ORIGINAL COPY

CAUSE NUMBER: 2018CRA000852D1

THE STATE OF TEXAS	§	**IN THE DISTRICT COURT**
	§	
V.	§	**49th JUDICIAL DISTRICT**
	§	
RONALD ANTHONY BURGOS-AVILES	§	**WEBB COUNTY, TEXAS**

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, Ronald Anthony Burgos-Aviles, stands charged by indictment with two counts of the offense of capital murder, alleged to have been committed in Webb County, Texas, on or about the 9th day of April, 2018. 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.

Our law provides that a person commits the offense of capital murder, if he commits murder, as hereinbefore defined, and the person intentionally or knowingly causes the death of more than one person during the same criminal transaction.

Our law provides that a person commits the offense of capital murder, if he commits murder, as hereinbefore defined, and the person intentionally or knowingly causes the death of an individual under ten years of age.

FILED
WEBB COUNTY TEXAS
BY _____ DEPUTY
AT 4:20 P. M.
July 6 2023
ESTHER DEGOLLADO
CLERK OF THE DIST. COURTS
& COUNTY COURTS AT LAW

II.

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

"Individual" means a human being who is alive.

III.

You are instructed that you may consider all relevant evidence concerning the relationship that existed between the deceased and the defendant, if any, prior to the alleged killing, the facts and circumstances surrounding the alleged killing, and all of the relevant facts and circumstances showing the condition of the defendant's mind at the time of the alleged killing.

IV.

Our law provides that the time of the offense alleged in the indictment must be some date anterior to the presentment of the indictment, and not so remote that the prosecution of the offense is barred by limitation. The phrase "on or about" means that the State is not required to prove the alleged offense happened on that exact date.

There is no limitation period for the offenses of murder and capital murder. Therefore, it is sufficient if the State proves that the offense alleged was committed some time before June 27, 2018, which is the date the indictment was filed.

V.

Any words not specifically defined herein are to be given their ordinary meaning and jurors are free to use any meaning which is acceptable in common speech.

VI.

Count 1

Now, if you find from the evidence beyond a reasonable doubt that on or about the 9th day of April, 2018, in Webb County, Texas, the defendant, Ronald Anthony Burgos-Aviles, did intentionally or knowingly cause the deaths of Dominic Alexander Hernandez and Grizelda Hernandez during the same criminal transaction, by stabbing Grizelda Hernandez multiple times with a sharp object, and by stabbing Dominic Alexander Hernandez in the chest or slashing Dominic Alexander Hernandez's throat with a sharp object, then you will find the defendant, Ronald Anthony Burgos-Aviles, guilty of capital murder as charged in the indictment.

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

Count 2

Now, if you find from the evidence beyond a reasonable doubt that on or about the 9th day of April, 2018, in Webb County, Texas, the defendant, Ronald Anthony Burgos-Aviles, did intentionally or knowingly cause the deaths of Dominic Alexander Hernandez, an individual under ten years of age, by stabbing Dominic Alexander Hernandez in the chest or slashing Dominic Alexander Hernandez's throat with a sharp object, then you will find the defendant, Ronald Anthony Burgos-Aviles, guilty of capital murder as charged in the indictment.

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

VII.

You have heard evidence that the defendant made an oral and recorded statement on April 9, 2018, during custodial interrogation conducted at the Laredo Police Department by Laredo Police Detectives Rick Reyes and Ernesto Elizondo.

If you find the defendant did make the statement, you may consider the statement against the defendant only if you resolve a preliminary question in favor of the state.

An oral record statement by a defendant made as a result of custodial interrogation may be considered only if before the statement but during the recording—

1. the defendant was warned that:
    a. he has the right to remain silent and not make any statement at all and that any statement he makes may be used against him at his trial;
    b. any statement he makes may be used as evidence against him in court;
    c. he has the right to have a lawyer present to advise him before and during any questioning;
    d. if he is unable to employ a lawyer, he has the right to have a lawyer appointed to advise him before and during any questioning; and
    e. he has the right to terminate the interview at any time; and
2. the defendant knowingly, intelligently, and voluntarily waived the rights set out in the warning.

Therefore, you may only consider the statements made by the Defendant to Detectives Reyes and Elizondo on April 09, 2018 if you all first agree that the State has proved, beyond a reasonable doubt, that before the statement was made, but during the recording, that the defendant was given

the warnings set out above and knowingly, intelligently, and voluntarily waived the rights set out in the warning.

If you do not find that the state has proved these things beyond a reasonable doubt, you must disregard and not consider for any purpose any statement the defendant may have made.

If you do find the state has proved these things beyond a reasonable doubt, you may consider the evidence that the defendant made the statement and give that evidence whatever weight you believe appropriate.

VIII.

You may consider all of the facts that are shown by the evidence, and to draw natural and reasonable inferences from such facts. You alone have the authority and the duty to determine what the facts are in this case. In evaluating the evidence, you must totally disregard what you believe is my opinion about any factual matter.

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, an 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 this case.

In a criminal case, the law permits the defendant to testify in his own behalf; but the same law provides that his failure to testify shall not be considered as a circumstance against him. You will, therefore, not consider the failure of the defendant to testify as a circumstance against him;

and you will not in your retirement to consider your verdict allude to, comment on, or in any manner refer to the fact that the defendant has not testified.

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 further instructed as a part of the law in this case that the indictment against the defendant is not evidence in the case, and that the true and sole use of the indictment is to charge the offense, and to inform the defendant of the offense alleged against him. The reading of the indictment to the jury in the statement of the State's case against the defendant cannot be considered as a fact or circumstance against the defendant in your deliberations.

You must not consider facts that have not been introduced into evidence or legal principles not contained in this charge. It is improper for a juror to discuss or consider anything which they know or have learned outside of the testimony presented to you, and the law contained in this charge. If a juror should discover that they have any outside information, they must not mention this information to any other juror, nor consider it themselves in arriving at a verdict.

You shall not discuss or consider the punishment, if any, which may be assessed against the defendant in the event he is found guilty.

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

You must not discuss this case unless you are all present in the jury room. If anyone leaves the jury room, then you must stop your discussions about the case until all of you are present again.

You must communicate with the judge only in writing, signed by the foreperson and given to the judge through the officer assigned to you.

You must tell the judge if anyone attempts to contact you about the case before you reach your verdict.

Questions and comments of the attorneys do not constitute testimony and must not be considered as evidence. You must also disregard any statement of the attorneys that is inconsistent with the law contained in this charge. The role of the Judge is to preside over the trial, and to rule on objections and the admissibility of evidence, but not to comment on the weight or credibility such evidence is to be given by the jury. Therefore, the jury shall not draw from the conduct or comments of the Judge any inference as to the weight or credibility of evidence admitted before them during trial.

You have been permitted to take notes during the testimony in this case. In the event any of you took notes, you may rely on your notes during your deliberations. However, you may not share your notes with the other jurors and you should not permit the other jurors to share their notes with you. You may, however, discuss the contents of your notes with the other jurors. You shall not use your notes as authority to persuade your fellow jurors. In your deliberations, give no more and no less weight to the views of a fellow juror just because that juror did or did not take notes. Your notes are not official transcripts. They are personal memory aids, just like the notes of the judge and the notes of the lawyers. Notes are valuable as a stimulant to your memory. On the other hand, you might make an error in observing or you might make a mistake in recording what you have seen or heard. Therefore, you are not to use your notes as authority to persuade fellow jurors of what the evidence was during trial.

Occasionally, during deliberations, a dispute arises as to the testimony presented. If this should occur in this case, you shall inform the Court and request that the Court read the portion of disputed testimony to you from the official transcript. You shall not rely on your notes to resolve the dispute because the notes, if any, are not official transcripts. The dispute must be settled by the official transcript, for it is the official transcript, rather than any juror's notes, upon which you must base your determination of the facts and, ultimately, your verdict in this case.

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 you, and be governed thereby.

After the reading of this Charge, you shall not be permitted to separate from each other, nor shall you talk with anyone not of your jury. After argument of counsel, you will retire and select one of your members as your foreperson. It is his or her duty to preside at your deliberations and to vote with you in arriving at a unanimous verdict. After you have arrived at your verdict, you may use the forms attached hereto by having your foreperson sign his or her name to the particular blank that conforms to your verdict for each Count, but in no event shall he or she sign more than one of such blanks on such form.

Honorable Judge, Presiding

7/6/23 4:50 pm