

CAUSE NUMBER CR-5212-15-E (COUNT 1)

*Filed  
6-22-18  
yeg*

THE STATE OF TEXAS \*  
VS \*  
HECTOR JAVIER RODRIGUEZ ALVARADO \*

IN THE AUXILLARY COURT A  
OF  
HIDALGO COUNTY, TEXAS

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, HECTOR JAVIER RODRIGUEZ ALVARADO, stands charged by indictment with the offense of Capital Murder, alleged to have been committed in Hidalgo County, Texas, on or about May 1, 2015; and to this charge the defendant has pled "Not Guilty."

1.

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

A person commits the offense of Capital Murder when such person murders more than one person during the same criminal transaction.

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 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.

All persons are parties to an offense who are guilty of acting together in the commission of an offense. A person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both. Each party to an offense may be charged with the commission of the offense.

A person is criminally responsible for an offense committed by the conduct of another, if acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids or attempts to aid the other person to commit the offense. Mere presence alone will not constitute one a party to an offense.

If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy.

A person commits criminal conspiracy if with intent that a felony be committed he agrees with one or more persons that they or one or more of them engage in conduct that would constitute the offense and he or one or more of them performs an overt act in pursuance of the agreement.

An agreement constituting a conspiracy may be inferred from acts of the parties.

3.

Now if you find from the evidence beyond a reasonable doubt that on or about the May 1, 2015, in Hidalgo County, Texas, Edwin Salinas or Carlos Palacios or both did then and there intentionally or knowingly cause the death of an individual, namely Lazaro Alejandro Martinez Esparza, by shooting him with a firearm, and did then and there intentionally or knowingly cause the death of another individual, namely Jose Luis Salinas Torres, by shooting him with a firearm, and both murders were committed during the same criminal transaction, and the Defendant, HECTOR JAVIER RODRIGUEZ ALVARADO did then and there acting with intent to promote or assist in the commission of said capital murder encourage, aid or attempt to aid Edwin Salinas or Carlos Palacios or both to commit the Capital Murder then you will find the Defendant, HECTOR JAVIER RODRIGUEZ ALVARADO, guilty of CAPITAL MURDER,

Unless you unanimously find from the evidence beyond a reasonable doubt that the Defendant is guilty of Capital Murder, or if you have a reasonable doubt thereof, you will acquit the Defendant of Capital Murder, and say by your verdict "Not Guilty".

4.

You are instructed that you may consider all relevant facts and circumstances surrounding the killing, if any, and the previous relationship existing between the accused and the deceased, if any, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the shooting in question, if any.

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.

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 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.

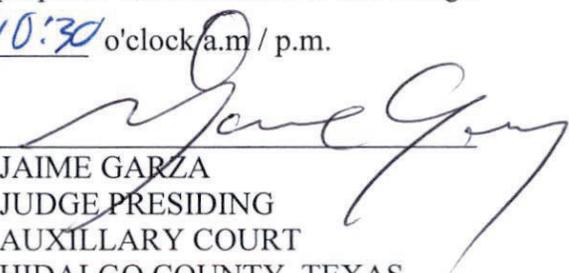
When you have reached a verdict you will notify the bailiff in writing, as to reaching a verdict, but not what the verdict is.

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 22 day of June, 2018, at 10:30 o'clock a.m / p.m.

  
JAIME GARZA  
JUDGE PRESIDING  
AUXILLARY COURT  
HIDALGO COUNTY, TEXAS