

THE STATE OF TEXAS
VS
RAY VINCENT VALLEJO

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IN THE 275TH DISTRICT COURT
OF
HIDALGO COUNTY, TEXAS
By Laura Hinojosa Clerk
Deputy Deputy

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, RAY VINCENT VALLEJO, stands charged by indictment with the offense of Capital Murder alleged to have been committed in Hidalgo County, Texas, on or about JUNE 21, 2009, and to this charge the Defendant has pleaded 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 intentionally commits the murder in the course of committing or attempting to commit the offense of Robbery.

2.

A person commits the offense of Robbery if, in the course of committing theft, and with intent to obtain or maintain control of the property, he intentionally, knowingly, or recklessly, causes bodily injury to another.

A person commits the offense of Aggravated Robbery if he commits Robbery as defined above and he uses or exhibits a deadly weapon.

"In the course of committing theft" means conduct that occurs in an attempt to commit, during the commission or in immediate flight after the attempt or commission of theft.

"Attempt" to commit an offense occurs if, with specific intent to commit an offense, a person does an act amounting to more than mere preparation that tends, but fails, to effect the commission of the offense intended.

Deadly Weapon means a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or seriously bodily injury;

Anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

"Bodily injury" means physical pain, illness, or any impairment of physical condition, including death.

"Deprive" as used herein means to withhold property from the owner permanently.

"Theft" as used herein is the unlawful appropriation of the corporeal personal property of another, with the intent to deprive such other person of said property.

"Appropriation" and "appropriate," as those terms are used herein, mean to acquire or otherwise exercise control over property other than real property. Appropriation of property is unlawful if it is without the owner's effective consent.

"Property" as used herein means tangible or intangible personal property or documents, including money that represent or embody anything of value.

"Effective consent" means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner. Consent is not effective if induced by deception or coercion.

"Owner" means a person who has title to the property, possession of the property, or a greater right to possession of the property than the person charged. "Possession" means actual care, custody, control or management of the property.

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, 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 is criminally responsible if the result would not have occurred but for his conduct.

4.

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.

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.

5.

Now, if you find from the evidence beyond a reasonable doubt that on or about JUNE 21, 2009, in Hidalgo County, Texas, the Defendant, RAY VINCENT VALLEJO, did then and there intentionally cause the death of an individual, namely, DONNA LEE BOCANEGRA, by shooting her with a firearm, and the Defendant was then and there in the course of committing or attempting to commit the offense of Aggravated Robbery;

OR

If you find from the evidence beyond a reasonable doubt that on or about JUNE 21, 2009, in Hidalgo County, Texas, LIONZO CANTU, did then and there intentionally cause the death of an individual, namely, DONNA LEE BOCANEGRA, by shooting her with a firearm, and LIONZO CANTU was then there in the course of committing or attempting to commit the offense of Aggravated Robbery, and that the Defendant, RAY VINCENT VALLEJO, then and there knew of the intent, if any, of the said LIONZO CANTU to rob and kill the said DONNA LEE BOCANEGRA, and the Defendant RAY VINCENT VALLEJO acted with intent to promote or assist the commission of the offense by LIONZO CANTU by encouraging, directing, aiding or attempting to aid LIONZO CANTU to commit the offense of Capital Murder of DONNA LEE BOCANEGRA, by shooting her with a firearm, then you will find the Defendant RAY VINCENT VALLEJO guilty of the offense of Capital Murder, as charged in the indictment.

Unless you find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant RAY VINCENT VALLEJO of the offense of Capital Murder.

6.

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.

7.

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.

8.

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

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.

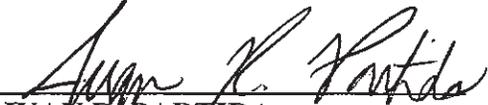
While you are deliberating, no one has authority to communicate with you except the officer who has you in charge being the Bailiff. However, after you have retired, you may communicate with the Court as to any questions you may have, but that communication must be in writing through the officer of the 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 2nd day of March, 2011, at 10:00 o'clock A. .m.


JUAN R. PARTIDA
JUDGE PRESIDING
275TH DISTRICT COURT
HIDALGO COUNTY, TEXAS