

11-DCR-058694  
CHCO  
Charge of the Court  
2314869



No. 11-DCR-058694

THE STATE OF TEXAS                   §           IN THE 400<sup>th</sup> DISTRICT COURT  
V.   §           OF  
RICHARD MENDOZA, JR.               §           FORT BEND COUNTY, TEXAS

**JURY CHARGE**

**MEMBERS OF THE JURY:**

The defendant, Richard Mendoza, Jr., stands charged by indictment with the offense of murder, alleged to have been committed on or about November 7<sup>th</sup>, 2002, in Fort Bend County, Texas. To this charge the defendant has pled not guilty.

I.

Our law provides that a person commits the offense of murder if he intentionally or knowingly causes the death of an individual.

II.

"Individual" means a human being who has been born and is alive.

"Firearm" means any device manifestly designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

Venue-- An offense committed on the boundaries of two or more counties, or within four hundred yards thereof, may be prosecuted and punished in any one of such counties.

III.

A person acts intentionally, or with intent, 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.

## IV.

Now, if you find from the evidence beyond a reasonable doubt that on or about November 7<sup>th</sup>, 2002, in Fort Bend County, Texas, the defendant, Richard Mendoza, Jr., did then and there intentionally or knowingly cause the death of an individual, namely Christopher Daigle, by shooting him with a firearm, as alleged in the indictment, you will find the defendant guilty as charged in the indictment.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not Guilty".

## V.

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 offense, if any.

Evidence of other crimes, wrongs or acts should not be considered by you to prove the character of the Defendant or to show action in conformity therewith. You are instructed if there is testimony before you in this case regarding the defendant having committed other acts other than the offense alleged against him in the indictment in this case, you cannot consider such other acts, if any, unless you first find and believe beyond a reasonable doubt that the Defendant committed such acts, if any, but if you do not believe, or if you have a reasonable doubt thereof, you will not consider such testimony for any purpose. You may only consider said acts, if any, for purposes of establishing the Defendant's motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

## VI.

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.

## VII.

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 the person's trial. The law does not require a defendant to prove his or her 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 a careful and impartial consideration of all the evidence in the case.

You are instructed that the criminal indictment is not evidence of guilt. It is the means whereby a Defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered by you in passing upon the innocence or guilt of this Defendant.

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.

If any juror starts to mention the defendant's election not to testify in this case, then it is the duty of the other jurors to stop him at once.

#### VIII.

During your deliberations in this case, you must not consider, discuss or relate any matters not in evidence before you. You should not consider or 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.

After you have retired to your 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 your verdict by signing the same as presiding juror. You are the exclusive judges of the facts proved, of the credibility of the witnesses, and of the weight to be given to the evidence, but you are bound to receive the law from the Court, which is herein given to you, and be governed thereby.

A form for your verdict is hereto attached; your verdict must be in writing and signed by your presiding juror. Your sole duty at this time is to determine the guilt or innocence of the Defendant and you are to restrict your deliberations solely to the issue of guilt or innocence of the Defendant.

No one has any authority to communicate with you except the officer who has you in charge. You may communicate with the court only in writing, signed by your presiding juror, delivered to the court by the officer who has you in charge. Do not attempt to talk to the officer, the attorneys, or the court concerning questions you may have.

After the court reads this charge, you may not separate from each other without the court's permission, nor may you talk with anyone not of your jury regarding this case. The presiding juror's duty is to preside at your deliberations and to vote with you in arriving at a unanimous verdict. After you have arrived at your verdict, you must have your presiding juror indicate the jury verdict by signing the particular form or forms that coincide with your verdict.

*Clifford J Nacek*  
Hon. Clifford J Nacek  
Judge Presiding

**FILED**  
FEB - 7 2013  
AT 9:29 A.M.  
*Chris Rene Garcia* RML  
Clerk District Court, Fort Worth Co., TX

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V.	§	OF
RICHARD MENDOZA, JR.	§	FORT BEND COUNTY, TEXAS

**VERDICT**

We, the Jury, find the Defendant Guilty of Murder as charged in the indictment.

*Michael Priddy*  
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 PRESIDING JUROR

**FILED**  
 FEB - 7 2013  
 AT 4:30 P.M.  
*Cheryl...* RML  
 Clerk District Court, Fort Bend Co., TX

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RICHARD MENDOZA, JR.	§	FORT BEND COUNTY, TEXAS

**VERDICT**

We, the Jury, find the Defendant Not Guilty of murder as charged in the indictment.

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**PRESIDING JUROR**