the Indictment (**Verdict Form A**).

Unless you so find beyond a reasonable doubt or if you have a reasonable doubt thereof, you will acquit the Defendant, JESSE VASQUEZ, of Capital Murder, as charged in Count: I of the Indictment (**Verdict Form B**).

Count: IV

Now if you find from the evidence beyond a reasonable doubt that on or about the 23rd day of February 2013 in El Paso County, Texas the Defendant, JESSE VASQUEZ, did then and there intentionally or knowingly threaten ENRIQUE CONTRERAS with imminent bodily injury and did then and there use or exhibit a deadly a deadly weapon during the commission of said assault, to wit: a knife and or a machete, that in the manner of its use or intended use was capable of causing death or serious bodily injury,

And it is further presented that the said Defendant used or exhibited a deadly weapon, to wit: a knife and or a machete, during the commission of or immediate flight from said offense.

Then you will find the Defendant, JESSE VASQUEZ, guilty as charged in Count IV of the Indictment (**Verdict Form D**).

Unless you so find beyond a reasonable doubt or if you have a reasonable doubt thereof, you will acquit the Defendant, JESSE VASQUEZ, of Aggravated Assault, as charged in Count III and Count: IV of the Indictment (**Verdict Form E**).

