

FILED

at \_\_\_\_\_ o'clock \_\_\_ M

CAUSE NOS. D-44,209 and D-44,210

AUG 25 2016

THE STATE OF TEXAS

IN THE DISTRICT COURT of Ector County, Texas  
By [Signature] Deputy

VS.

OF ECTOR COUNTY, TEXAS

DARRELL GREEN

358TH JUDICIAL DISTRICT

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, DARRELL GREEN, stands charged by indictment with the offenses of Attempted Capital Murder of Arturo Javier Leyva and Attempted Capital Murder of Hector Fuentes, alleged to have been committed on or about the 8th day of August, 2014, in Ector County, Texas. The Defendant has pleaded not guilty.

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

A person commits the offense of Capital Murder when the murder, if any, is committed upon a peace officer who is acting in the lawful discharge of an official duty and who the person knows is a peace officer.

A person commits the offense of Capital Murder when such person intentionally commits murder in the course of committing, or attempting to commit, the offense of Robbery.

A person commits the offense of Attempted Murder when he intentionally or knowingly attempts to cause the death of an individual.

A person commits the offense of Attempted Capital Murder when the attempted murder, if any, is committed upon a peace officer who is acting in the lawful discharge of an official duty and who the person knows is a peace officer.

A person commits the offense of Attempted Capital Murder when such person intentionally attempts to commit murder in the course of committing, or attempting to commit, the offense of Robbery.

Our law provides that a person commits the offense of Robbery if, in the course of committing theft and with intent to obtain and maintain control of property of another, he intentionally or knowingly causes bodily injury to another, or threatens or places another in fear of imminent bodily injury or death.

A person commits the offense of Aggravated Robbery if the person committing Robbery causes serious bodily injury to another.

A person commits the offense Aggravated Robbery if the person committing Robbery uses or exhibits a deadly weapon during the commission of the Robbery.

A person commits the offense of Assault if he intentionally or knowingly causes bodily injury to another.

A person commits the offense of Aggravated Assault if the person committing Assault causes serious bodily injury to another.

A person commits the offense of Aggravated Assault if the person committing Assault uses or exhibits a deadly weapon during the commission of the Assault.

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

"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.

"Bodily injury" means physical pain, illness, or any impairment of physical condition, including death.

"Serious bodily injury" means 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.

"Theft" as used herein is the unlawful appropriation of the corporeal personal property of another with the intent to deprive such person of said property.

"Appropriation" and "appropriate," as those terms are used herein, 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" as used herein means tangible or intangible personal property or documents, including money that represents or embodies anything of value.

"Deprive" as used herein means to withhold property from the owner permanently.

"Effective consent" means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner. Consent is not effective if induced by deception, coercion, force or threats.

"Owner" means a person who has title to the property, possession of the property, or a greater right to possession of the property than the person charged.

"Possession" means actual care, custody, control, or management of property.

"Public servant" means an officer, employee, or agent of government.

You are instructed that a deputy sheriff is a peace officer and public servant.

"Government" means a county, municipality, or political subdivision of the state.

"Individual" means a human being who is alive.

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

A person acts intentionally, or with intent, when it is his conscious objective or desire to engage in the conduct or cause the result.

A person acts knowingly or with knowledge, when he is aware that his conduct is reasonably certain to cause the result.

A fact may be established by direct evidence or by circumstantial evidence, or both. A fact is established by direct evidence when proved by documentary evidence or by witnesses who saw the act done or heard the words spoken, or both. A fact is established by circumstantial evidence when it may be fairly and reasonably inferred from other facts proved.

Now if you find from the evidence beyond a reasonable doubt that on or about the 8th day of August, 2014, in Ector County, Texas, the Defendant, DARRELL GREEN, did then and there, with the specific intent to commit the offense of capital murder, intentionally or knowingly attempt to cause the death of an individual, namely, Arturo Javier Leyva, by shooting him with a deadly weapon, to-wit: a firearm, and the said Arturo Javier Leyva was then and there a peace officer, an Ector County Sheriff's Deputy, who was acting in the lawful discharge of an official duty, to-wit: attempting to detain or investigate said Defendant, and the Defendant knew Arturo Javier Leyva was

a peace officer, and the said attempt did then and there amount to more than mere preparation that tended but failed to effect the commission of the offense of capital murder, as alleged in the Indictment, then you will find the Defendant guilty of Attempted Capital Murder of Arturo Javier Leyva as charged in the Indictment, and you will sign VERDICT FORM "A."

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of Attempted Capital Murder. Then, and only then, you will next consider whether the Defendant is guilty of the lesser included offense of Aggravated Assault of a Public Servant as it pertains to Arturo Javier Leyva.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 8th day of August, 2014, in Ector County, Texas, the Defendant, DARRELL GREEN, did then and there intentionally or knowingly cause bodily injury to Arturo Javier Leyva by shooting him with a firearm, and did then and there use or exhibit a deadly weapon, to-wit: a firearm, during the commission of said assault, and that the said Arturo Javier Leyva was then and there lawfully discharging an official duty, to-wit: attempting to detain or investigate said Defendant, and the Defendant did then and there know that the said Arturo Javier Leyva was a public servant, then you will find the Defendant, DARRELL GREEN, guilty of the lesser included offense of Aggravated Assault of a Public Servant, and you will sign VERDICT FORM "B."

If you find from the evidence beyond a reasonable doubt that the Defendant is guilty of either Attempted Capital Murder or Aggravated Assault of a Public Servant as it pertains to Arturo Javier Leyva, but you have a reasonable doubt as to which offense he is guilty, then you shall find the Defendant guilty of the lesser included offense of

Aggravated Assault of a Public Servant as it pertains to Arturo Javier Leyva, and you will sign VERDICT FORM "B."

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of Aggravated Assault of a Public Servant as it pertains to Arturo Javier Leyva. Then, and only then, you will next consider whether the Defendant is guilty of the lesser included offense of Aggravated Assault as it pertains to Arturo Javier Leyva.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 8th day of August, 2014, in Ector County, Texas, the Defendant, DARRELL GREEN, did then and there intentionally or knowingly cause bodily injury to Arturo Javier Leyva by shooting him with a firearm, and the Defendant did then and there use or exhibit a deadly weapon, to-wit: a firearm, during the commission of said assault, then you will find the Defendant, DARRELL GREEN, guilty of the lesser included offense of Aggravated Assault, and you will sign VERDICT FORM "C."

If you find from the evidence beyond a reasonable doubt that the Defendant is guilty of either Aggravated Assault of a Public Servant or Aggravated Assault as it pertains to Arturo Javier Leyva, but you have a reasonable doubt as to which offense he is guilty, then you shall find the Defendant guilty of the lesser included offense of Aggravated Assault as it pertains to Arturo Javier Leyva, and you will sign VERDICT FORM "C."

If you have a reasonable doubt as to whether the Defendant is guilty of any offense referred to in this charge as it pertains to Arturo Javier Leyva, you will acquit the

Defendant and say by your verdict "Not Guilty" to any charge as it pertains to Arturo Javier Leyva, and you will sign VERDICT FORM "E."

Now if you find from the evidence beyond a reasonable doubt that on or about the 8th day of August, 2014, in Ector County, Texas, the Defendant, DARRELL GREEN, did then and there, with specific intent to commit the offense of capital murder, intentionally attempt to cause the death of an individual, namely, Hector Fuentes, by shooting him with a deadly weapon, to-wit: a firearm, and the Defendant was then and there in the course of committing or attempting to commit the offense of Robbery of Hector Fuentes or Javier Ramirez, and the said attempt to commit capital murder did then and there amount to more than mere preparation that tended but failed to effect the commission of the offense of capital murder, then you will find the Defendant guilty of Attempted Capital Murder of Hector Fuentes as charged in the indictment, and you will sign VERDICT FORM "F."

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of Attempted Capital Murder. Then, and only then, you will next consider whether the Defendant is guilty of the lesser included offense of Aggravated Robbery as it pertains to Hector Fuentes.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 8th day of August, 2014, in Ector County, Texas, the Defendant, DARRELL GREEN, did then and there, while in the course of committing theft of property and with intent to obtain or maintain control of said property, intentionally or knowingly cause bodily injury to Hector Fuentes by shooting him with a deadly weapon, to-wit: a firearm, and the Defendant did then and there use or exhibit a deadly weapon, to-wit: a firearm,

during the commission of said offense, then you will find the Defendant, DARRELL GREEN, guilty of the lesser included offense of Aggravated Robbery as it pertains to Hector Fuentes, and you will sign VERDICT FORM "G."

If you find from the evidence beyond a reasonable doubt that the Defendant is guilty of either Attempted Capital Murder or Aggravated Robbery as it pertains to Hector Fuentes, but you have a reasonable doubt as to which offense he is guilty, then you shall find the Defendant guilty of the lesser included offense of Aggravated Robbery as it pertains to Hector Fuentes, and you will sign VERDICT FORM "G."

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of Aggravated Robbery. Then, and only then, you will next consider whether the Defendant is guilty of the lesser included offense of Aggravated Assault as it pertains to Hector Fuentes.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 8th day of August, 2014, in Ector County, Texas, the Defendant, DARRELL GREEN, did then and there, intentionally or knowingly cause bodily injury to Hector Fuentes by shooting him with a firearm, and the Defendant did then and there use or exhibit a deadly weapon, to-wit: a firearm, during the commission of said assault, then you will find the Defendant, DARRELL GREEN, guilty of the lesser included offense of Aggravated Assault as it pertains to Hector Fuentes, and you will sign VERDICT FORM "H."

If you find from the evidence beyond a reasonable doubt that the Defendant is guilty of either Aggravated Robbery or Aggravated Assault as it pertains to Hector Fuentes, but you have a reasonable doubt as to which offense he is guilty, then you



shall find the Defendant guilty of the lesser included offense of Aggravated Assault as it pertains to Hector Fuentes, and you will sign VERDICT FORM "H."

If you have a reasonable doubt as to whether the Defendant is guilty of any offense referred to in this charge as it pertains to Hector Fuentes, you will acquit the Defendant and say by your verdict "Not Guilty" to any charge as it pertains to Hector Fuentes, and you will sign VERDICT FORM "J."

You are further instructed that certain evidence was submitted to you regarding the Defendant having committed offenses or bad acts other than the offenses alleged against him for which he is now on trial. Such evidence cannot be considered by you against the Defendant as any evidence of guilt in these cases. Said evidence was admitted for the purpose of aiding you, if it does, in assessing the weight you will give the testimony and other evidence submitted to you. You cannot consider such evidence for any purpose unless you find and believe beyond a reasonable doubt that the Defendant committed such other bad acts or offenses.

Our law provides that a Defendant may testify in his own behalf if he elects to do so. This, however, is a privilege accorded a Defendant, and in the event he elects not to testify, that fact cannot be taken as a circumstance against him.

In this case, the Defendant has elected not to testify, and you are instructed that you cannot and must not refer or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against the Defendant.

A grand jury indictment is the means whereby a Defendant is brought to trial in a felony prosecution. It is not evidence of guilt nor can it be considered by you in passing

upon the issue of guilt of the Defendant. The burden of proof in all criminal cases rests upon the State throughout the trial and never shifts to the Defendant.

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, 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 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 for the prosecution to 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 the exclusive judges of the facts proved, of the credibility of the witnesses, and the weight to be given their testimony, but the law you must be governed by, you shall receive in these written instructions.

After you retire to the jury room, you should select one of your members as your Foreperson. It is his or her duty to preside at your deliberations, to 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 Foreperson.

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, the attorneys, the court, or anyone else concerning any question you may have. After you have reached a unanimous verdict, the Foreperson will certify thereto by filling in the appropriate form attached to this charge, and sign his or her name as Foreperson.

W. Staycott  
JUDGE PRESIDING

Jury Charged + Instructed at 10:58 am on 8/25/16.

W. Staycott

NO. D-44,209

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

OF ECTOR COUNTY, TEXAS

DARRELL GREEN

358TH JUDICIAL DISTRICT

VERDICT FORM "B"

We, the Jury, find the Defendant, DARRELL GREEN, not guilty of the offense of Attempted Capital Murder, but guilty, beyond a reasonable doubt, of the lesser included offense of Aggravated Assault of a Public Servant as it pertains to Arturo Javier Leyva.

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FOREPERSON

NO. D-44,209

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

OF ECTOR COUNTY, TEXAS

DARRELL GREEN

358TH JUDICIAL DISTRICT

VERDICT FORM "C"

We, the Jury, find the Defendant, DARRELL GREEN, not guilty of the offense of Attempted Capital Murder and not guilty of the offense of Aggravated Assault of a Public Servant, but guilty, beyond a reasonable doubt, of the lesser included offense of Aggravated Assault as it pertains to Arturo Javier Leyva.

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FOREPERSON

NO. D-44,209

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

OF ECTOR COUNTY, TEXAS

DARRELL GREEN

358TH JUDICIAL DISTRICT

VERDICT FORM "E"

We, the Jury, find the Defendant, DARRELL GREEN, "Not Guilty" of all offenses referred to in the Court's Charge as it pertains to Arturo Javier Leyva.

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FOREPERSON

NO. D-44,210

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

OF ECTOR COUNTY, TEXAS

DARRELL GREEN

358TH JUDICIAL DISTRICT

VERDICT FORM "G"

We, the Jury, find the Defendant, DARRELL GREEN, not guilty of the offense of Attempted Capital Murder, but guilty, beyond a reasonable doubt, of the lesser included offense of Aggravated Robbery as it pertains to Hector Fuentes.

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FOREPERSON

NO. D-44,210

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

OF ECTOR COUNTY, TEXAS

DARRELL GREEN

358TH JUDICIAL DISTRICT

VERDICT FORM "H"

We, the Jury, find the Defendant, DARRELL GREEN, not guilty of the offense of Attempted Capital Murder and not guilty of the offense of Aggravated Robbery, but guilty, beyond a reasonable doubt, of the lesser included offense of Aggravated Assault as it pertains to Hector Fuentes.

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FOREPERSON



NO. D-44,210

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

OF ECTOR COUNTY, TEXAS

DARRELL GREEN

358TH JUDICIAL DISTRICT

VERDICT FORM "J"

We, the Jury, find the Defendant, DARRELL GREEN, "Not Guilty" of all offenses referred to in the Court's Charge as it pertains to Hector Fuentes.

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FOREPERSON