

CAUSE NO. 44556**THE STATE OF TEXAS****IN THE DISTRICT COURT OF****V.****FORT BEND COUNTY, TEXAS****JOSEPH LEE FLORES, JR.****434TH JUDICIAL DISTRICT****CHARGE OF THE COURT****Ladies and Gentlemen of the Jury:**

The defendant, Joseph Lee Flores, Jr., stands charged by indictment with the offense of Attempted Capital Murder of a Peace Officer, alleged to have been committed in Fort Bend County, Texas, on or about June 2, 2006. To this charge the defendant has pleaded not guilty.

I.

Our law provides that a person commits capital murder of a peace officer if he murders a peace officer who is acting in the lawful discharge of an official duty and who the person knows is a peace officer. A city police officer is a peace officer.

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

II.

A person commits an offense if, with specific intent to commit an offense, he does an act amounting to more than mere preparation that tends, but fails, to effect the commission of the offense intended. This is an attempt to commit an offense.

III.

A person acts intentionally, or with intent, with respect to the nature of his conduct or to 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 the nature of his conduct when he is aware of the nature of his conduct. 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.

IV.

In order to find the defendant guilty of attempted capital murder of a peace officer, you must find from the evidence beyond a reasonable doubt that:

- (1) the defendant intentionally attempted to cause the death of Lawrence Eissler by intentionally or knowingly shooting him with a gun, and
- (2) that at the time of the shooting, if there was such, Lawrence Eissler was then and there a peace officer, and
- (3) that Lawrence Eissler, at the time and place in question, was acting in the lawful discharge of an official duty as such peace officer, and
- (4) that the defendant then and there knew at the very time of the shooting, if any, that Lawrence Eissler was a peace officer.

If you should have a reasonable doubt as to the existence of any of the foregoing elements, then you cannot convict the defendant of attempted capital murder.

V.

A person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both.

Each party to an offense may be charged with the commission of the offense.

A person is criminally responsible for the offense committed by the conduct of another if, acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense.

Mere presence alone will not constitute one a party to the offense.

VI.

Now, if you find from the evidence beyond a reasonable doubt that on or about June 2, 2006, in Fort Bend County, Texas, the defendant, Joesph Lee Flores, Jr., acting alone or as a party (as herein defined), did intentionally, with the specific intent to commit the offense of Capital Murder of Lawrence Eissler, a peace officer in the lawful discharge of an official duty, by doing an act, to wit: by shooting at Lawrence Eissler with a firearm, knowing at the time that Lawrence Eissler was a peace officer, ^{which} with amounted to more than mere preparation that tended to but failed to effect the ^{the} commission of ~~be~~ the offense intended then you will find the defendant "Guilty" of Attempted Capital Murder, as charged in the indictment.

Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant "Not Guilty".

VII.

You are instructed that if there is testimony before you in this case regarding the Defendant having committed other acts other than the offense alleged against him in the indictment in this case, you cannot consider such other acts, if any, unless you first find and believe beyond a reasonable doubt that the Defendant committed such acts, if any, but if you do not believe, or if you have a reasonable doubt thereof, you will not consider such testimony for any purpose.

VIII.

You are instructed that you may consider all relevant facts and circumstances surrounding the alleged attempted killing, if any, and the previous relationship existing between the accused and Lawrence Eissler, if any there was, 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.

IX.

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

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 shall receive in these written instructions, and you must be governed thereby.

You are limited in your deliberations upon a verdict to the consideration and discussion of such facts and circumstances only as were admitted in evidence, or as are reasonably deducible from the evidence. You cannot legally and must not consider nor discuss any fact or circumstance not thus in evidence or reasonably deducible from the evidence. Nor may a juror relate to any of the others any fact or circumstance of which he may have or claim to have knowledge or information, that was not introduced in evidence. Neither may any of the jurors lawfully discuss anything else, so far as the evidence is concerned, other than the evidence introduced by the parties and admitted by the Court.

You will not talk about this case with anyone not of your jury, and even among yourselves, only when you are all together in the jury room prior to being discharged by the court.

Your deliberations at this time are limited solely to the issue of guilt or innocence of the Defendant of the offense charged and you are not authorized to pass upon punishment, if any, to be imposed.

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

X.

After argument of counsel, you will retire to the jury room and you should select one of your members as your presiding juror. It is his or her duty to preside at your deliberations and to vote with you in arriving at your verdict. Your verdict must be unanimous.

After you have retired, you may communicate with this court in writing through the officer who has you in charge. After you have retired, you may communicate with this Court in writing through this officer. Any communication relative to the cause must be written and prepared by the presiding juror and shall be submitted to the court through this officer. Do not attempt to talk to the officer who has you in charge, the attorneys, or the court, or anyone else concerning any questions you may have.

After you have reached a unanimous verdict, the presiding juror will certify thereto by filling in the appropriate form attached to this charge and signing his or her name as Presiding Juror.

FILED

JUN 24 2008

AT

[Handwritten Signature]

Clerk District Court, Fort Bend Co., TX

[Handwritten Signature]

Hon. James N. "Jim" Shoemaker
 Presiding Judge
 434th District Court

CAUSE NO. 44556

THE STATE OF TEXAS

IN THE DISTRICT COURT OF

V.

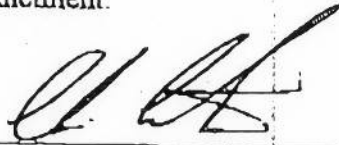
FORT BEND COUNTY, TEXAS

JOSEPH LEE FLORES, JR.

434TH JUDICIAL DISTRICT

VERDICT - GUILTY

We, the Jury, find the defendant, Joseph Lee Flores, Jr., "Guilty" of the offense of Attempted Capital Murder of a Peace Officer, as alleged in the indictment.



Presiding Juror *Chris Carstens*

VERDICT - NOT GUILTY

We, the Jury, find the defendant, Joseph Lee Flores, Jr., "Not Guilty" of the offense of Attempted Capital Murder of a Peace Officer, as alleged in the indictment.

Presiding Juror