

MAR 30 2022

CASE NO. CR-1762-18-B (COUNT FIVE)

LAURA HINOJOSA, CLERK
District Courts, Hidalgo County
By [Signature] Deputy#5

THE STATE OF TEXAS
VS
RAUL LOPEZ

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§
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IN THE 93RD DISTRICT COURT
OF
HIDALGO COUNTY, TEXAS

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, RAUL LOPEZ, stands charged by indictment with the offense of Aggravated Assault alleged to have been committed in Hidalgo County, Texas, on or about November 28, 2016, and to this charge the Defendant has pleaded not guilty.

1.

Our law provides that a person commits an assault if the person intentionally or knowingly or recklessly causes bodily injury to another, including the person's spouse or intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse.

A person commits aggravated assault if the person uses or exhibits a deadly weapon during the commission of the assault

2.

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

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.

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

“Deadly weapon” means (1) a firearm or anything manifestly designed, made or adapted for the purpose of inflicting death or serious bodily injury, or (2) anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

3.

Now, if you find from the evidence beyond a reasonable doubt that on or about November 28, 2016, in Hidalgo County, Texas, the Defendant, RAUL LOPEZ, did then and there intentionally, knowingly, or recklessly cause bodily injury to BILLY JOE MARTINEZ, by shooting BILLY JOE MARTINEZ with a firearm, or did then and there intentionally or knowingly threaten BILLY JOE MARTINEZ with imminent bodily injury by shooting a firearm at or in the direction of BILLY JOE MARTINEZ, and the Defendant did then and there use or exhibit a deadly weapon, to-wit: a firearm, during the commission of said assault then you will find the State has proved their case beyond a reasonable doubt and next consider whether the defense of insanity applies, unless you so find beyond a reasonable doubt the state has proved each element of the offense, or if you have a reasonable doubt the Defendant committed the offense, then you will acquit the Defendant and say by your verdict “Not Guilty.”

4.

You are instructed that no act done in a state of insanity can be punished as an offense. It is an affirmative defense to prosecution of a criminal prosecution of a criminal action that, at the time of the

conduct charged against a person, as a result of a severe mental disease or defect, he did not know that his conduct was wrong.

The severe mental disease or defect must have existed at the very time or times inquired about, that is, at the very time of the alleged commission of the offense.

The term “mental disease or defect” does not include an abnormality manifested only by repeated criminal or otherwise anti-social conduct.

5.

The burden of proof is upon the defendant to prove this affirmative defense by a preponderance of the evidence.

By the term “preponderance of the evidence” is meant the greater weight and degree of the credible evidence in this case.

6.

Now, if you find from the evidence beyond a reasonable doubt that on or about November 28, 2016, in Hidalgo County, Texas, the Defendant, RAUL LOPEZ, did then and there intentionally, knowingly, or recklessly cause bodily injury to BILLY JOE MARTINEZ, by shooting BILLY JOE MARTINEZ with a firearm, or did then and there intentionally or knowingly threaten BILLY JOE MARTINEZ with imminent bodily injury by shooting a firearm at or in the direction of BILLY JOE MARTINEZ, and the Defendant did then and there use or exhibit a deadly weapon, to-wit: a firearm, during the commission of said assault, but you further believe, by a preponderance of the evidence in the case, that at the time he committed the act, the Defendant, as a result of mental disease or defect, did not know that his conduct was wrong, then you will find the Defendant “Not Guilty by Reason of Insanity” and so state in your verdict, if you do not believe by a preponderance of the evidence in this case that at the time he committed the act, the Defendant, as a result of mental disease or defect, did not know his

conduct was wrong, then you will find the Defendant “Guilty” of the offense of aggravated assault and so state in your verdict.

7.

Under the instructions given to you herein, you will state in your verdict whether you find the Defendant “Guilty” or “Not Guilty,” or “Not Guilty by reason of Insanity.”

8.

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.

9.

You are instructed that if there is any testimony before you in this case regarding the defendant’s prior work history, you cannot consider said testimony for any purpose unless you find and believe beyond a reasonable doubt, and may only consider the same in determining the motive, intent, preparation, knowledge, lack of mistake, purpose, plan, opportunity, identity, or lack of accident of the defendant, if any, in connection with the offense, if any, alleged against him in the indictment in this case, and for no other purpose.

10.

A grand jury indictment is the means whereby a Defendant is brought to trial in a felony prosecution. It is not evidence of guilt nor can it be considered by you in passing upon the issue of guilt of the Defendant. The burden of proof in all criminal cases rests upon the State throughout the trial, and never shifts to 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 a person has been arrested, confined, 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".

You are the exclusive judges of the facts proved, of the credibility of the witnesses and the weight to be given their testimony. You will be governed by the law you shall receive in these written instructions.

When you retire to the jury room, you should first select one of your members as Presiding Juror. It is the Presiding Juror's duty to preside at your deliberations, vote with you, and when you have unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form attached thereto, and signing the same as Presiding Juror.

In order to return a verdict, each juror must agree thereto, but jurors have a duty to consult with each other and to deliberate with a view of reaching an agreement, if it can be done without violence to individual judgment.

Each juror must decide the case for himself or herself, but only after an impartial consideration of the evidence with his or her fellow jurors.

In the course of deliberations, a juror should not hesitate to re-examine his or her own views and change his or her opinion if convinced it is erroneous. However, no juror should surrender his or her honest conviction as to the weight or effect of the evidence solely because of the opinion of his or her fellow jurors, or for the mere purpose of returning a verdict.

Do not discuss the case with anyone else, either in person or by any other means. Do not do any independent investigation about the case or conduct any research. Do not look up any words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with the other jurors. You may not use any electronic device or media, such as a telephone, cell phone, smart phone, iPhone, Blackberry or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, MySpace, LinkedIn, YouTube or Twitter, to communicate with anyone any information about this case or to conduct any research about this case until I accept your verdict.

During your deliberations in this case, you must not consider, discuss nor relate any matters not in evidence before you. You should not consider nor mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence.

You should not discuss or consider punishment for the offense charged for any purpose. You must concern yourselves solely with the question of guilt or innocence of the Defendant under these written instructions without regard to any possible punishment imposed by law for the offense charged.

During your deliberations, you are instructed that you should not consider the remarks, rulings or actions of the presiding judge during this trial as any indication of the Court's opinion as to the guilt or

innocence of the Defendant. The remarks, rulings and actions of the presiding judge were upon matters of the law only and were not upon the facts which you and you alone must determine.

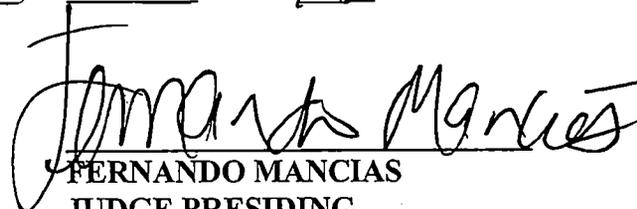
While you are deliberating, no one has authority to communicate with you except the officer who has you in charge being the Bailiff. However, after you have retired, you may communicate with the Court as to any questions you may have, but that communication must be in writing through the officer of the Court.

When you have reached a verdict you will notify the bailiff in writing, as to reaching a verdict, but not what the verdict is.

Do not let bias, prejudice, or sympathy play any part in your deliberations.

Your verdict must be unanimous, and after you have reached a unanimous verdict, the Presiding Juror will certify thereto by signing the appropriate form attached to this charge.

Filed on this the 28th day of March, 2022, at 8:30 o'clock A.m.


FERNANDO MANCIAS
JUDGE PRESIDING
93RD DISTRICT COURT
HIDALGO COUNTY, TEXAS

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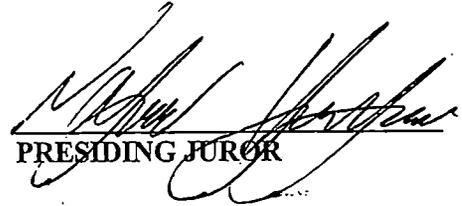
**THE STATE OF TEXAS
VS
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**IN THE 93RD DISTRICT COURT
OF
HIDALGO COUNTY, TEXAS**

JURY VERDICT

We, the Jury, find the Defendant, RAUL LOPEZ, GUILTY of the offense of AGGRAVATED ASSAULT as charged in the indictment.


PRESIDING JUROR

OR

We, the Jury, find the Defendant, RAUL LOPEZ, NOT GUILTY BY REASON OF INSANITY.

PRESIDING JUROR

OR

We, the Jury, find the Defendant, RAUL LOPEZ, NOT GUILTY.

PRESIDING JUROR