

FILED
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2/14/18

NO. 2015-406,365

THE STATE OF TEXAS

§

IN THE DISTRICT COURT

VS.

§

OF LUBBOCK COUNTY, TEXAS

DAVID CARRILLO

§

137TH JUDICIAL DISTRICT

Barbara Suesy
DISTRICT CLERK, LUBBOCK COUNTY
DEPUTY

COURT'S CHARGE

MEMBERS OF THE JURY:

The defendant, DAVID CARRILLO, is accused of Capital Murder. The defendant has entered a plea of "not guilty," and you have heard all of the evidence that will be produced on whether the defendant has been proven guilty.

Both sides will soon present final arguments. Before they do, I must now give you instructions you must follow in deciding whether the defendant has been proven guilty or not.

You may take your copy of these instructions into the jury room with you to use during your deliberations.

First, I will tell you about some general principles of law that must govern your decision of the case. Then I will tell you about the specific law applicable to this case. Finally, I will instruct you on the rules that must control your deliberations.



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CCJR - COURT CHARGE TO THE JURY
Case No: 2015406365

The Indictment

The indictment is not evidence of guilt. The indictment is only a document required to bring the case before you. The indictment cannot be considered in any way by the jury. Do not consider the fact that the defendant has been arrested, confined, or indicted or otherwise charged. You may not draw any inference of guilt from any of these circumstances.

Presumption of Innocence

The defendant is presumed innocent of the charge. 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 law does not require a defendant to prove his innocence or produce any evidence at all. 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 presumption of innocence alone is sufficient to acquit the defendant.

Burden of Proof

The burden of proof throughout the trial is always on the State. The defendant does not have the burden to prove anything. The State must prove every element of the offense beyond a reasonable doubt to establish guilt for the offense. If the State proves every element of the offense beyond a reasonable doubt, then you must find

the defendant guilty. If the State does not prove every element of the offense beyond a reasonable doubt, then you must find the defendant not guilty.

It is not required that the State prove guilt beyond all possible doubt; it is required that the State's proof excludes all "reasonable doubt" concerning the defendant's guilt.

If 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."

Jury as Fact Finder

As jurors, you review the evidence and determine the facts and what they prove. You judge the believability of the witnesses and what weight to give their testimony.

In judging the facts and the believability of the witnesses, you must apply the law provided in these instructions.

Evidence

The evidence consists of the testimony and exhibits admitted in the trial. You must consider only evidence to reach your decision. You must not consider, discuss, or mention anything that is not evidence in the trial. You must not consider or

mention any personal knowledge or information you may have about any fact or person connected with this case that is not evidence in the trial.

Statements made by the lawyers are not evidence. The questions asked by the lawyers are not evidence. Evidence consists of the testimony of the witnesses and exhibits admitted into evidence.

Nothing I have said or done in this case should be considered by you as an opinion about the facts of this case or influence you to vote one way or the other.

You should give terms their common meanings, unless you have been told in these instructions that the terms are given special meanings. In that case, of course, you should give those terms the meanings provided in these instructions.

While you should consider only the evidence, you are permitted to draw reasonable inferences from the testimony and exhibits that are justified in the light of common experience. In other words, you may make deductions and reach conclusions that reason and common sense lead you to draw from the facts that have been established by the evidence.

You are to render a fair and impartial verdict based on the evidence admitted in the case under the law that is in these instructions. Do not allow your verdict to be determined by bias or prejudice.

Admitted Exhibits

You may, if you wish, examine exhibits. If you wish to examine an exhibit, the foreperson will inform the court and specifically identify the exhibit you wish to examine. Only exhibits that were admitted into evidence may be given to you for examination.

The Verdict

The law requires that you render a verdict of either “guilty” or “not guilty.” A verdict of “not guilty” simply means that the State’s evidence does not prove the defendant guilty beyond a reasonable doubt.

You may return a verdict only if all twelve of you agree on this verdict.

When you reach a verdict, the foreperson should notify the court.

Defendant’s Right to Remain Silent

The defendant has a constitutional right to remain silent. The defendant may testify on his own behalf. The defendant may also choose not to testify. The defendant’s decision not to testify cannot be held against him, and it is not evidence of guilt. You must not speculate, guess, or even talk about what the defendant might have said if he had taken the witness stand or why he did not. The foreperson of the jury must immediately stop any juror from mentioning the defendant’s decision not to testify.

Accusation

The State has accused that in Lubbock County, Texas, DAVID CARRILLO, hereafter styled the Defendant, heretofore on or about the 18th day of April, 2015, did then and there intentionally or knowingly cause the death of an individual, namely, Jennifer Cruz, by shooting with a firearm, and did then and there intentionally or knowingly cause the death of another individual, namely, Albert Martínez, by shooting with a firearm, and both murders were committed during the same criminal transaction.

Relevant Statutes

A person commits the offense of Capital Murder if the person commits murder and the person murders more than one person in the same criminal transaction.

A person commits the offense of Murder if he intentionally or knowingly causes the death of an individual.

Extraneous Offenses

You are further charged that if there is any evidence before you in this case tending to show that the defendant herein committed offenses other than the offenses alleged against him in the indictment, 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 if you find and believe

beyond a reasonable doubt from such testimony that other offenses were committed, you may then consider the same in determining the motive, intent, preparation, plan, knowledge, and for no other purpose.

Definitions

A person acts intentionally, or with intent, with respect 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 a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

“Actor” means a person whose criminal responsibility is in issue in a criminal action.

“Firearm” means any device 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.

Application of Law to Facts

Now, if you find from the evidence beyond a reasonable doubt that on or about April 18, 2015, in Lubbock County, Texas, the defendant, DAVID CARRILLO, did then and there intentionally or knowingly cause the death of an individual, namely Jennifer Cruz, by shooting with a firearm, and then did and there intentionally or

knowingly cause the death of another individual, namely, Albert Martinez, by shooting with a firearm, and both murders were committed during the same criminal transaction, then you will find the defendant "Guilty" of capital murder.

If you have a reasonable doubt as to whether the defendant is guilty of capital murder as alleged in the indictment then you will find the defendant "Not Guilty", and say so by your verdict.

Rules That Control Jury Deliberations

You must follow these rules while you are in deliberation and until you reach a verdict. After the closing arguments by the attorneys, you will go into the jury room.

Your first task will be to pick your foreperson. The foreperson should conduct the deliberations in an orderly way. Each juror has one vote, including the foreperson. The foreperson must supervise the voting, vote with other members on the verdict, and sign the verdict form.

While deliberating and until excused by the trial court, all jurors must follow these rules:

1. You must not discuss this case with any court officer, or the attorneys, or anyone not on the jury;


2. You must not discuss this case unless all of you are present in the jury room;
3. You must communicate with the judge only in writing, signed by the foreperson and given to the judge through the bailiff;
4. You must not conduct any independent investigations, research, or experiment;
5. You must tell the judge if anyone attempts to contact you about the case before you reach your verdict; and
6. You must not use your cell phones for any purpose.

Your sole duty at this point is to determine whether the defendant has been proven guilty. You must restrict your deliberations to this matter.

After you have arrived at your verdict, you are to use one of the forms attached to these instructions. The foreperson must sign his or her name to the particular form that conforms to your verdict.

After the closing arguments by the attorneys, you will begin your deliberations to decide your verdict.

The above and foregoing is the charge in this case, and the same is hereby signed and certified by the court, this the 8th day of February, 2018.



Judge Presiding

NO. 2015-406,365

THE STATE OF TEXAS § IN THE DISTRICT COURT
VS. § OF LUBBOCK COUNTY, TEXAS
DAVID CARRILLO § 137TH JUDICIAL DISTRICT

VERDICT

We, the jury, find the defendant "Not Guilty".

Foreperson of the Jury


Printed Name of Foreperson

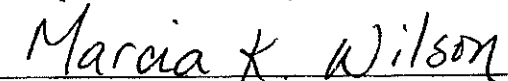
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DAVID CARRILLO § 137TH JUDICIAL DISTRICT

VERDICT

We, the jury, find from the evidence beyond a reasonable doubt the defendant is "Guilty" of the offense of Capital Murder, as charged in the indictment.


Foreperson of the Jury


Printed Name of Foreperson