

NO. 2009-CR-11474

THE STATE OF TEXAS                   §           IN THE DISTRICT COURT  
VS.                                       §           399TH JUDICIAL DISTRICT  
ALONSO MENDOZA                       §           BEXAR COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, Alonso Mendoza, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 1st Day of July, 2009, 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 murders more than one person during the same criminal transaction.

II.

"Individual" means a human being who has been born and is alive.

"Same criminal transaction" means a continuous and uninterrupted chain of conduct occurring over a very short period of time in a rapid sequence of unbroken events.

"Deadly weapon" means a firearm.

"Firearm" means any device designed, made, or adapted to

expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

III.

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.

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.

It is a defense to this prosecution if the defendant's conduct was justified by law.

A person is justified in using force against another when and to the degree he reasonably believes the force is immediately necessary to protect himself against the other's use or attempted use of unlawful force. The use of force against another is not justified in response to verbal provocation alone.

A person is justified in using deadly force against another if he would be justified in using force against the other as above stated and when and to the degree he reasonably believes the deadly force is immediately necessary to protect himself against the other's use or attempted use of unlawful deadly force.

"Reasonable belief" means a belief that would be held by an ordinary and prudent person in the same circumstances as the defendant.

"Deadly force" means force that is intended or known by the defendant to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.

"Serious bodily injury" means physical pain, illness, or any impairment of physical condition 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.

Therefore, if you believe from the evidence beyond a reasonable doubt that the defendant, Alonso Mendoza, did, in Bexar County, Texas, on or about the 1st Day of July, 2009, intentionally or knowingly cause the death of an individual, namely, Clarence Blades, by shooting Clarence Blades with a deadly weapon, namely, a firearm, but you further believe from the evidence, or you have a reasonable doubt thereof, or you are unable to agree as to whether, that at the time he did so, the defendant reasonably believed that Clarence Blades was using or attempting to use unlawful deadly force against him and that he reasonably believed that the use of force and the degree of force used were immediately necessary to protect himself against Clarence Blades' use or attempted use of deadly force, you will find the defendant not guilty of capital murder, skip Paragraph IV, and next consider whether the defendant is guilty of the lesser included offense of murder as charged in Paragraph V of this charge.

However, if you believe from the evidence beyond a reasonable doubt that, at the time and place in question, the defendant did not reasonably believe that Clarence Blades was using or attempting to use unlawful deadly force against him, or that the defendant did not reasonably believe that the use of force or the degree of force used were immediately necessary to protect himself against Clarence Blades' use or attempted use of deadly force, you will find against the defendant on this plea of justification and proceed to Paragraph IV of the charge.



You are further instructed as part of the law of this case, and as a qualification of the law on self defense, that the use of force by a defendant against another is not justified if the defendant provoked the other's use or attempted use of unlawful force, unless the defendant abandons the encounter, or clearly communicates to the other person his intent to do so reasonably believing he cannot safely abandon the encounter; and the other person, nevertheless, continues or attempts to use unlawful force against the defendant.

So, in this case, if you find and believe from the evidence beyond a reasonable doubt that the defendant, Alonso Mendoza, immediately before the difficulty, if any, did some act, or used some language, or did both, as the case may be, with the intent on his, Alonso Mendoza's, part to produce the occasion for killing Clarence Blades, and to bring on the difficulty with Clarence Blades, and that such words and conduct on Alonso Mendoza's part, if there was such, were reasonably calculated to, and did, provoke a difficulty, and that on such occasion Clarence Blades attacked defendant with deadly force, or reasonably appeared to Alonso Mendoza to so attack him or to be attempting to so attack him, and in pursuance of his original design, if there was such, Alonso Mendoza, caused the death of Clarence Blades by the use of deadly force, to-wit, by shooting Clarence Blades with a deadly weapon, namely: a firearm, then you will find against the defendant on his plea of self defense.

On the other hand, if you find from the evidence that the acts done or language used by Alonso Mendoza, if any, were not, under the circumstances, reasonably calculated or intended to provoke a difficulty or an attack by Clarence Blades upon Alonso Mendoza, or if you have a reasonable doubt thereof, then in such event, Alonso Mendoza's right of self defense would in no wise be abridged, impaired, or lessened, and, if you so find, or if you have a reasonable doubt thereof, you will decide the issue of self defense in accordance with the law on that subject given in other portions of this charge, wholly disregarding and without reference to the law on the subject of provoking the difficulty.

IV.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 1st Day of July, 2009, in Bexar County, Texas, the defendant, Alonso Mendoza, did intentionally or knowingly cause the death of an individual, namely, Clarence Blades, by shooting Clarence Blades with a deadly weapon, namely, a firearm, and did intentionally or knowingly cause the death of another individual, namely: Misty Espinoza, by shooting Misty Espinoza with a deadly weapon, namely, a firearm, and both murders were committed during the same criminal transaction, 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, you will find the defendant not guilty and skip Paragraph V.

V.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 1st Day of July, 2009, in Bexar County, Texas, the defendant, Alonso Mendoza, did intentionally or knowingly cause the death of an individual, namely, Misty Espinoza, by shooting Misty Espinoza with a deadly weapon, namely, a firearm, 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.



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 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 argument of counsel, you will retire to the jury room, select your own presiding juror and proceed with your deliberations. After you have reached a unanimous verdict the

presiding juror will certify thereto by filling in the appropriate forms attached to this charge and signing his or her name as presiding juror.

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.

In order to return a verdict, each juror must agree to that verdict, but jurors have a duty to consult each other and to deliberate with a view to reaching unanimous agreement, if that can be done without violence to individual judgment.

Each juror must decide the case for himself, but only after an impartial consideration of the evidence with his fellow jurors.

In the course of deliberations, a juror should not hesitate to re-examine his own views and change his opinion if convinced it is erroneous. However, no juror should surrender his honest conviction as to the weight or effect of the evidence solely because of the opinion of his fellow jurors, or for the mere purpose of returning a verdict.

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.

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 presiding juror. 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 that issue 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 presiding juror, and submitted to the Court through the bailiff.

Respectfully submitted,

  
Judge JUANITA VÁSQUEZ GARDNER  
399th Judicial District  
Bexar County, Texas



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VERDICT FORM

We, the Jury, find the defendant, Alonso Mendoza, not guilty.

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PRESIDING JUROR

VERDICT FORM

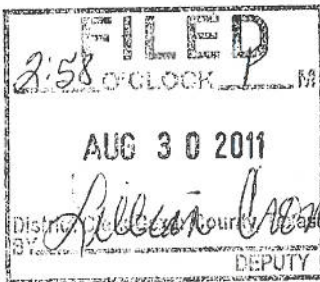
We, the Jury, find the defendant, Alonso Mendoza, guilty of murder.

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PRESIDING JUROR

VERDICT FORM

We, the Jury, find the defendant, Alonso Mendoza, guilty of capital murder as charged in the indictment.



*[Handwritten Signature]*

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PRESIDING JUROR