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THE STATE OF TEXAS § IN THE 351ST DISTRICT COURT
VS. § OF HARRIS COUNTY, TEXAS
MILTON ROLANDO PAZ § JULY TERM, A. D., 2015

Members of the Jury:

The defendant, Milton Rolando Paz, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 21st day of February, 2011, in Harris County, Texas. The defendant has pleaded not guilty.

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 hereinbefore defined, and the person murders an individual under six years of age.

A person commits the offense of felony murder if he commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

Injury to a child is a felony offense.

A person commits the offense of injury to a child if he intentionally, knowingly, or recklessly, by act, causes to a child, serious bodily injury.

"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.

"Child" means a person fourteen years of age or younger.

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.

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 you may consider all relevant facts and circumstances surrounding the death, 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, if any.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 21st day of February, 2011, in Harris County, Texas, the defendant, Milton Rolando Paz, did then and there unlawfully, intentionally or knowingly cause the death of Miriam Paz, an individual under six years of age, by striking Miriam Paz with his hand; or

If you find from the evidence beyond a reasonable doubt that on or about the 21st day of February, 2011, in Harris County, Texas, the defendant, Milton Rolando Paz, did then and there unlawfully intentionally or knowingly cause the death of Miriam Paz, an individual under six years of age, by striking Miriam Paz against an unknown blunt object; or

If you find from the evidence beyond a reasonable doubt that on or about the 21st day of February, 2011, in Harris County, Texas, the defendant, Milton Rolando Paz, did then and there unlawfully intentionally or knowingly cause the death of Miriam Paz, an individual under six years of age, by striking Miriam Paz with an unknown blunt object; or

If you find from the evidence beyond a reasonable doubt that on or about the 21st day of February, 2011, in Harris County,

Texas, the defendant, Milton Rolando Paz, did then and there unlawfully intentionally or knowingly cause the death of Miriam Paz, an individual under six years of age, by slamming Miriam Paz against an a wall, then you will find the defendant 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 may next consider whether the defendant is guilty of the lesser offense of felony murder.

Therefore, if you find from the evidence beyond a reasonable doubt that on or about the 21st day of February, 2011, in Harris County, Texas, the defendant, Milton Rolando Paz, did then and there unlawfully, while committing or attempting to commit the felony offense of injury to a child by intentionally, knowingly, or recklessly, causing serious bodily injury to Miriam Paz, a child younger than fifteen years of age, by striking Miriam Paz with his hand, and while in the course and furtherance of the commission of or attempted commission of said felony offense, the defendant did commit an act clearly dangerous to human life, to-wit: by striking Miriam Paz with his hand and did thereby cause the death of Miriam Paz; or

If you find from the evidence beyond a reasonable doubt that on or about the 21st day of February, 2011, in Harris County, Texas, the defendant, Milton Rolando Paz, did then and there unlawfully, while committing or attempting to commit the felony offense of injury to a child by intentionally, knowingly, or recklessly, causing serious bodily injury to Miriam Paz, a child younger than fifteen years of age, by striking Miriam Paz against an unknown blunt object, and while in the course and furtherance of the commission of or attempted commission of said felony offense, the defendant did commit an act clearly dangerous to human life, to-wit: by striking Miriam Paz against an unknown blunt object and did thereby cause the death of Miriam Paz; or

If you find from the evidence beyond a reasonable doubt that on or about the 21st day of February, 2011, in Harris County, Texas, the defendant, Milton Rolando Paz, did then and there

unlawfully, while committing or attempting to commit the felony offense of injury to a child by intentionally, knowingly, or recklessly, causing serious bodily injury to Miriam Paz, a child younger than fifteen years of age, by striking Miriam Paz with an unknown blunt object, and while in the course and furtherance of the commission of or attempted commission of said felony offense, the defendant did commit an act clearly dangerous to human life, to-wit: by striking Miriam Paz with an unknown blunt object and did thereby cause the death of Miriam Paz; or

If you find from the evidence beyond a reasonable doubt that on or about the 21st day of February, 2011, in Harris County, Texas, the defendant, Milton Rolando Paz, did then and there unlawfully, while committing or attempting to commit the felony offense of injury to a child by intentionally, knowingly, or recklessly, causing serious bodily injury to Miriam Paz, a child younger than fifteen years of age, by slamming Miriam Paz against a wall, and while in the course and furtherance of the commission of or attempted commission of said felony offense, the defendant did commit an act clearly dangerous to human life, to-wit: by slamming Miriam Paz against a wall and did thereby cause the death of Miriam Paz, then you will find the defendant guilty of felony murder.

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either capital murder on the one hand or felony 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 felony murder.

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."

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.

You are further instructed that the State is not bound by the specific date which the offense, if any, is alleged in the indictment to have been committed, but that a conviction may be had upon proof beyond a reasonable doubt that the offense, if any, was committed at any time prior to the filing of the indictment which is within the period of limitations. There is no limitation period applicable to the offenses of capital murder and felony murder.

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

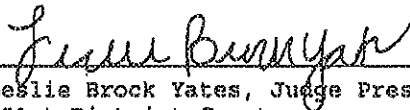
using the appropriate form attached hereto and signing the same as Foreman.

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.



Leslie Brock Yates, Judge Presiding
351st District Court
Harris County, TEXAS

FILED
Chris Dantel
Clerk of Court
OCT 22 2013
Time: 12:50 P.M.
Harris County, Texas
By: 

CAUSE NO. 1296569

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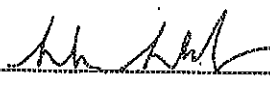
CHOOSE ONE

"We, the Jury, find the defendant, Milton Rolando Paz, not guilty."

Foreman of the Jury

(Please Print) Foreman

"We, the Jury, find the defendant, Milton Rolando Paz, guilty of capital murder, as charged in the indictment."



Foreman of the Jury

Shane Shoat

(Please Print) Foreman

"We, the Jury, find the defendant, Milton Rolando Paz, guilty of felony murder."

Foreman of the Jury

(Please Print) Foreman