

CAUSE NO. 2021-DCR-2444

THE STATE OF TEXAS

VS.

YORDI BARTHELEMY

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IN THE DISTRICT COURT OF

357TH JUDICIAL DISTRICT

CAMERON COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The Defendant, YORDI BARTHELEMY, stands charged by indictment with the offense of Capital Murder, alleged to have been committed in Cameron County, Texas, on or about the 7TH day of AUGUST, 2021. To this charge the defendant has pleaded not guilty. You are instructed that the law applicable to this case is as follows:

I.

A person commits the offense of Murder if he intentionally or knowingly causes the death of an individual.

A person commits the offense of Capital Murder if he commits murder as defined above, and he murders more than one person during the same criminal transaction.

II.

“Individual” means a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.

III.

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

IV.

Upon the law of self-defense you are instructed that a person is justified in using force against others when and to the degree he reasonably believes the force is immediately necessary to protect himself against the others' use or attempted use of unlawful force.

The use of force against others is not justified in response to verbal provocation alone.

A person is justified in using deadly force against others if the person would be justified in using force against the other, and when and to the degree the person reasonably believes the deadly force is immediately necessary to protect himself against the other's use or attempted use of unlawful deadly force.

The defendant's belief that the deadly force was immediately necessary is presumed to be reasonable if the defendant knew or had reason to believe that the person against whom the deadly force was used was committing or attempting to commit murder, the defendant did not provoke the person against whom the force was used, and the defendant was not otherwise engaged in criminal activity (other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic) at the time the force was used.

A person who has a right to be present at the location where the deadly force is used, who has not provoked the person against whom the deadly force is used, and who is not engaged in criminal activity at the time the deadly force is used, is not required to retreat before using deadly force, and the finder of fact, when determining whether the actor reasonably believed that the use of deadly force was necessary, may not consider whether the actor failed to retreat.

“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.

“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.

The presumption of reasonable belief applies unless the State proves beyond a reasonable doubt that the facts giving rise to the presumption do not exist. If the State fails to prove beyond a reasonable doubt that the facts giving rise to the presumption do not exist, the jury must find that the presumed facts exist. Even though the jury may find the presumed fact does not exist, the state must prove beyond a reasonable doubt each of the elements of the offense charged. If the jury has a reasonable doubt as to whether the presumed facts exist, the presumption applies and the jury must consider the presumed fact to exist.

V.

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

VI.

Capital Murder

Now, bearing in mind the foregoing instructions, if you unanimously find from the

evidence beyond a reasonable doubt that the defendant, YORDI BARTHELEMY, on or about the 7TH day of AUGUST, 2021, in the County of Cameron, and State of Texas, as alleged in the indictment, did then and there murder more than one person during the same criminal transaction, to-wit: the said YORDI BARTHELEMY did then and there intentionally or knowingly cause the death of an individual, namely, SANDRA NAPOLES, by shooting SANDRA NAPOLES with a firearm, and did then and there intentionally or knowingly cause the death of another individual, namely, ZULEMA HERNANDEZ-NAPOLES, by shooting ZULEMA HERNANDEZ-NAPOLES with a firearm, and did then and there intentionally or knowingly cause the death of another individual, namely, ODALYS HERNANDEZ, by shooting ODALYS HERNANDEZ with a firearm, but you further find from the evidence, or have a reasonable doubt thereof, that the defendant reasonably believed, or is presumed to have reasonably believed, that deadly force when and to the degree used, was immediately necessary to protect himself against the use or attempted use of unlawful deadly force by the said SANDRA NAPOLES, or ZULEMA HERNANDEZ-NAPOLES, or ODALYS HERNANDEZ, then you will acquit the defendant of capital murder and so say by your verdict "not guilty."

Now, if you do not so find that the defendant acted in self defense, but you unanimously find from the evidence beyond a reasonable doubt that the defendant, YORDI BARTHELEMY, on or about the 7TH day of AUGUST, 2021, in the County of Cameron, and State of Texas, as alleged in the indictment, did then and there murder more than one person during the same criminal transaction, to-wit: the said YORDI BARTHELEMY did then and there intentionally or knowingly cause the death of an individual, namely, SANDRA NAPOLES, by shooting SANDRA NAPOLES with a firearm, and did then and there intentionally or knowingly cause the death of

another individual, namely, ZULEMA HERNANDEZ-NAPOLES, by shooting ZULEMA HERNANDEZ-NAPOLES with a firearm, and did then and there intentionally or knowingly cause the death of another individual, namely, ODALYS HERNANDEZ, by shooting ODALYS HERNANDEZ with a firearm, then you will find the defendant guilty of capital murder as charged in the indictment.

VII.

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 question 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.

VIII.

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 he has been arrested, confined, 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 him 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, but the law you shall receive in these written instructions, and you must be governed thereby.

After you retire to the jury room, you should select one of your members as your Presiding Juror. It is his or her 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 hereto and signing the same as Presiding Juror.

Any notes you have taken are for your own personal use. You may take your notes back into the jury room and consult them during deliberations, but do not show or read your notes to your fellow jurors during your deliberations. Your notes are not evidence. Each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes.

You must leave your notes with the bailiff when you are not deliberating. The bailiff will give your notes to me promptly after collecting them from you. I will make sure your notes are kept in a safe, secure location and not disclosed to anyone. After you complete your deliberations, the bailiff will collect your notes. When you are released from jury duty, the bailiff will promptly destroy your notes so that nobody can read what you wrote.

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

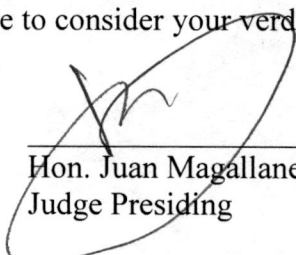
by the evidence.

No one has any authority to communicate with you except the officer who has you in charge. After you have retired, you may communicate with this Court in writing through this officer. Any communication relative to the cause must be written, prepared and signed by the Presiding Juror and shall be submitted to the Court through this officer. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the Court, or anyone else concerning any questions you may have.

Your sole duty at this time is to determine the guilt or innocence of the defendant under the indictment in this cause and restrict your deliberations solely to the issue of guilt or innocence of the defendant. You shall not discuss or consider punishment.

Following the arguments of counsel, you will retire to consider your verdict.

5/12/23



Hon. Juan Magallanes
Judge Presiding

FILED 5:32 o'clock P M
LAURA PEREZ-REYES - DISTRICT CLERK

MAY 12 2023

DISTRICT COURT OF CAMERON COUNTY, TEXAS

By Norma Garcia Deputy

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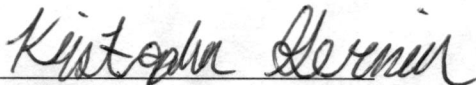
VERDICT OF THE JURY AS TO CAPITAL MURDER

We, the jury, find the defendant, YORDI BARTHELEMY, guilty of the offense of Capital Murder, as charged in the indictment.

Presiding Juror

OR

We, the jury, find the defendant, YORDI BARTHELEMY, not guilty of the offense of Capital Murder as charged in the indictment.



Presiding Juror