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THE STATE OF TEXAS § IN THE 230TH DISTRICT COURT
VS. § OF HARRIS COUNTY, TEXAS
JONATHAN LEO GOMEZ § FEBRUARY TERM, A. D., 2008

CAUSE NO. 1116722

Members of the jury:

The defendant, Jonathan Leo Gomez, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 5th day of May, 2007, in Harris County, Texas. The defendant has pleaded not guilty.

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

A person commits the offense of capital murder if he intentionally commits murder, as hereinbefore defined, in the course of committing or attempting to commit the offense of robbery. Robbery is a felony offense.

A person commits the offense of felony murder if he commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

A person commits the offense of robbery if, in the course of committing theft, and with intent to obtain or maintain control of property of another he intentionally or knowingly causes bodily injury to another.

"In the course of committing theft" means conduct that occurs in an attempt to commit, during the commission, or in the 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.

"Theft" is the unlawful appropriation of property with intent to deprive the owner of property.

"Appropriation" and "appropriate", as those terms are used herein, means 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" means to withhold property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the property is lost to the owner.

"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 force or threat.

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

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

"Deadly weapon" means a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury; or anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

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

"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.

The definition of intentionally relative to the offense of capital murder is as follows:

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.

the felony offense of robbery of Luis Murrillo, as alleged in defendant was in the course of committing or attempting to commit reasonable doubt not only that on the occasion in question the of capital murder, you must find from the evidence beyond a Before you would be warranted in finding the defendant guilty an offense.

offense. Mere presence alone will not constitute one a party to directs, aids, or attempts to aid the other person to commit the assist the commission of the offense, he solicits, encourages, by the conduct of another if, acting with intent to promote or A person is criminally responsible for an offense committed he is criminally responsible, or by both.

committed by his own conduct, by the conduct of another for which criminally responsible as a party to an offense if the offense is acting together in the commission of the offense. A person is All persons are parties to an offense who are guilty of conduct is reasonably certain to cause the result.

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

is his conscious objective or desire to engage in the conduct or the nature of his conduct or to a result of his conduct when it A person acts intentionally, or with intent, with respect to offense of robbery are as follow:

The definitions of intentionally or knowingly relative to the reasonably certain to cause the result. result of his conduct when he is aware that his conduct is A person acts knowingly, or with knowledge, with respect to a desire to cause the result.

a result of his conduct when it is his conscious objective or A person acts intentionally, or with intent, with respect to offense of murder are as follow: The definitions of intentionally or knowingly relative to the

Murrillo with a deadly weapon, namely a firearm, that caused the act clearly dangerous to human life, to-wit: by shooting Luis commission of the felony of robbery of Luis Murrillo, commit an or in immediate flight from the commission or attempted attempted commission of the felony of robbery of Luis Murrillo, there unlawfully, while in the furtherance of the commission or County, Texas, the defendant, Jonathan Leo Gomez, did then and doubt that on or about the 5th day of May, 2007, in Harris Therefore, if you find from the evidence beyond a reasonable

defendant is guilty of felony murder. the defendant of capital murder and next consider whether the doubt, or if you have a reasonable doubt thereof, you will acquit Unless you so find from the evidence beyond a reasonable as charged in the indictment.

did, then you will find the defendant guilty of capital murder, attempted to aid Ricardo Delacruz to commit the offense, if he offense, if any, solicited, encouraged, directed, aided or Gomez, with the intent to promote or assist the commission of the weapon, namely a firearm, and that the defendant, Jonathan Leo death of Luis Murrillo by shooting Luis Murrillo with a deadly commit the robbery of Luis Murrillo, intentionally cause the unlawfully, while in the course of committing or attempting to Harris County, Texas, Ricardo Delacruz did then and there a reasonable doubt that on or about the 5th day of May, 2007, in weapon, namely a firearm; or if you find from the evidence beyond death of Luis Murrillo by shooting Luis Murrillo with a deadly commit the robbery of Luis Murrillo, intentionally cause the unlawfully, while in the course of committing or attempting to Texas, the defendant, Jonathan Leo Gomez, did then and there that on or about the 5th day of May, 2007, in Harris County, Now, if you find from the evidence beyond a reasonable doubt murder.

you cannot convict the defendant of the offense of capital a deadly weapon, namely, a firearm; and unless you so find, then cause the death of Luis Murrillo, by shooting Luis Murrillo, with this charge, but also that the defendant specifically intended to

death of Luis Murrillo, or if you find from the evidence beyond a reasonable doubt that on or about the 5th day of May, 2007, in Harris County, Texas, Ricardo Delacruz did then and there unlawfully, while in the furtherance of the commission or attempted commission of the felony of robbery of Luis Murrillo, or in immediate flight from the commission or attempted commission of the felony of robbery of Luis Murrillo, act clearly dangerous to human life, to-wit: by shooting Luis Murrillo with a deadly weapon, namely a firearm, that caused the death of Luis Murrillo, and that the defendant, Jonathan Leo Gomez, with the intent to promote or assist the commission of the offense, if any, solicited, encouraged, directed, aided or attempted to aid Ricardo Delacruz to commit the offense, if he did, then you will find the defendant guilty of felony murder. Unless you so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of felony murder.

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either capital murder or felony murder, but you have a reasonable doubt as to which of said offenses he is guilty, then you must resolve that doubt in the defendant's favor and find him guilty of the lesser offense of felony murder.

If you have a reasonable doubt as to whether the defendant is guilty of any offense defined in this charge you will acquit the defendant and say by your verdict "Not Guilty."

You are further instructed that if there is any evidence before you in this case regarding the defendant's committing an alleged offense or offenses other than the offense alleged against him in the indictment in this case, you cannot consider such evidence for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offense or offenses, if any, 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 indictment and for no other purpose.

You are instructed that a statement of an accused may be used in evidence against him if it appears that the same was freely and voluntarily made without compulsion or persuasion. Therefore, unless you believe from the evidence beyond a reasonable doubt that the alleged statement introduced into evidence was freely and voluntarily made by the defendant without compulsion or persuasion, or if you have a reasonable doubt thereof, you shall not consider such alleged statement for any purpose nor any evidence obtained as a result thereof.

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a right 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 to or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against him.

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 question 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 he 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 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."

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. After you retire to the jury room, you should select one of your members as your Foreman. 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 Foreman.

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.

No one has any authority to communicate with you except 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, prepared and signed by the Foreman and shall be submitted to the court through this officer. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the court, or anyone else concerning any questions you may have.

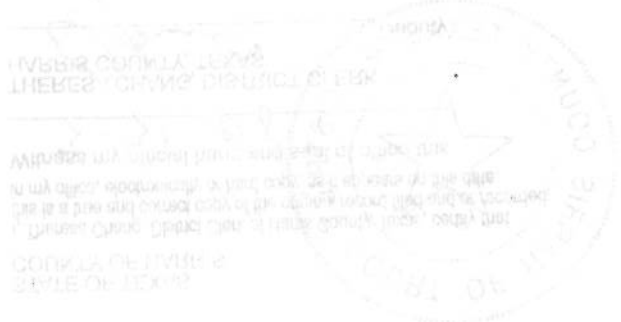
Your sole duty at this time is to determine the guilt or innocence of the defendant under the indictment in this cause and restrict your deliberations solely to the issue of guilt or innocence of the defendant.

Following the arguments of counsel, you will retire to consider your verdict.

Belinda Hill

Belinda Hill, Judge
230th District Court
Harris County, TEXAS

FILED
Theresa Chang
District Clerk
MAR 26 2008
8:12 p.m.
Harris County, Texas
Deputy





and those who are appointed to this court, shall remain in office until their successors are appointed and qualified. The clerk of the court shall keep a record of the proceedings in the court and shall issue writs and process and shall perform such other duties as may be required of him or her by the court.

(Please Print) Foreman

Foreman of the Jury

"We, the jury, find the defendant, Jonathan Leo Gomez, guilty of felony murder."

By _____ Deputy
Harris County, Texas

FILED
Theresa Chang
District Clerk
MAR 26 2008

(Please Print) Foreman

Foreman of the Jury

William Dubois
W. Dubois

"We, the jury, find the defendant, Jonathan Leo Gomez, guilty of capital murder, as charged in the indictment."

(Please Print) Foreman

Foreman of the Jury

"We, the jury, find the defendant, Jonathan Leo Gomez, not guilty."

CHOOSE ONE

THE STATE OF TEXAS
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§ OF HARRIS COUNTY, TEXAS
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