

IN THE DISTRICT COURT OF EL PASO COUNTY, TEXAS  
171<sup>ST</sup> JUDICIAL DISTRICT

*Filed*  
*2/7/17*  
*8:10am*  
*[Signature]*

THE STATE OF TEXAS

Vs.

CAUSE NO. 20120D04452

ANTONIO LOPEZ

**CHARGE OF THE COURT**

**LADIES AND GENTLEMEN OF THE JURY:**

The defendant, **ANTONIO LOPEZ**, stands charged in Count I of the indictment with the offense of **CAPITAL MURDER**, and stands charged in Count II of the indictment with the offense of **MURDER**, alleged to have been committed on or about the 28<sup>TH</sup> day of July, 2012 in El Paso County, Texas. The defendant has pled NOT GUILTY.

FILED  
NORMAL FAVELA  
DISTRICT CLERK  
2017 FEB - 8 PM 12:00  
[Signature]

1.

The Court will now instruct you on the law applicable in this case.

**LAW APPLICABLE TO THE OFFENSES ALLEGED IN THIS CASE**

**A. LAW APPLICABLE TO THE OFFENSE OF CAPITAL MURDER**

Our law provides that a person commits the offense of Murder when he intentionally or knowingly causes the death of an individual.

A person commits the offense of Capital Murder when he commits the Murder, if any, of an individual under six years of age.

**B. LAW APPLICABLE TO THE OFFENSE OF MURDER**

Our law provides that a person commits the offense of Murder if 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.

Our law provides that a person commits the offense of Injury to a Child if he intentionally, knowingly, recklessly, or with criminal negligence by act, causes serious bodily injury to a child who is fourteen (14) years of age or younger.

**C. LAW APPLICABLE TO THE OFFENSE OF MANSLAUGHTER**

Our law provides that a person commits the offense of Manslaughter if he recklessly causes the death of an individual.

**D. LAW APPLICABLE TO THE OFFENSE OF CRIMINALLY NEGLIGENT HOMICIDE**

Our law provides that a person commits the offense of Criminally Negligent Homicide if he causes the death of an individual by criminal negligence.

2.

**DEFINITIONS**

**“Individual”** means a human being who is alive.

**“Felony”** means an offense so designated by law or punishable by death or confinement in a penitentiary.

**“Bodily injury”** means physical pain, illness, or any impairment of physical condition.

**“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.

**“Act”** means a bodily movement, whether voluntary or involuntary, and includes speech.

As it relates to Injury to a Child, **child** means a person fourteen (14) years of age or younger.

3.

### CULPABLE MENTAL STATES

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.

A person acts **recklessly**, or is **reckless**, with respect to the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that 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 acts with **criminal negligence**, or is **criminally negligent**, with respect to the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the result complained of will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care of that an ordinary person would exercise under all the circumstances as viewed from the standpoint of the person charged.

4.

### CAUSATION

A person is criminally responsible for causing a result if the result would not have occurred but for his conduct, operating either alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result and the conduct of the Defendant clearly insufficient.

5.

**CHOICE OF OFFENSES**

If you find from the evidence beyond a reasonable doubt that defendant is either guilty of Capital Murder or of Murder, under the instructions herein given you, but you have a reasonable doubt as to which of said offenses he is guilty, then you should resolve that doubt in defendant's favor and find him guilty of the offense of Murder.

If you find from the evidence beyond a reasonable doubt that defendant is either guilty of Murder or of Manslaughter, under the instructions herein given you, but you have a reasonable doubt as to which of said offenses he is guilty, then you should resolve that doubt in defendant's favor and find him guilty of the offense of Manslaughter.

If you find from the evidence beyond a reasonable doubt that defendant is either guilty of Manslaughter or of Criminally Negligent Homicide, under the instructions herein given you, but you have a reasonable doubt as to which of said offenses he is guilty, then you should resolve that doubt in defendant's favor and find him guilty of the offense of Criminally Negligent Homicide.

6.

**AS TO COUNT I-CAPITAL MURDER**

Now, if you find from the evidence beyond a reasonable doubt that on or about the 28<sup>th</sup> day of July, 2012, in El Paso County, Texas, the defendant, **ANTONIO LOPEZ,**

**PARAGRAPH A**

did then and there intentionally or knowingly cause the death of an individual, namely, **JAYLA BECKLEY,** by striking **JAYLA BECKLEY** about the body with Defendant's foot, and the said **JAYLA BECKLEY** was then and there an individual younger than six years of age,

**OR**

**PARAGRAPH B**

did then and there intentionally or knowingly cause the death of an individual, namely, **JAYLA BECKLEY**, by striking **JAYLA BECKLEY** about the body with an unknown object, and the said **JAYLA BECKLEY** was then and there an individual younger than six years of age,

**OR**

**PARAGRAPH C**

did then and there intentionally or knowingly cause the death of an individual, namely, **JAYLA BECKLEY**, by striking **JAYLA BECKLEY'S** body against an unknown object, and the said **JAYLA BECKLEY** was then and there an individual younger than six years of age, then you will find the defendant, **ANTONIO LOPEZ**, **GUILTY** of **CAPITAL MURDER**, as alleged 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, **ANTONIO LOPEZ**, of **CAPITAL MURDER**, as alleged in Count I of the indictment (**Verdict Form "B"**) and next consider if the defendant, **ANTONIO LOPEZ**, is **GUILTY** of **MURDER**

**AS TO COUNT II-MURDER.**

Now, if you find from the evidence beyond a reasonable doubt that on or about the 28<sup>th</sup> day of July, 2012, in El Paso County, Texas, the defendant, **ANTONIO LOPEZ**,

**PARAGRAPH A**

did then and there intentionally or knowingly commit or attempt to commit an act clearly dangerous to human life, to-wit: striking **JAYLA BECKLEY** about the body with Defendant's foot that caused the death of an individual, namely, **JAYLA BECKLEY** and the Defendant was then and there in the course of and in furtherance of, and in immediate flight from, the commission or attempted commission of a felony, to-wit: Injury to a Child,

**OR**

**PARAGRAPH B**

did then and there intentionally or knowingly commit or attempt to commit an act clearly dangerous to human life, to-wit: striking **JAYLA BECKLEY** about the body with an unknown object that caused the death of an individual, namely, **JAYLA BECKLEY** and the Defendant was then and there in the course of and in furtherance of, and in immediate flight from, the commission or attempted commission of a felony, to-wit: Injury to a Child,

**OR**

**PARAGRAPH C**

did then and there intentionally or knowingly commit or attempt to commit an act clearly dangerous to human life, to-wit: striking **JAYLA BECKLEY'S** body against an unknown object that caused the death of an individual, namely, **JAYLA BECKLEY** and the Defendant was then and there in the course of and in furtherance of, and in immediate flight from, the commission or attempted commission of a felony, to-wit: Injury to a Child, then you will find the defendant, **ANTONIO LOPEZ**, GUILTY of MURDER, as alleged in Count II of the Indictment (**Verdict Form "C"**).

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant, **ANTONIO LOPEZ**, of MURDER (**Verdict Form "D"**) and next consider if the defendant is GUILTY of MANSLAUGHTER.

**AS TO MANSLAUGHTER**

Now if you find from the evidence beyond a reasonable doubt that on or about the 28<sup>TH</sup> day of July, 2012 in El Paso County, Texas, the defendant, **ANTONIO LOPEZ**,

**PARAGRAPH A**

did then and there recklessly cause the death of an individual, namely, **JAYLA BECKLEY**, by striking **JAYLA BECKLEY** about the body with Defendant's foot,

**OR**

**PARAGRAPH B**

did then and there recklessly cause the death of an individual, namely, **JAYLA BECKLEY**, by striking **JAYLA BECKLEY** about the body with an unknown object,

**OR**

**PARAGRAPH C**

did then and there recklessly cause the death of an individual, namely, **JAYLA BECKLEY**, by striking **JAYLA BECKLEY'S** body against an unknown object, then you will find the defendant, **ANTONIO LOPEZ**, **GUILTY** of **MANSLAUGHTER (Verdict Form "E")**.

Unless you find from the evidence beyond a reasonable doubt that the defendant, **ANTONIO LOPEZ**, is **GUILTY** of **MANSLAUGHTER**, or you have a reasonable doubt thereof, you will acquit the defendant, **ANTONIO LOPEZ**, and say by your verdict **NOT GUILTY** of **MANSLAUGHTER**, as alleged (**Verdict Form "F"**), then you will next consider whether the defendant, **ANTONIO LOPEZ**, is **GUILTY** of **CRIMINALLY NEGLIGENT HOMICIDE**.

**AS TO CRIMINALLY NEGLIGENT HOMICIDE**

Now if you find from the evidence beyond a reasonable doubt that on or about the 28<sup>TH</sup> day of July, 2012 in El Paso County, Texas, the defendant, **ANTONIO LOPEZ**,

**PARAGRAPH A**

did then and there by criminal negligence cause the death of an individual, namely, **JAYLA BECKLEY**, by striking **JAYLA BECKLEY** about the body with Defendant's foot,

**OR**

**PARAGRAPH B**

did then and there by criminal negligence cause the death of an individual, namely, **JAYLA BECKLEY**, by striking **JAYLA BECKLEY** about the body with an unknown object,

**OR**

**PARAGRAPH C**

did then and there by criminal negligence cause the death of an individual, namely, **JAYLA BECKLEY**, by striking **JAYLA BECKLEY'S** body against an unknown object, then you will find the defendant, **ANTONIO LOPEZ**, **GUILTY** of **CRIMINALLY NEGLIGENT HOMICIDE (Verdict Form "G")**.

Unless you find from the evidence beyond a reasonable doubt that the defendant, **ANTONIO LOPEZ**, is **GUILTY** of **CRIMINALLY NEGLIGENT HOMICIDE**, or you have a reasonable doubt thereof, you will acquit the defendant, **ANTONIO LOPEZ**, and say by your verdict **NOT GUILTY** of **CRIMINALLY NEGLIGENT HOMICIDE**, as alleged (**Verdict Form "H"**).

7.

**OTHER LAWS APPLICABLE TO THIS CASE**

**A.**

A statement of an accused may be used in evidence against him if it appears that the same was freely and voluntarily made without compulsion or persuasion.

No evidence obtained by an officer or other person in violation of any provisions of the Constitution or laws of the State of Texas, or of the Constitution or laws of the United States of America, shall be admitted in evidence against the accused on the trial of any criminal case.

Now, therefore, if you find from the evidence, or if you have a reasonable doubt thereof, that at the time of the making of the statement to **DETECTIVE JEROME HINOJOS**, the Defendant, **ANTONIO LOPEZ**, was acting under and pursuant to the threat that his wife would be arrested and his children would be taken from their home, then you will completely disregard such statement as evidence for any purpose nor will you consider any evidence obtained as a result thereof.



**B.**

You are instructed that you may consider all relevant facts and circumstances surrounding the killing, if any, and the previous relationship existing between the Defendant, **ANTONIO LOPEZ**, and the deceased, **JAYLA BECKLEY**, if any, together with all relevant facts and circumstances going to show the condition of the mind of the Defendant, **ANTONIO LOPEZ**, at the time of the alleged killing, if any.

**C.**

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.

**D.**

Texas 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 him.

**E.**

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 trial. The law in this case 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's guilt 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 exclude 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".

8.

#### **MANNER OF DELIBERATIONS**

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

You will have this charge with you in the jury room, and you shall refer to it for guidance during your deliberations.

Suitable forms for your verdict are hereto attached. Your verdict must be unanimous, in writing and signed by your Presiding Juror. Your sole duty at this time is to determine the guilt or non-guilt of the defendant under the indictment in this cause and restrict your deliberations solely to the issue of whether the defendant is guilty or not guilty.

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. He will deliver it to the Court. **Do not** orally explain to the bailiff what you want.


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. You are bound to receive the law from the Court as it is given you in these instructions, or any other the Court may give you, and to be governed by the law as so given by the Court.

**Concerning manner of deliberations:**

- (a) in order to return a verdict, each juror must agree thereto;
- (b) Jurors have a duty to consult with one another to deliberate with a view of reaching an agreement, if it can be done without violence to individual judgment.
- (c) each juror must decide the case for himself or herself, but only after an impartial consideration of the evidence with their fellow jurors.
- (d) in the course of deliberations, jurors should not hesitate to re-examine their own views and change their opinion if convinced it is erroneous.
- (e) no juror should surrender his or her honest conviction as to the weight or effect of the evidence solely because of the opinion of their fellow jurors, or for the mere purpose of returning a verdict.

The Presiding Juror or any other juror who observes a violation of the Court's instructions shall immediately warn the one who is violating the same and caution the juror not to do so again.

In arriving at your verdict, it will not be proper to fix the same by lot, chance, or any other method than by a full, fair and free exercise of the opinion of the individual jurors under the evidence admitted before you.



JUDGE BONNIE RANGEL  
171<sup>ST</sup> Judicial District Court