

FILED
AT 2:31 O'CLOCK P.M.

MAR 26 2021

CAUSE NO. CR-0963-18-B

THE STATE OF TEXAS

vs.

FABIAN MARTINEZ PAREDES

§
§
§
§
§

IN THE DISTRICT COURT, CLERK
District Courts, Hidalgo County
93RD JUDICIAL DISTRICT Deputy#17
HIDALGO COUNTY, TEXAS

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, FABIAN MARTINEZ PAREDES, stands charged by indictment with the offense of Murder, alleged to have been committed on or about OCTOBER 9, 2017, in Hidalgo County, Texas. To this charge, the Defendant has pleaded not guilty.

1.

You are instructed that our law provides that a person commits the offense of Murder

(1) if he intentionally or knowingly causes the death of an individual;

(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) 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.

2.

“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.

3

A person commits the offense of deadly conduct if he knowingly discharges a firearm at or in the direction of (1) one or more individuals. When a person knowingly discharges a firearm at or in the direction of (1) or more individuals, it is a felony.

4.

A person attempts to commits an offense, if, with specific intent to commit an offense, he does an act amounting to more than mere preparation that tends, but fails, to effect the commission of the offense intended. This is an attempt to commit an offense.

5.

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.

A person acts knowingly, or with knowledge, with respect to the nature of his conduct when he is aware of the nature of his conduct. 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.

6.

Now if you find from the evidence beyond a reasonable doubt that FABIAN MARTINEZ PAREDES, on or about October 9, 2017, in Hidalgo County Texas, did then and there intentionally or knowingly cause the death of an individual, namely, Joshua David Sanchez, by shooting him with a firearm;

Or if if you find from the evidence beyond a reasonable doubt that FABIAN MARTINEZ PAREDES, on or about October 9, 2017, in Hidalgo County Texas, did then and there with intent to cause serious bodily injury to an individual, namely Joshua David Sanchez, commit an act clearly dangerous to human life that caused the death of the said Joshua David Sanchez by shooting him with a firearm;

Or if you find from the evidence beyond a reasonable doubt that FABIAN MARTINEZ PAREDES, on or about October 9, 2017, in Hidalgo County Texas, did then and there intentionally or knowingly commit or attempt to commit an act clearly dangerous to human life, to wit: discharge a firearm at or in the

direction of one or more individuals that caused the death of Joshua David Sanchez and FABIAN MARTINEZ PAREDES was in the course of intentionally or knowing committing a felony, to wit: Deadly Conduct and the death of Joshua David Sanchez was caused while the defendant was in the course of and in furtherance of or in the immediate flight from the commission or attempt of the felony, then you will find the Defendant, FABIAN MARTINEZ PAREDES, guilty of Murder as charged in the indictment;

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt as to whether Defendant is guilty of the offense of Murder, then you will acquit the Defendant and say by your verdict not guilty.

7.

Upon the law of self-defense, you are instructed that a person is justified in using force against another when and to the degree that the actor reasonably believes the force is immediately necessary to protect oneself against the other person's use or attempted use of unlawful force.

A person is justified in using deadly force against another if the actor (1) would be justified in using force against the other in the first place, as above set out, and (2) when the actor reasonably believes that such deadly force is immediately necessary to protect oneself against the other person's use or attempted use of unlawful deadly force.

You are instructed that under our law a person is justified in using force or deadly force against another to protect a third person if, under the circumstances as he reasonably believes them to be, such person would be justified in using force or deadly force to protect himself against the unlawful force or deadly force of another which he reasonably believes to be threatening the third person he seeks to protect, and he reasonably believes that his intervention is immediately necessary to protect the third person.

A person is not justified in using force against another in response to verbal provocation alone.

"Reasonable belief" means a belief that would be held by an ordinary and prudent person in the same circumstances as the defendant.

“Deadly Force” means force that is intended or known by the person using it to cause, or in the manner of its use or intended use is capable of causing death or serious bodily injury.

When a person is attacked with unlawful deadly force, or he reasonably believes he is under attack or attempted attack with unlawful deadly force, and there is created in the mind of such person a reasonable expectation or fear of death or serious bodily injury, then the law excuses or justifies such person in resorting to deadly force by any means at his command to the degree that he reasonably believes immediately necessary, viewed from his standpoint at the time, to protect himself from such attack or attempted attack. It is not necessary that there be an actual attack or attempted attack, as a person has a right to defend his life and person from apparent danger as fully and to the same extent as he would had the danger been real, provided that he acted upon a reasonable apprehension of danger, as it appeared to him from his standpoint at the time, and that he reasonably believed such deadly force was immediately necessary to protect himself against the other person’s use or attempted use of unlawful deadly force.

In determining the existence of real or apparent danger, you should consider all the facts and circumstances in evidence before you, all relevant facts and circumstances surrounding the killing, if any, the previous relationships existing between the accused and the deceased, together with all relevant facts and circumstances going to show the condition of the mind of the defendant at the time of the offense, and, in considering such circumstances, you should place yourselves in the defendant’s position at that time and view them from his standpoint alone.

Now, if you find from the evidence beyond a reasonable doubt that on or about October 9, 2017, in Hidalgo County, Texas, the defendant, FABIAN MARTINEZ PAREDES, did then and there intentionally or knowingly cause the death of an individual, namely, Joshua David Sanchez, by shooting him with a firearm, as alleged in the indictment, but you further find from the evidence, as viewed from the standpoint of the Defendant at that time, it reasonably appeared to the defendant that his life or person was in danger and there was created in his mind a reasonable expectation or fear of death or serious bodily injury from the

use of unlawful deadly force at the hands of Joshua David Sanchez, and that acting under such apprehension and reasonably believing that use of deadly force on his part was immediately necessary to protect himself against Joshua David Sanchez's use or attempted use of unlawful deadly force, he shot, Joshua David Sanchez, with a firearm, then you should acquit the Defendant on the grounds of self defense or, if you have a reasonable doubt as to whether or not the defendant was acting in self-defense on said occasion and under the circumstances, then you should give the defendant the benefit of that doubt and say by your verdict "not guilty."

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.

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 that a person 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 Defendant 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.

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.

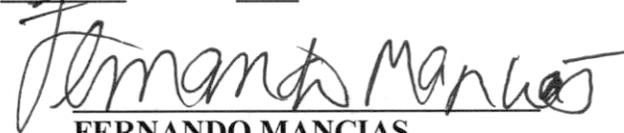
While you are deliberating, no one has authority to communicate with you except the officer who has you in charge, that being the Bailiff. However, after you have retired, you may communicate with the Court as to any questions you may have, but that communication must be in writing through the officer 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 the 25th of Oct, 2019, at 4:30 o'clock P.m.



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