

**FILED IN OPEN COURT**

CASE NUMBER CR-4463-15-B (COUNT TWO)

This 13 Day of June, 2016

THE STATE OF TEXAS  
VS  
FABIAN IGNACIO FLORES

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§  
§

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

CHARGE OF THE COURT

**LADIES AND GENTLEMEN OF THE JURY:**

The Defendant, FABIAN IGNACIO FLORES, stands charged by indictment with the offense of Aggravated Assault Against a Public Servant, alleged to have been committed on or about JUNE 11, 2015, in Hidalgo County, Texas. 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 causes bodily injury to another.

Such assault is aggravated assault when committed upon a peace officer in the lawful discharge of official duty when the person committing the assault knows or has been informed that the person assaulted is a peace officer.

2.

A "peace officer" means a person elected, employed, or appointed as a peace officer under Article 2.12, Code of Criminal Procedure.

By the term "bodily injury" is meant physical pain, illness, or any impairment of physical condition.

By the term "serious bodily injury" is meant 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 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, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist. 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.**

**4.**

**Now if you find from the evidence beyond a reasonable doubt that on or about JUNE 11, 2015, in Hidalgo County, Texas, the Defendant, FABIAN IGNACIO FLORES, did then and there, intentionally or knowingly threaten CHRISTOPHER GUERRA with imminent bodily injury, and the defendant did then and there use a deadly weapon, to wit: a motor vehicle, and the defendant did then and there know that the said CHRISTOPHER GUERRA was a public servant, to wit: a city of Donna peace officer, and the said CHRISTOPHER GUERRA was then and there lawfully discharging an official duty, to wit: attempting to detain the defendant, then you will find the Defendant guilty of Aggravated Assault Against a Public Servant, as charged in the indictment.**

**Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of Aggravated Assault Against a Public Servant and next consider whether he is guilty of the lesser included offense of Deadly Conduct.**

**A person commits the offense of deadly conduct if he recklessly engages in conduct that places another in imminent danger of serious bodily injury.**

**Now, if you find from the evidence beyond a reasonable doubt that on or about JUNE 11, 2015, in Hidalgo County, Texas, the Defendant, FABIAN IGNACIO FLORES, did then and there, recklessly drive a motor vehicle at CHRISTOPHER GUERRA and place CHRISTOPHER GUERRA in imminent danger of serious bodily injury, then you will find the Defendant guilty of Deadly Conduct.**

**Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the Defendant, "Not Guilty."**

5.

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.

6.

You are instructed that if any evidence has been introduced during the course of this trial concerning the Defendant's involvement in offenses other than the offense on trial, you cannot consider such evidence for any purpose unless you first find from the evidence presented beyond a reasonable doubt that the Defendant committed these other offenses, if any. Therefore, if the State has not proven the Defendant's guilt of these other offenses, if any, beyond a reasonable doubt, or if you have a reasonable doubt of the Defendant's guilt, you shall not consider this evidence for any purpose.

Further, even if you find the State has proven the Defendant's guilt of such other offenses, if any, you may only consider this evidence as it may aid you, if it does, in determining motive, opportunity, or intent, in relation to the offense on trial, and you may not consider these other offenses for any other purpose.

7.

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 proves 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 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 23 day of June, 2016, at 1:45 o'clock p.m.

  
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JUDGE RUDY DELGADO  
JUDGE PRESIDING  
93RD DISTRICT COURT  
HIDALGO COUNTY, TEXAS