

FILED
NORMA FAVELA BARCELEAU
DISTRICT CLERK

2023 AUG -3 AM 11:01
CRIMINAL DISTRICT COURT NUMBER ONE

EL PASO COUNTY, TEXAS
EL PASO COUNTY, TEXAS

STATE OF TEXAS

BY [Signature]
DEPUTY

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CAUSE NO. 20190D03091

v.

FACUNDO CHAVEZ

CHARGE OF THE COURT

MEMBERS OF THE JURY:

First, I will give you some general instructions which apply in every case. Then I will give you some specific rules of law about this particular case, and finally I will explain to you the procedures you should follow in your deliberations.

You, as jurors, are the judges of the facts. But in determining what actually happened, that is, in reaching your decision as to the facts, it is your sworn duty to follow all of the rules of law as I explain them to you.

You have no right to disregard or give special attention to any one instruction, or to question the wisdom or correctness of any rule I may state to you. You must not substitute or follow your own notion or opinion as to what the law is or ought to be. It is your duty to apply the law as I explain it to you, regardless of the consequences. It is also your duty to base your verdict solely upon the evidence that has been presented to you in court.

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.

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.

As you determine the facts, you must consider only the evidence presented during the trial, including the sworn testimony of the witnesses and the exhibits. Remember that any statements, objections, or arguments made by the lawyers are not evidence. In the final analysis, however, it is your own recollection and interpretation of the evidence that controls in the case. What the lawyers say is not binding upon you.

Also, do not assume from anything I may have done or said during the trial that I have any opinion concerning any of the issues in this case. Except for the rulings of the Court and instructions in this charge, you should disregard anything I may have said during the trial in arriving at your own findings as to the facts.

While you should consider only the evidence, you are permitted to draw such reasonable inferences from the testimony and exhibits as you feel 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 which have been established by the evidence.

You are to decide whether the State has proved beyond a reasonable doubt that the Defendant is guilty of the crime charged. The Defendant is not on trial for any act, conduct, or

offense not alleged in the indictment. Neither are you concerned with the guilt of any person or persons not on trial as a defendant in this case.

The defendant, Facundo Chavez, stands charged by indictment with the offense of Capital Murder of a Peace Officer, alleged to have been committed on or about the 22nd day of March, 2019 in El Paso County, Texas. To this charge, the defendant has pleaded not guilty.

You are reminded that the indictment in this case is no evidence whatsoever of the guilt of the Defendant. It is a mere pleading necessary in order to bring this case into court for trial and it is not evidence, and you will not consider it for any purpose at all.

DEFINITIONS

A person commits murder when he intentionally or knowingly causes the death of an individual.

Such offense, however, is capital murder when the person murders a peace officer who is acting in the lawful discharge of an official duty and whom the person knows is a peace officer.

You are instructed that a Sheriff's Deputy is a peace officer.

Voluntary intoxication does not constitute a defense to the commission of a crime.

A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it 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 knowingly or with knowledge, with respect to circumstances surrounding his conduct when he is aware that the circumstances exist.

APPLICATION

Now, if you find from the evidence beyond a reasonable doubt that on or about the 22nd day of March, 2019, in El Paso County, Texas, the defendant, Facundo Chavez, did intentionally or knowingly cause the death of Peter Herrera by shooting Peter Herrera with a firearm and Peter Herrera was a peace officer who was acting in the lawful discharge of his official duty and the said Defendant knew Peter Herrera was a peace officer, then you will find the defendant guilty of Capital Murder, as alleged in the indictment. And record your verdict by signing on **Verdict Form A.**

Unless you so find beyond a reasonable doubt, or if have a reasonable doubt thereof, you will acquit the defendant of capital murder. And record your verdict by signing on **Verdict Form B.**

You are instructed that you may consider all relevant facts and circumstances presented and admitted in evidence, any previous relationship existing between the 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 offense, if any.

You are the exclusive judges of the facts proved, of the credibility of the witnesses, and the weight to be given their testimony, but you are bound to receive the law from the Court as it is given to you in this charge, and you are bound to be governed thereby.

It is your duty to consult with one another and to deliberate in an effort to reach an agreement if you can do so. Each of you must decide the case for yourself, but only after an impartial consideration of the evidence with your fellow jurors. During your deliberations, do not hesitate to reexamine your own opinions and change your mind if convinced that you were wrong. But do not give up your honest beliefs as to the weight or effect of the evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

You are judges of the facts. Your sole duty is to decide whether the State has proved the Defendant guilty beyond a reasonable doubt.

When you go to the jury room, the first thing that you should do is select one of your members as your presiding juror, who will help to guide your deliberations and will speak for you here in the courtroom.

During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as a telephone, cell phone, smart phone, iPhone, Blackberry, or computer, the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, Instagram, LinkedIn, YouTube or Twitter, to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict, if any.

Any verdict you render must be unanimous.

At the conclusion of your deliberations, the presiding juror should sign the appropriate verdict form, if any.

If you need to communicate with me during your deliberations, the presiding juror should write the message, ring the jury call button on the wall, and give it to the bailiff. I will either reply in writing or bring you back into the court to answer your message.

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

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

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.

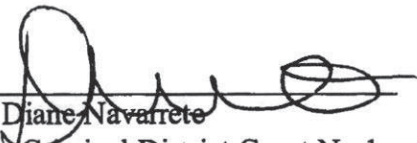
No one has any authority to communicate with you except the officer who has you in charge. During your deliberations in this case, you must not consider, discuss, nor relate any matters not in evidence before you. You should not consider nor mention any personal knowledge or information you may have 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.

MANNER OF DELIBERATIONS

- a. In order to return a verdict, each juror must agree thereto.
- b. Jurors have a duty to consult with one another to deliberate with a view of reaching an agreement, if it can be done without abrogating individual judgment.
- c. Each juror must decide the case for themselves, but only after an impartial consideration of the evidence with their fellow jurors.
- d. In the course of deliberations, a juror should not hesitate to re-examine their own views and change their opinion if convinced it is erroneous.
- e. No juror should surrender their honest conviction as to the weight or effect of the evidence only because of the opinion of fellow jurors, or for the mere purpose of returning a verdict.
- f. In arriving at your verdict, it will not be proper to fix the same by lot, chance, or any other method than by full, fair and free exercise of the opinion of the individual jurors under evidence admitted before you.
- g. Do not let bias, prejudice, or sympathy play any part in your deliberations.
- h. The Presiding Juror or any other juror who observes a violation of the Court's instructions shall immediately warn the one who is violating the same and caution the juror not to do so again.
- i. After you have arrived at your verdict, you will notify the bailiff that you have reached your verdict.

Respectfully submitted,


Hon. Diane Navarrete
Judge, Criminal District Court No.1
El Paso County, Texas

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VERDICT FORM A

We the jury, find the Defendant, Facundo Chavez, "GUILTY" of Capital Murder of a Peace Officer as charged in Count I of the indictment.


PRESIDING JUROR

CRIMINAL DISTRICT COURT NUMBER ONE
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VERDICT FORM B

We the jury, find the Defendant, Facundo Chavez, "NOT GUILTY" of Capital Murder of a Peace Officer as charged in Count I of the indictment.

PRESIDING JUROR