

CASE NO. CR-2629-10-F (COUNT TWO)

**THE STATE OF TEXAS
VS
JAIME ARTURO VILLARREAL**

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§**

**IN THE 332ND DISTRICT COURT
OF
HIDALGO COUNTY, TEXAS**

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, JAIME ARTURO VILLARREAL, stands charged by indictment with the offense of Attempted Capital Murder alleged to have been committed on or about JUNE 10, 2010, in Hidalgo County, Texas. 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 kidnapping.

2.

Our law provides that a person commits the offense of Kidnapping if the person intentionally or knowingly abducts another person.

3.

“Abduct” means to restrain a person with intent to prevent the person’s liberation by (a) secreting or holding the person in a place where the person is not likely to be found, or (b) using or threatening to use deadly force.

“Restrain” means to restrict a person’s movements without consent, as to interfere substantially with the person’s liberty, by moving the person from one place to another or by confining the person. Restraint is “without consent” if it is accomplished by (a) force, intimidation, or deception; or (b) any means, including acquiescence of the victim, if the victim is a child less than 14 years of age or an incompetent person and the parent, guardian, or person or institution acting in loco parentis has not acquiesced in the movement or

confinement.

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

“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.

4.

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.

5.

Now, if you find from the evidence beyond a reasonable doubt that on or about JUNE 10, 2010, in Hidalgo County, Texas, the Defendant, JAIME ARTURO VILLARREAL, did then and there with the specific intent to cause the death of MELISSA SUE MARTINEZ, do an act, to-wit: shoot MELISSA SUE MARTINEZ with a deadly weapon, to wit: a firearm, which act amounted to more than mere preparation that tended but failed to effect the commission of the offense intended, and the Defendant was then and there in the course of committing or attempting to commit the offense of kidnapping of MELISSA SUE MARTINEZ, then you will find the Defendant guilty of Attempted Capital Murder as charged in the indictment.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of the offense of Attempted Capital Murder.

6.

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.

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 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.

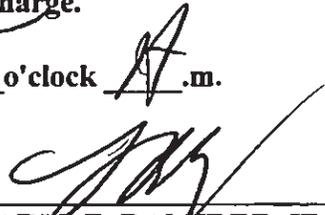
While you are deliberating, no one has authority to communicate with you except the officer who has you in charge being the Bailiff. However, after you have retired, you may communicate with the Court as to any questions you may have, but that communication must be in writing through the Bailiff.

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 7 day of October, 2011 at 11:15 o'clock A.m.



MARIO E. RAMIREZ, JR.
JUDGE PRESIDING
332ND DISTRICT COURT
HIDALGO COUNTY, TEXAS