



CAUSE NO. 1149721D

THE STATE OF TEXAS )  
vs. )  
ABEL NOE DOMINGUEZ )

IN CRIMINAL DISTRICT COURT  
NUMBER FOUR  
TARRANT COUNTY, TEXAS

FILED  
THOMAS A WILDER, DIST. CLERK  
TARRANT COUNTY, TEXAS

COURT'S CHARGE

SEP 16 2010

TIME 2:33 pm  
BY MLL DEPUTY

MEMBERS OF THE JURY:

The defendant, ABEL NOE DOMINGUEZ, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 8th day of March 2009, in Tarrant County, Texas. The defendant has pleaded not guilty.

A person commits the offense of murder when he intentionally or knowingly causes the death of an individual or if he intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual.

A person commits capital murder when such person intentionally commits the murder in the course of committing or attempting to commit the offense of burglary.

Our law provides that a person commits the offense of burglary if, without the effective consent of the owner, he enters a habitation or any portion of a building not then open to the public with intent to commit a felony, theft, or an assault.

Murder is a felony level offense.

A person commits an assault if the person intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse.

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

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“Enter,” as used above, is meant to intrude any part of the body or any physical object connected with the body into the building or habitation.

“Building” means any enclosed structure intended for use or occupation as a habitation or for some purpose of trade, manufacture, ornament or use.

“Habitation” means a structure or vehicle that is adapted for the overnight accommodation of persons, and includes each separately secured or occupied portion of the structure or vehicle and each structure appurtenant to or connected with the structure or vehicle.

“Theft” as used herein is the unlawful appropriation of the corporeal personal property of another with the intent to deprive such person of said property.

“Appropriation” and “appropriate,” as those terms are used herein, mean to acquire or otherwise exercise control over property other than real property.

Appropriation of property is unlawful if it is without the owner’s effective consent.

“Property” as used herein means tangible or intangible personal property or documents, including money that represents or embodies anything of value.

“Deprive” as used herein 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 or coercion.

“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 property.

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You are instructed that a "deadly weapon" is anything that 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 of impairment of the function of any bodily member or organ.

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.

You are instructed that it is a defense to prosecution that a person through mistake formed a reasonable belief about a matter of fact if his mistaken belief negated the kind of culpability required for commission of the offense.

A reasonable belief means a belief that would be held by an ordinary and prudent man in the same circumstances as the defendant.

So, if you find from the evidence in this case that at the time the defendant entered or remained in the habitation, if he did, he acted under a mistake of fact, that is, a reasonable belief that he was an owner of the property as that term is hereinbefore defined, or that his entry or remaining in the habitation was not without the effective consent of the owner, as that term is hereinbefore defined, or if you have a reasonable doubt thereof, you will acquit the defendant of capital murder and next consider whether he is guilty of the offense of murder.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 8th day of March 2009, in Tarrant County, Texas, the defendant,



ABEL NOE DOMINGUEZ, did then and there intentionally cause the death of an individual, Alma Garcia, by cutting her with a knife, and the said defendant was then and there in the course of committing or attempting to commit the offense of burglary, then you will find the defendant guilty of capital murder, as alleged in the indictment.

Unless you find 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 offense of murder.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 8th day of March 2009, in Tarrant County, Texas, the defendant, ABEL NOE DOMINGUEZ, did then and there intentionally cause the death of an individual, Alma Garcia, by cutting her with a knife, but you have a reasonable doubt as to whether the defendant was then and there engaged in the commission of burglary at the time of the cutting, if any,

Or, if the defendant, ABEL NOE DOMINGUEZ, did then and there intend to cause serious bodily injury to Alma Garcia, and the defendant intentionally or knowingly committed an act clearly dangerous to human life, namely: cutting her with a knife, then you will find the defendant guilty of the offense of murder.

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

You are instructed that you may consider all relevant facts and circumstances surrounding the killing, if any, and the previous relationship existing between the

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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 cutting in question, if any.

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.

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 of 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.

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 must be governed by you shall receive in these written instructions.

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.

No one has any authority to communicate with you except the officer who has you in charge. 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.

After you have retired, you may communicate with this court in writing through the officer who has you in charge. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the court, or anyone else concerning any question you may have. After you have reached a unanimous verdict, the Presiding Juror will certify thereto by filling in the appropriate form attached to this charge and signing his or her name as Presiding Juror. You may now retire to consider your

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verdict.

Mike Thomas  
MIKE THOMAS, PRESIDING JUDGE

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**VERDICT FORMS**

We, the Jury, find the defendant, ABEL NOE DOMINGUEZ, guilty of the offense of capital murder as alleged in the indictment.

*K. Maynard*  
PRESIDING JUROR

FILED  
THOMAS A WILDER, DIST. CLERK  
TARRANT COUNTY, TEXAS

SEP 17 2010

- OR -

TIME 9:17 AM  
BY CS DEPUTY

We, the Jury, find the defendant, ABEL NOE DOMINGUEZ, guilty of the offense of murder.

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PRESIDING JUROR

- OR -

We, the Jury, find the defendant, ABEL NOE DOMINGUEZ, not guilty.

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PRESIDING JUROR

A CERTIFIED COPY  
ATTEST: 9/23/10 *Bof 8*  
THOMAS A. WILDER  
DISTRICT CLERK  
TARRANT COUNTY, TEXAS  
BY: CS  
DEPUTY  
Carl Tatro