

NO. 04-CR-3453-C

STATE OF TEXAS VS. JOHN HENRY RAMIREZ, JR.
IN THE 94TH DISTRICT COURT
NUECES COUNTY, TEXAS

RECEIVED
JAN 14 2011

OFFICE OF
COURT ADMINISTRATION

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The defendant, JOHN HENRY RAMIREZ, JR. stands charged by indictment with the offense of CAPITAL MURDER, alleged to have been committed on or about the 19th day of July, 2004, in Nueces County, Texas. The defendant has pleaded not guilty.

1.

A person commits Capital Murder if he intentionally or knowingly causes the death of an individual in the course of committing or attempting to commit 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 (1) intentionally, knowingly or recklessly causes bodily injury to another or (2) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

3.

A person commits the offense of Theft if he unlawfully appropriates property with intent to deprive the owner of the property. Appropriation of property is

unlawful if it is without the owner's effective consent.

4.

"Attempt" means to commit an act with specific intent to commit an offense where the act committed amounts to more than mere preparation but fails to effect the commission of the offense intended.

"Individual" means a human being who is alive including an unborn child at every stage of gestation from fertilization to birth.

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

"Serious bodily injury" means a 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.

"Appropriation" means and "appropriate" mean to acquire or otherwise exercise control over property other than real property.

"Property" means tangible or intangible personal property or any document, including money, that represents or embodies a thing of value.

"Deprive" means to withhold property from the owner permanently.

"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, coercion, force or threats.

"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.

5.

You are instructed that under our law voluntary intoxication shall not constitute any defense to the commission of crime.

By the term "intoxication" as used herein is meant disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

6.

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 engage in the conduct or cause the result.

A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that the conduct is reasonably certain to cause the result.

A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but

consciously disregards a substantial and unjustifiable risk that the circumstances exist or 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 defendant's standpoint.

7.

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

8.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about the 19th day July, 2004, in Nueces County, Texas, the defendant, JOHN HENRY RAMIREZ, JR., did then and there intentionally or knowingly cause the death of an individual, Pablo Castro, by stabbing Pablo Castro with a knife while in the course of committing or attempting to commit the offense of Robbery of Pablo Castro, then you will find the defendant, JOHN HENRY RAMIREZ, JR., guilty of 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 shall next consider the lesser-included offense of Murder.

9.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on or about the 19th day July, 2004, in Nueces County, Texas, the defendant, JOHN HENRY RAMIREZ, JR., did then and there intentionally or knowingly cause the death of an individual, Pablo Castro, by stabbing Pablo Castro with a knife, but do not believe or have a reasonable doubt that it was in the course of committing or attempting to commit robbery, then you will find the defendant, JOHN HENRY RAMIREZ, JR., guilty of the lesser included offense of Murder.

Unless you find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty.

10.

If you should find from the evidence beyond a reasonable doubt that the defendant is either guilty of Capital Murder or Murder, but you have a reasonable doubt as to which offense he is guilty, then you should resolve that doubt in defendant's favor, and in such event, you will find the defendant guilty of the lesser offense of Murder.

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

11.

You are instructed that an "accomplice," as the term is here used, means anyone connected with the crime charged, as a party thereto, and includes all persons who are connected with the crime by unlawful act or omission on their part transpiring either before or during the time of the commission of the offense, and whether or not they were present and participated in the commission of the crime. A person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct or another for which he is criminally responsible, or by both. Mere presence alone, however, will not constitute one a party to an offense.

A person is criminally responsible for an offense committed by the conduct on another if, acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, or aids or attempts to aid the other person to commit the offense. The term "conduct" means any act or omission and its accompanying mental state.

A conviction cannot be had upon the testimony of an accomplice unless the jury first believe that the accomplice's evidence is true and that it shows the defendant is guilty of the offense charged against him, and even then you cannot convict unless the accomplice's testimony is corroborated by other evidence tending to connect the defendant with the offense charged, and the corroboration

is not sufficient if it merely shows the commission of the offense, but it must tend to connect the defendant with its commission.

You are further instructed that accomplice witnesses can not corroborate each other.

You are further instructed that mere presence of the accused in the company of an accomplice witness shortly before or after the time of the offense, if any, is not, in itself, sufficient corroboration of the accomplice witness' testimony.

You are further instructed that while the testimony of an accomplice must be corroborated by proof that tends to connect the defendant to the crime, the defendant's knowledge or intent may be established by the uncorroborated testimony of the accomplice.

You are charged that Christina Chavez was an accomplice if any offense was committed, and you are instructed that you cannot find the defendant guilty upon the testimony of Christina Chavez unless you first believe that the testimony of the said Christina Chavez is true and that it shows the defendant is guilty as charged in the indictment; and even then you cannot convict the defendant, JOHN HENRY RAMIREZ, JR., unless you further believe that there is other evidence in this case, outside the evidence of said Christina Chavez, tending to connect the defendant with the commission of the offense charged in the indictment and then from all the evidence you must believe beyond a reasonable doubt that the

defendant is guilty.

12.

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

13.

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.

14.

At this stage of the trial, the jury will restrict its deliberations solely to the issue of guilt or innocence.

15.

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.

16.

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.

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".

17.

The jury is the exclusive judge of the facts proved, of the credibility of the witnesses, and of the weight to be given their testimony. In deciding the question of guilt or innocence, the jury shall be governed by the law as it is stated in this charge.

18.

After entering the jury room, the jury must first select a presiding juror. The presiding juror presides over the deliberations, speaks for the jury when it wishes to communicate with the Court, and votes with the jury on the issues before it. Any verdict reached must be unanimous. Verdict Forms applicable to this case are attached to the charge. If a verdict is reached, it will be indicated by the presiding juror signing his or her name to the appropriate Verdict Form. Place your verdict on the page containing verdict forms.

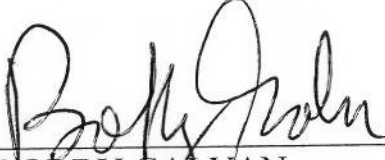
During the deliberations, the jury may not:

- (1) communicate with anyone except the Court or the officer in charge of the jury;
- (2) separate for any purpose without permission of the Court;
- (3) discuss the case except with each other in the privacy of the jury room; or
- (4) consider or discuss matters not in evidence including personal knowledge or information about any fact or person connected with the case.

Communications to the Court must be in writing. Written communications from the jury will be delivered to the Court by the officer in charge of the jury.

After the arguments of counsel, the jury will go to the jury room to begin its deliberations.

DATE: 12/5/08



BOBBY GALVAN
JUDGE PRESIDING

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IN THE 94TH DISTRICT COURT
NUECES COUNTY, TEXAS

VERDICT FORMS

USE ONLY ONE FORM:

We, the Jury, find the Defendant, JOHN HENRY RAMIREZ, JR., guilty of the offense of CAPITAL MURDER, as alleged in the indictment.



PRESIDING JUROR

OR

We, the Jury, find the Defendant, JOHN HENRY RAMIREZ, JR., guilty of the lesser included offense of MURDER.

PRESIDING JUROR

OR

We, the Jury, find the Defendant, JOHN HENRY RAMIREZ, JR., not guilty.

PRESIDING JUROR