

NO. 2018-CR-0068

THE STATE OF TEXAS § IN THE DISTRICT COURT
VS. § 290TH JUDICIAL DISTRICT
JONATHAN PERALES § BEXAR COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, Jonathan Perales, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 10th Day of October, 2017, in Bexar County, Texas. The defendant has pleaded 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.

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.

II.

"Individual" means a human being who is alive.

"In the course of committing" an offense means conduct that occurs in an attempt to commit, during the commission, or in immediate flight after the attempt or commission of the offense.

"Attempt" to commit an offense occurs if, with specific

intent to commit an offense, a person does an act amounting to more than mere preparation that tends, but fails, to effect the commission of the offense intended.

"Deadly weapon" means a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or 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.

III.

For the offenses of murder and capital murder, 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.

IV.

A person commits the offense of burglary if, without the effective consent of the owner, the person enters a habitation and commits or attempts to commit theft.

V.

"Attempt" as defined in paragraph II applies and has the same meaning here.

"Effective consent" means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner.

"Owner" means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the defendant.

By the term "enter," as used above, is meant to intrude any part of the body or any physical object connected with the body into the habitation.

A "habitation" means a structure that is adapted for the overnight accommodation of persons, and includes each separately secured or occupied portion of the structure, and each structure appurtenant to or connected with the structure.

VI.

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

VII.

"Appropriation" and "appropriate" 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" means tangible or intangible personal property or documents, including money, that represents or embodies anything of value.

"Deprive" means to withhold property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the property is lost to the owner.

"Effective consent" as defined in paragraph V applies and has the same meaning here.

"Owner" as defined in paragraph V applies and has the same meaning here.

VIII.

For the offenses of burglary and theft, 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.

For the offense of theft, 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. For the offenses or theft, 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 under our law, voluntary intoxication does not constitute a defense to the commission of a crime. For the purpose of this law, intoxication means a disturbance of mental or physical capacity resulting from the voluntary introduction of any substance into the body.

IX.

Now, if you unanimously find from the evidence beyond a reasonable doubt that on or about the 10th Day of October, 2017, in Bexar County, Texas, the defendant, Jonathan Perales, did intentionally cause the death of an individual, namely, Michael Robinson, by shooting Michael Robinson with a deadly weapon, namely, a firearm, and Jonathan Perales was in the course of committing or attempting to commit the offense of burglary of a habitation owned by Michael Robinson, then you will find the defendant guilty of capital murder as charged in the indictment.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, or if you are unable to agree, you will next consider whether the defendant is guilty of the lesser included offense of murder.

X.

Our law provides that a person commits the offense of 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, he commits an act clearly dangerous to human life that causes the death of an individual.

Burglary of a Habitation is a felony offense.

"Individual," "attempt," "deadly weapon," "bodily injury," and "serious bodily injury" as defined in Paragraph II apply and have the same meaning here.

XI.

"Burglary" as defined in Paragraph IV applies and has the same meaning here.

"Attempt" as defined in Paragraph II applies and has the same meaning here

"Effective consent," "owner," "enter" and "habitation" as defined in Paragraph V apply and have the same meaning here.

XII.

"Theft" as defined in Paragraph VI applies and has the same meaning here.

"Appropriation or appropriate," "property," "deprive," as defined in Paragraph VII and "effective consent," and "owner" as defined in Paragraph V apply and have the same meaning here.

"Intentionally, or with intent," and "knowing, or with

knowledge," as defined in Paragraph VIII apply and have the same meaning here.

XIII.

Now, if you unanimously find from the evidence beyond a reasonable doubt that on or about the 10th Day of October, 2017, in Bexar County, Texas, the defendant, Jonathan Perales, did intentionally commit or attempt to commit a felony, to wit: burglary of a habitation, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt to commit burglary of a habitation, Jonathan Perales did commit an act clearly dangerous to human life, to wit: by shooting Michael Robinson with a deadly weapon, namely, a firearm, thereby causing the death of Michael Robinson, then you will find the defendant guilty of murder.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty.

You are instructed that if there is any testimony before you in this case regarding the defendant's having committed acts of misconduct 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 acts of misconduct, if any were committed, and even then you may only consider the same in determining the intent if any, of the defendant in connection with the offense, if any, alleged against him in the indictment in this case, and for no other purpose.

Written statements made by a witness to investigators or other officers or police reports made by officers and tendered by the prosecution to the defense for purposes of cross-examination, or presented to a witness for purposes of refreshing his or her memory, are not part of the evidence unless introduced in evidence. Many times statements and reports may be marked with an exhibit number but are neither offered nor received in evidence. I can send only statements and reports received in evidence to the jury room.

You are instructed that the statements of counsel made during the course of the trial or during the argument, if not supported by evidence, or statements of law made by counsel, if not in harmony with the law as stated to you by the Court in these instructions, are to be wholly disregarded.

You must disregard any comment or statement made by the Court during the trial or in these instructions which may seem to indicate an opinion with respect to any fact, item of evidence or verdict to be reached in this case. No such indication is intended.

You are instructed that the Grand Jury 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 whether this defendant is guilty or not guilty.

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.

You are instructed that you are not to let bias, prejudice, or sympathy play any part in reaching a verdict in this case.

After you have retired to your jury room, you should select one of your members as your "foreperson." 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 signing the same as "foreperson."

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given to the testimony, but you are bound to receive the law from the Court which is herein given to you and be governed by that law.

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.

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."

Suitable forms for your verdict are attached to the charge for your convenience if you care to use them, but they are not intended to suggest to you in any way what your verdict should be, and you may or may not, as you see fit, make use of them. At any rate, your verdict must be in writing and signed by your foreperson. Your only duty at this time is to determine whether the defendant is guilty or not guilty under the indictment in this cause, and you must restrict your deliberations to the issue of whether the defendant is guilty or not guilty, and nothing else. After you have retired to the jury room, no one has any authority to communicate with you except the officer who has you in charge. Do not attempt to talk to the officer, or anyone else concerning any question you may have; instead address your question to the Court in writing. If you want to communicate with the Court, notify the bailiff. Any communication relative to the case must be written, prepared by the foreperson, and submitted to the Court through the bailiff.

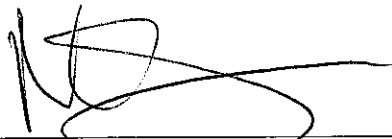
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SONIA KAY HENNING
DISTRICT CLERK
BEXAR COUNTY

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DEPUTY

BY Oscar Alving

Respectfully submitted,



JUDGE MELISSA SKINNER
290th Judicial District Court
Bexar County, Texas