

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.

The definition of recklessly relative to the offense of manslaughter is as follows:

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 as viewed from the defendant's standpoint.

You are instructed that it is your duty to consider the evidence of all relevant facts and circumstances surrounding the deaths and the previous relationship, if any, existing between the accused and Lucy Maloney and the accused and Deborah Maloney together with all relevant facts and circumstances going to show the condition of the mind of the defendant at the time of the alleged offense.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 13th day of December, 2006, in Harris County, Texas, the defendant, Joshua Ray Juarez, did then and there unlawfully, during the same criminal transaction, intentionally or knowingly cause the death of Lucy Maloney by stabbing Lucy Maloney with a deadly weapon, namely a knife and did intentionally or knowingly cause the death of Deborah Maloney by stabbing Deborah Maloney with a deadly weapon, namely a knife, then you will find the defendant guilty of capital murder, as charged in the indictment.

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

attempted use of unlawful force. The use of force against another is not justified in response to verbal provocation alone.

A person is justified in using deadly force against another if he would be justified in using force against the other in the first place, as above set out, and when he reasonably believes that such deadly force is immediately necessary to protect himself against the other person's use or attempted use of unlawful deadly force, and if a reasonable person in the defendant's situation would not have retreated.

By the term "reasonable belief" as used herein is meant a belief that would be held by an ordinary and prudent person in the same circumstances as the defendant.

By the term "deadly force" is meant force that is intended or known by the persons using it to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.

When a person is attacked with unlawful deadly force, or he reasonably believes he is under attack or attempted attack with unlawful deadly force, and there is created in the mind of such person a reasonable expectation or fear of death or serious bodily injury, then the law excuses or justifies such person in resorting to deadly force by any means at his command to the degree that he reasonably believes immediately necessary, viewed from his standpoint at the time, to protect himself from such attack or attempted attack. And it is not necessary that there be an actual attack or attempted attack, as a person has a right to defend his life and person from apparent danger as fully and to the same extent as he would had the danger been real, provided that he acted upon a reasonable apprehension of danger, as it appeared to him from his standpoint at the time, and that he reasonably believed such deadly force was immediately necessary to protect himself against the other person's use or attempted use of unlawful deadly force.

In determining the existence of real or apparent danger, you should consider all the facts and circumstances in the case in evidence before you, together with all relevant facts and

circumstances going to show the condition of the mind of the defendant at the time of the occurrence in question, and in considering such circumstances, you should place yourselves in the defendant's position at that time and view them from his standpoint alone.

You are instructed that you may consider all relevant facts and circumstances surrounding the offense, if any, and the previous relationship existing between the accused and Lucy Maloney and/or Deborah Maloney, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the offense, if any.

Therefore, if you find from the evidence beyond a reasonable doubt that the defendant, Joshua Ray Juarez, did cause the death of Lucy Maloney by stabbing Lucy Maloney with a deadly weapon, namely a knife, and cause the death of Deborah Maloney by stabbing Deborah Maloney with a deadly weapon, namely a knife, as alleged, but you further find from the evidence, as viewed from the standpoint of the defendant at the time, that from the words or conduct, or both of Lucy Maloney and/or Deborah Maloney it reasonably appeared to the defendant that his life or person was in danger and there was created in his mind a reasonable expectation or fear of death or serious bodily injury from the use of unlawful deadly force at the hands of Lucy Maloney and/or Deborah Maloney, and that acting under such apprehension and reasonably believing that the use of deadly force on his part was immediately necessary to protect himself against Lucy Maloney and/or Deborah Maloney's use or attempted use of unlawful deadly force, he stabbed Lucy Maloney and Deborah Maloney and that a reasonable person in the defendant's situation would not have retreated, then you should acquit the defendant of capital murder on the grounds of self-defense; or if you have a reasonable doubt as to whether or not the defendant was acting in self-defense on said occasion and under the circumstances, then you should give the defendant the benefit of that doubt and say by your verdict, not guilty of capital murder.

If you find from the evidence beyond a reasonable doubt that at the time and place in question the defendant did not reasonably believe that he was in danger of death or serious bodily injury, or that a reasonable person in the defendant's situation would have retreated before using deadly force against Lucy Maloney and Deborah Maloney, or that the defendant, under the circumstances as viewed by him from his standpoint at the time, did not reasonably believe that the degree of force actually used by him was immediately necessary to protect himself against Lucy Maloney and/or Deborah Maloney's use or attempted use of unlawful deadly force, then you should find against the defendant on the issue of self-defense.

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 capital murder and next consider whether the defendant is guilty of the lesser offense of murder.

Therefore, if you find from the evidence beyond a reasonable doubt that on or about the 13th day of December, 2006, in Harris County, Texas, the defendant, Joshua Ray Juarez, did then and there unlawfully, intentionally or knowingly cause the death of Lucy Maloney, by stabbing Lucy Maloney with a deadly weapon, namely a knife; or

If you find from the evidence beyond a reasonable doubt that on or about the 13th day of December, 2006, in Harris County, Texas, the defendant, Joshua Ray Juarez, did then and there unlawfully intend to cause serious bodily injury to Lucy Maloney, and did cause the death of Lucy Maloney by intentionally or knowingly committing an act clearly dangerous to human life, namely by stabbing Lucy Maloney with a deadly weapon, namely a knife; or

If you find from the evidence beyond a reasonable doubt that on or about the 13th day of December, 2006, in Harris County, Texas, the defendant, Joshua Ray Juarez, did then and there unlawfully, intentionally or knowingly cause the death of Deborah Maloney, by stabbing Deborah Maloney with a deadly weapon, namely a knife; or

If you find from the evidence beyond a reasonable doubt that on or about the 13th day of December, 2006, in Harris County, Texas, the defendant, Joshua Ray Juarez, did then and there unlawfully intend to cause serious bodily injury to Deborah Maloney, and did cause the death of Deborah Maloney by intentionally or knowingly committing an act clearly dangerous to human life, namely by stabbing Deborah Maloney with a deadly weapon, namely a knife, then you will find the defendant guilty of murder.

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 murder and next consider whether the defendant is guilty of the lesser offense of manslaughter.

Therefore, if you find from the evidence beyond a reasonable doubt that on or about the 13th day of December, 2006, in Harris County, Texas, the defendant, Joshua Ray Juarez, did then and there unlawfully, recklessly cause the death of Lucy Maloney, by stabbing Lucy Maloney with a deadly weapon, namely a knife; or

If you find from the evidence beyond a reasonable doubt that on or about the 13th day of December, 2006, in Harris County, Texas, the defendant, Joshua Ray Juarez, did then and there unlawfully, recklessly cause the death of Deborah Maloney, by stabbing Deborah Maloney with a deadly weapon, namely a knife, then you will find the defendant guilty of manslaughter.

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 manslaughter.

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either capital murder on the one hand or murder on the other hand, but you have a reasonable doubt as to which of said offenses he is guilty, then you must resolve that doubt in the defendant's favor and find him guilty of the lesser offense of murder.

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either murder on the one hand or manslaughter on the other hand, but you have a reasonable doubt

as to which of said offenses he is guilty, then you must resolve that doubt in the defendant's favor and find him guilty of the lesser offense of manslaughter.

If you have a reasonable doubt as to whether the defendant is guilty of any offense defined in this charge you will acquit the defendant and say by your verdict "Not Guilty."

A videotaped statement of an accused may be used in evidence against him if it appears that the same was freely and voluntarily made without compulsion or persuasion.

A videotaped statement of an accused means a statement made by the accused.

No videotaped statement made by an accused as a result of custodial interrogation while the accused was in jail or other place of confinement or in the custody of a peace officer is admissible as evidence against him in any criminal proceeding unless it is shown in the statement that:

(a) the accused, prior to making the statement, but during the recording he received from the person to whom the statement is made a warning that:

- (1) he has the right to remain silent and not make any statement at all and that any statement he makes may be used against him at his trial;
- (2) any statement he makes may be used as evidence against him in court;
- (3) he has the right to have a lawyer present to advise him prior to and during any questioning;
- (4) if he is unable to employ a lawyer, he has the right to have a lawyer appointed to advise him prior to and during any questioning;
- (5) he has the right to terminate the interview at any time.

(b) the accused, prior to and during the making of the statement, knowingly, intelligently, and voluntarily waived the rights set out in the warning prescribed above.

So, in this case, if you find from the evidence, or if you have a reasonable doubt thereof, that prior to the time the defendant gave the alleged statement to Officer Selvera, if he did give it, the said Officer Selvera did not warn the defendant in the respects outlined above, or as to any one of such requirements, then you will wholly disregard the alleged statement and not consider it for any purpose; if, however, you find beyond a reasonable doubt that the aforementioned warning was given the defendant prior to his having made such statement

to Officer Selvera, if he did make it, still, before you may consider such statement as evidence in this case, you must find from the evidence beyond a reasonable doubt that prior to and during such statement, if any, the defendant knowingly, intelligently and voluntarily waived the rights hereinabove set out in the said warning, and unless you so find, or if you have a reasonable doubt thereof, you will not consider the statement for any purpose.

In addition thereto if you find from the evidence that the videotaped statement was made through compulsion or persuasion, or if you have a reasonable doubt thereof, you will not consider the statement for any purpose.

Voluntary intoxication does not constitute a defense to the commission of a crime. "Intoxication" means disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

You are further instructed that if there is any evidence before you in this case regarding the defendant's committing an alleged offense or offenses other than the offense alleged against him in the indictment in this case, you cannot consider such evidence for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offense or offenses, if any, and even then you may only consider the same in determining the motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident of the defendant, if any, in connection with the offense, if any, alleged against him in the indictment and for no other purpose.

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a right 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 to or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against him.

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.

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, 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 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 Foreman. 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 Foreman.

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 Foreman 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.

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

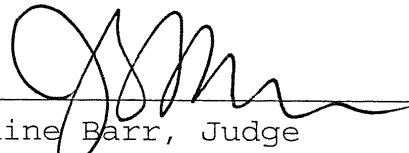
FILED

Theresa Chang
District Clerk

DEC 17 2007

Harris County, Texas

By _____
Deputy



Jeannine Barr, Judge
182nd District Court
Harris County, TEXAS

CAUSE NO. 1096823

THE STATE OF TEXAS
VS.
JOSHUA RAY JUAREZ

§ IN THE 182ND DISTRICT COURT
§ OF HARRIS COUNTY, TEXAS
§ NOVEMBER TERM, A. D., 2007

CHOOSE ONE

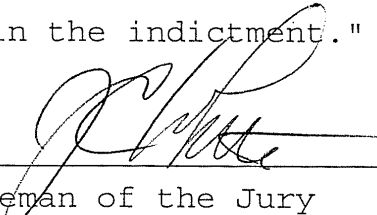
"We, the Jury, find the defendant, Joshua Ray Juarez, not guilty."

Foreman of the Jury

(Please Print) Foreman

"We, the Jury, find the defendant, Joshua Ray Juarez, guilty of capital murder, as charged in the indictment."

FILED
Theresa Chang
District Clerk
DEC 17 2007
Time: 4:58 p.m.
Harris County, Texas
By: [Signature] Deputy



Foreman of the Jury

JAMES C. WHITE

(Please Print) Foreman

"We, the Jury, find the defendant, Joshua Ray Juarez, guilty of murder."

Foreman of the Jury

(Please Print) Foreman

"We, the Jury, find the defendant, Joshua Ray Juarez, guilty of manslaughter."

Foreman of the Jury

(Please Print) Foreman