

**CAUSE NO. F21-1926-158**

Steve Burgess, Presiding Judge

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
VS.	§	158th JUDICIAL DISTRICT
SIMEON BONILLA-RUBIO	§	DENTON COUNTY, TEXAS

**JURY INSTRUCTIONS**

**MEMBERS OF THE JURY:**

The Defendant, SIMEON BONILLA-RUBIO, is accused of Capital Murder, allegedly committed on or about April 28, 2021 in Denton County, Texas. The Defendant has pleaded "not guilty," and you have heard all of the evidence that will be produced on whether the Defendant has been proved guilty.

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

You will have a written copy of these instructions to take with you and 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.

**General Principles of Law**

**The Amended Indictment**

The amended indictment is not evidence of guilt. The amended indictment is only a document required to bring the case before you. The amended indictment cannot be considered in any way by the jury. Do not consider the fact that the Defendant has been arrested, confined, 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 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 is not required to prove guilt beyond all possible doubt; however, 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. If, after you have considered all the evidence and these instructions, you have a reasonable doubt about whether the Defendant is guilty, you must find the Defendant not guilty.

### **Jury as Fact Finder**

As the 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.

### **Court Decides Questions of Law Only**

At times during the trial, the Court has been called upon to determine the admissibility of certain offered evidence. You are not to draw any inferences from the Court's rulings. Whether offered evidence is admissible is purely a question of law. In admitting evidence to which an objection is made, the Court does not determine what weight should be given such evidence or consider the believability of the witness. As to any offered evidence that the Court has rejected, you must not consider the same; as to any question to which an objection was sustained, you must not speculate as to what the answer might have been or as to the reason for the objection.

Do not allow anything that the Court has said or done during the trial to influence you to vote one way or the other. Do not allow yourselves to be influenced whatsoever by what you think the opinion of the court might be. The Court has not intended to express any opinion about the facts in this case, and if you have observed anything that you have or may interpret as the Court's opinion about the facts in this case, you must wholly disregard it.

## **Evidence**

The evidence consists of the testimony and exhibits admitted in the trial. You must consider only that 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. Evidence consists of the testimony of the witnesses and materials admitted into evidence.

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 the 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. Do not let bias, sympathy, or prejudice play any part in your deliberations.

You are instructed that if there is any testimony before you in this case regarding the defendant's having committed offenses other than the offense alleged against him in the amended indictment in this case, you cannot consider said testimony for any other purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offenses, if any were committed, and even then you may only consider the same in determining the intent of the defendant, if any, in connection with the offense, if any, alleged against him in the amended indictment in this case, and for no other purpose.

## **Testimony of Correctional Facility Witness**

A defendant may not be convicted of an offense on the testimony of a person to whom the defendant made a statement against the defendant's interest during a time when the person was imprisoned or confined in the same correctional facility as the defendant unless the testimony is corroborated by other evidence tending to connect the defendant with the offense committed. Corroboration is not sufficient if the corroboration only shows that the offense was committed.

"Correctional facility" means a place designated by law for the confinement of a person arrested for, charged with, or convicted of a criminal offense. The term includes a municipal or county jail; a confinement facility operated by the Texas Department of Criminal Justice; a confinement facility operated under contract with any division of the Texas Department of Criminal Justice; and a community corrections facility operated by a community supervision and corrections department.

### **Admitted Exhibits**

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

### **Testimony in Dispute**

Certain testimony will be read back to you by the court reporter if you request; however, you must follow these instructions precisely. The court may allow testimony to be read back to the jury **only** if the jury, in a writing signed by the presiding juror:

1. states that it is requesting that testimony be read back;
2. **and** states that it has a **disagreement about--**
  - a. a **specific statement** of a witness and the request clearly describes the statement in dispute; **or**
  - b. a **particular point** in dispute and the request clearly describes the point in dispute;
3. **and** identifies the name of the witness who made the statement or testified regarding the point in dispute.

If you follow these instructions precisely, the court will then have the court reporter read back **only** that part of the statement or point that is in dispute.

### **The Verdict**

The law requires that you render a verdict of either "guilty" or "not guilty." The 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 presiding juror should notify the court.

## **Specific Law Applicable to this Case**

### **Accusation**

The State has charged the Defendant with committing the offense of Capital Murder. Specifically, the accusation is that the Defendant intentionally or knowingly caused the death of Cassity Hinojosa by shooting Cassity Hinojosa with a firearm, and the Defendant intentionally or knowingly caused the death of the unborn child of Cassity Hinojosa by causing the death of Cassity Hinojosa, while said unborn child was in gestation of said Cassity Hinojosa, and both murders were committed during the same criminal transaction.

### **Lesser Included Offenses**

Although the State has charged the Defendant with the offense of Capital Murder, you may find the Defendant not guilty of that charged offense, but guilty of a lesser included offense. In this case, the offenses of Murder, Manslaughter, and Criminally Negligent Homicide are lesser included offenses of the charged and greater offense of Capital Murder.

You may discuss the offenses in any order you choose. However, before you may find the Defendant guilty of Murder or Manslaughter or Criminally Negligent Homicide, you must first find him "not guilty" of Capital Murder.

### **Burden of Proof**

The State must prove, beyond a reasonable doubt, the accusation of Capital Murder, Murder, Manslaughter, or Criminally Negligent Homicide.

### **The Law**

"Capital Murder" is intentionally or knowingly murdering more than one person during the same criminal transaction.

"Murder" is intentionally or knowingly causing the death of another individual or with intent to cause serious bodily injury to an individual, committing an act clearly dangerous to human life that caused the death of the individual.

"Manslaughter" is recklessly causing the death of another individual.

"Criminally Negligent Homicide" is causing the death of another individual by criminal negligence.

## **Definitions**

“Individual” means a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.

A person “intentionally” causes the death of another if it is the person's conscious objective or desire to cause the death of another.

A person “knowingly” causes the death of another if the person is aware that the person's conduct is reasonably certain to cause the death of another.

A person “recklessly” causes death to another if the person is aware of but consciously disregards a substantial and unjustifiable risk that the person's action will cause death to another. 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 under all the circumstances as viewed from the actor's standpoint. For a person to be deemed reckless, there must actually be both a substantial and an unjustifiable risk that the result complained of will occur, and that the person acting was actually aware of such risk and consciously disregarded it.

A person acts with “criminal negligence”, or is criminally negligent, with respect to circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

## **Application of Law to Facts -- Capital Murder**

You should determine whether the state has proved, beyond a reasonable doubt, three elements, specifically:

1. The defendant, SIMEON BONILLA-RUBIO, on or about the 28th day of April, 2021, in Denton County, Texas, did then and there intentionally or knowingly cause the death of an individual, namely, Cassity Hinojosa, by shooting Cassity Hinojosa with a firearm; and
2. The defendant, SIMEON BONILLA-RUBIO, on or about the 28th day of April, 2021, in Denton County, Texas, did then and there intentionally or knowingly cause the death of another individual, namely, unborn child of Cassity Hinojosa, by causing the death of Cassity Hinojosa while said unborn child was in gestation of Cassity Hinojosa; and
3. both murders were committed during the same criminal transaction.

If you find the state proved, beyond a reasonable doubt, elements 1, 2, and 3, you must still consider whether any defenses apply to the murder of Cassity Hinojosa.

If you find the state proved, beyond a reasonable doubt, element 1 but not element 2, you must still consider whether any defenses apply to the murder of Cassity Hinojosa, but you will find the defendant not guilty of the murder of unborn child of Cassity Hinojosa.

If you find the state proved, beyond a reasonable doubt, element 2 but not element 1, you will find the defendant not guilty of the murder of Cassity Hinojosa, and you will find the defendant guilty of the murder of unborn child of Cassity Hinojosa.

If you find the state failed to prove both element 1 and 2 then you will find the defendant not guilty of Capital Murder and you will next consider whether or not the defendant is guilty of Murder, Manslaughter, or Criminally Negligent Homicide, lesser included offenses of the amended indictment.

If you do not so believe, or if you have a reasonable doubt thereof, you will find the defendant is not guilty of Murder, Manslaughter, and Criminally Negligent Homicide, lesser included offenses of the amended indictment.

If you have found the defendant not guilty of Capital Murder you will next consider the lesser included offense of Murder.

### **Application of Law to Facts – Murder – Cassity Hinojosa**

Now if you find from the evidence beyond a reasonable doubt that on or about the 28th day of April, 2021, in Denton County, Texas, the defendant, SIMEON BONILLA-RUBIO, did then and there intentionally or knowingly cause the death of an individual, namely, Cassity Hinojosa, by shooting Cassity Hinojosa with a firearm, but did not cause the death of the unborn child of Cassity Hinojosa, then you will find the defendant guilty of Murder, a lesser included offense of the amended indictment.

-OR-

If you find from the evidence beyond a reasonable doubt that on or about the 28th day of April, 2021, in Denton County, Texas the defendant, SIMEON BONILLA-RUBIO, did then and there with intent to cause serious bodily injury to an individual, namely, Cassity Hinojosa, commit an act clearly dangerous to human life that caused the death of said Cassity Hinojosa, by shooting Cassity

Hinojosa with a firearm, but did not cause the death of the unborn child of Cassidy Hinojosa, then you will find the defendant guilty of Murder, a lesser included offense of the amended indictment.

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

If you have found the defendant not guilty of Murder, you will next consider the lesser included offense of Manslaughter.

**Application of Law to Facts – Manslaughter – Cassidy Hinojosa**

Now if you find from the evidence beyond a reasonable doubt that on or about the 28th day of April, 2021, in Denton County, Texas, the defendant, SIMEON BONILLA-RUBIO, did then and there recklessly cause the death of an individual, namely, Cassidy Hinojosa, by shooting Cassidy Hinojosa with a firearm, then you will find the defendant guilty of Manslaughter, a lesser included offense of the amended indictment.

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

**Application of Law to Facts – Manslaughter – Unborn Child**

Now if you find from the evidence beyond a reasonable doubt that on or about the 28th day of April, 2021, in Denton County, Texas, the defendant, SIMEON BONILLA-RUBIO, did then and there recklessly cause the death of an individual, namely, unborn child of Cassidy Hinojosa, by causing the death of Cassidy Hinojosa while said unborn child was in gestation of said Cassidy Hinojosa, then you will find the defendant guilty of Manslaughter, a lesser included offense of the amended indictment.

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

If you have found the defendant not guilty of manslaughter, you will next consider the lesser included offense of Criminally Negligent Homicide.

**Application of Law to Facts – Criminally Negligent Homicide – Cassidy Hinojosa**

Now if you find from the evidence beyond a reasonable doubt that on or about the 28th day of April, 2021, in Denton County, Texas, the defendant, SIMEON BONILLA-RUBIO, did then and there cause the death of an individual,



namely, Cassity Hinojosa, by criminal negligence, by shooting Cassity Hinojosa with a firearm, then you will find the defendant guilty of Criminally Negligent Homicide, a lesser included offense of the amended indictment.

If you do not so believe, or if you have a reasonable doubt thereof, you will find the defendant not guilty of Criminally Negligent Homicide.

### **Application of Law to Facts – Criminally Negligent Homicide – Unborn Child**

Now if you find from the evidence beyond a reasonable doubt that on or about the 28th day of April, 2021, in Denton County, Texas, the defendant, SIMEON BONILLA-RUBIO, did then and there cause the death of an individual, namely, unborn child of Cassity Hinojosa, by causing the death of Cassity Hinojosa while said unborn child was in gestation of said Cassity Hinojosa, by criminal negligence, then you will find the defendant guilty of Criminally Negligent Homicide, a lesser included offense of the amended indictment.

If you do not so believe, or if you have a reasonable doubt thereof, you will find the defendant not guilty of Criminally Negligent Homicide.

### **Necessity Defense – Cassity Hinojosa**

If you all agree the state has proved, beyond a reasonable doubt, each of the elements of the offense of capital murder, murder, manslaughter, or criminally negligent homicide, you must next consider the justification of necessity.

As to the law of necessity, you are instructed that a person's conduct is justified if that person reasonably believes his conduct is immediately necessary to avoid imminent harm; and the desirability and urgency of avoiding the harm clearly outweigh, according to ordinary standards of reasonableness, the harm sought to be prevented by the law proscribing the conduct.

Now, if you find and believe from the evidence that on the occasion in question the defendant reasonably believed, viewed from the standpoint of the defendant at the time, that his conduct of shooting the firearm at Cassity Hinojosa was immediately necessary to avoid imminent harm, and the desirability and urgency of avoiding the harm clearly outweighed, according to ordinary standards of reasonableness, the harm sought to be prevented by the law prohibiting murder, then you should acquit the defendant, or, if you have a reasonable doubt as to whether or not the defendant acted reasonably or the desirability and urgency of avoiding the harm was unreasonable under the circumstances, then you should give the defendant the benefit of that doubt and say by your verdict "not guilty" of capital murder, and "not guilty" of the murder, manslaughter, and criminally negligent homicide of Cassity Hinojosa.

If you all agree that the state has proved, beyond a reasonable doubt, each of the elements of the offense of murder of Cassity Hinojosa, and you believe beyond a reasonable doubt, the defendant did not act out of necessity, you shall find the defendant guilty of element 1, the murder of Cassity Hinojosa.

If you further find or have found that the State proved elements 2 and 3 then you shall find the defendant guilty of Capital Murder as alleged in the amended indictment.

### **Rules that Control Deliberations**

You must follow these rules while you are deliberating 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 presiding juror. The presiding juror should conduct the deliberations in an orderly way. Each juror has one vote, including the presiding juror. The presiding juror must supervise the voting, participate in voting on the verdict, and sign the verdict sheet.

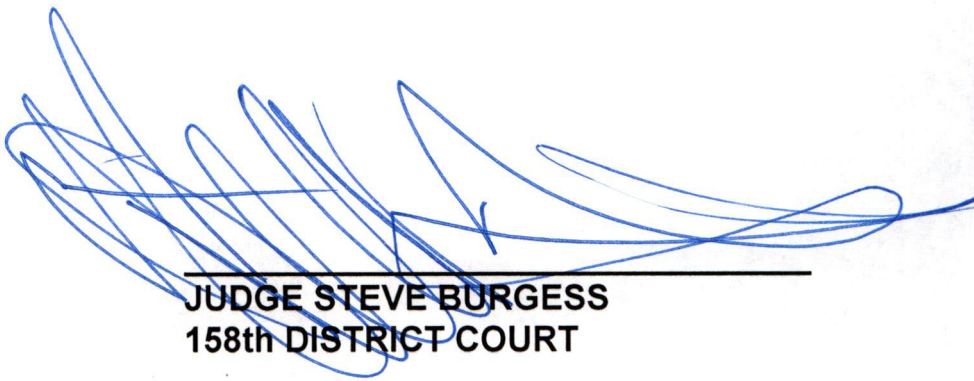
While deliberating and until excused by the trial court, all jurors must follow these rules--

1. You must not discuss this trial 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. If anyone leaves the room, then you must stop your discussions about the case until all of you are present again.
3. You must communicate with the judge only in writing, signed by the presiding juror and given to the judge through the officer assigned to you.
4. You must not conduct any independent investigations, research, or experiments.
5. You must tell the judge if anyone attempts to contact you about the case before you reach your verdict.

You will make no other finding except to show in the blank on the form of the verdict whether the defendant is guilty beyond a reasonable doubt, or not guilty, as you may find and determine from the law and the evidence in this case.

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

**SIGNED on July 28, 2023.**



A handwritten signature in blue ink, consisting of several overlapping loops and strokes, positioned above a horizontal line.

---

**JUDGE STEVE BURGESS  
158th DISTRICT COURT**

**VERDICT FORM**

*(Presiding Juror to sign only one)*

**Verdict--Guilty of Capital Murder**

We, the jury, find the Defendant, Simeon Bonilla-Rubio, guilty of the offense of Capital Murder, as alleged in the amended indictment.

  
\_\_\_\_\_  
**PRESIDING JUROR**

**Verdict--Guilty of Murder**

We, the jury, find the Defendant, Simeon Bonilla-Rubio, not guilty of the offense of Capital Murder, but guilty of the lesser included offense of Murder.

\_\_\_\_\_  
**PRESIDING JUROR**

**Verdict--Guilty of Manslaughter**

We, the jury, find the Defendant, Simeon Bonilla-Rubio, not guilty of the offense of Capital Murder, but guilty of the lesser included offense of Manslaughter.

\_\_\_\_\_  
**PRESIDING JUROR**

Verdict--Guilty of Criminally Negligent Homicide

We, the jury, find the Defendant, Simeon Bonilla-Rubio, not guilty of the offense of Capital Murder, but guilty of the lesser included offense of Criminally Negligent Homicide.

---

**PRESIDING JUROR**

Verdict--Not Guilty

We, the jury, find the Defendant, Simeon Bonilla-Rubio, not guilty.

---

**PRESIDING JUROR**