

NO. 2015-CR-7880

THE STATE OF TEXAS § IN THE DISTRICT COURT
VS. § 226TH JUDICIAL DISTRICT
DOMINIQUE GREEN § BEXAR COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, Dominique Green, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 3rd day of December, 2014, 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 intentionally commits the murder in the course of committing or attempting to commit the offense of robbery, kidnapping, obstruction or retaliation.

II.

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

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

"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.

"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.

A "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.

"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.

III.

For the offenses of murder and capital murder, 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.

For the offense of murder, 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.

A person commits a robbery if, in the course of committing theft, as defined hereinafter, and with intent to obtain or maintain control of the property, he intentionally or knowingly causes bodily injury to another, or intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

V.

"In the course of committing" as defined in paragraph II applies and has the same meaning here.

"Attempt" as defined in paragraph II applies and has the same meaning here.

"Bodily injury" as defined in paragraph II applies and has the same meaning here.

VI.

A person commits the offense of theft if he unlawfully appropriates property with intent to deprive the owner of property.

VII.

"Appropriation" and "appropriate" 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" 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 deception or coercion.

"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.

VIII.

For the offense of robbery, 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.

For the offense of robbery, a person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. For the offenses of robbery and theft, 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.

IX.

A person commits the offense of kidnapping if he intentionally or knowingly abducts another person.

X.

"Abduct" means to restrain a person with intent to prevent his liberation by secreting or holding him in a place where he is not likely to be found, or using or threatening to use deadly force.

"Restrain" means to restrict a person's movements without consent, so as to interfere substantially with the person's liberty, by moving the person from one place to another or by confining the person.

Restraint is "without consent" if it is accomplished by force, intimidation, or deception.

"Deadly force" means force that is intended or known by the actor to cause, or in the manner of its use or intended use is

capable of causing, death or serious bodily injury.

"Bodily injury" as defined in paragraph II applies and has the same meaning here.

"Serious bodily injury" as defined in paragraph II applies and has the same meaning here.

XI.

Our law provides that a person commits an offense of retaliation or obstruction if he intentionally or knowingly threatens to harm another by an unlawful act 1) in retaliation for or on account of the service of another as a public servant, witness, prospective witness or informant or a person who has reported or who the actor knows intends to report the occurrence of a crime or 2) to prevent or delay the service of another as a public servant, witness, prospective witness or informant or person who has reported or who the actor knows intends to report the occurrence of a crime.

XII.

"Harm" means anything reasonably regarded as loss, disadvantage, or injury, including harm to another person in whose welfare the person affected is interested.

"Bodily injury" as defined in paragraph II applies and has the same meaning here.

"Public servant" means a peace officer.

Our law provides a person is criminally responsible as a party to an offense if the offense is committed by his own conduct, or by the conduct of another for which he is criminally responsible, or by both. Each party to an offense may be charged with commission of the offense.

Mere presence alone will not make a person a party to an offense. A person is criminally responsible for an 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.

You are instructed that an accomplice witness, as the term is hereinafter used, means any person connected with the crime charged, as a party thereto, and includes all persons who are connected with the crime, as such parties, by unlawful act or omission on their part transpiring either before or during the time of the commission of the offense, and whether or not they were present and participated in the commission of the crime.

You are instructed that a conviction cannot be had upon the testimony of an accomplice witness unless the jury first believes that the accomplice witness' testimony is true and that it shows the defendant is guilty of the offense charged against him, and even then you cannot convict unless the accomplice witness' testimony is corroborated by other evidence tending to connect the defendant with the offense charged, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must tend to connect the defendant with its commission.

The witness, Michael Ramos, is an accomplice, if an offense was committed, and you cannot convict the defendant upon his testimony unless you first believe that the portion of his testimony that ascribes guilt to the defendant is true and shows that the defendant is guilty as charged, and then you cannot convict the defendant upon said testimony unless you further believe that there is other evidence in the case, outside of the

evidence of the said accomplice tending to connect the defendant with the offense committed, if you find that an offense was committed, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must tend to connect the defendant with its commission, and then from all of the evidence you must believe beyond a reasonable doubt that the defendant is guilty of the offense charged against him.

XIII.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 3rd day of December, 2014, in Bexar County, Texas, the defendant, Dominique Green, either acting alone or together with another as a party, did then and there in the course of attempting to commit or committing robbery, kidnapping, or obstruction or retaliation, intentionally cause the death of an individual, namely, Reynaldo Guerrero, Jr. by shooting Reynaldo Guerrero, Jr. with a firearm, 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, or if you are unable to agree, you will next consider whether the defendant is guilty of the lesser included offenses of murder and aggravated robbery.

XIV.

"Murder" as defined in Paragraph I applies and has the same meaning herein.

"Individual," "deadly weapon," "firearm," "bodily injury," and "serious bodily injury" as defined in Paragraph II apply and have the same meaning herein.

"Intentionally" and "knowingly" as defined in Paragraph III apply and have the same meaning herein.

XV.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 3rd day of December, 2014, in Bexar County, Texas, the defendant, Dominique Green, either acting alone or together with another as a party, did intentionally or knowingly cause the death of an individual, namely, Reynaldo Guerrero, Jr., by shooting Reynaldo Guerrero, Jr. with a deadly weapon, namely, a firearm;

Or, if you find from the evidence beyond a reasonable doubt that on or about the 3rd day of December, 2014, in Bexar County, Texas, the defendant, Dominique Green, either acting alone or together with another as a party, with intent to cause serious bodily injury to an individual, namely, Reynaldo Guerrero, Jr., did commit an act clearly dangerous to human life that caused the death of Reynaldo Guerrero, Jr., by shooting Reynaldo Guerrero, Jr., 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, or if you are unable to agree, you will next consider whether the defendant is guilty of the lesser included offense of aggravated robbery.

XVI.

A person commits a robbery if, in the course of committing theft, as defined hereinafter, and with intent to obtain or maintain control of the property, he intentionally or knowingly causes bodily injury to another, or intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

A person commits aggravated robbery if the person commits a robbery, as defined above, and uses or exhibits a deadly weapon.

"In the course of committing," "attempt," "deadly weapon," "firearm," and "bodily injury," as defined in Paragraph II apply and have the same meaning herein.

"Theft" as defined in Paragraph V applies and has the same meaning herein.

"Appropriation" or "appropriate" as defined in Paragraph VII applies and has the same meaning herein.

"Property," "deprive," "effective consent," and "owner," as defined in Paragraph VII apply and have the same meaning herein.

"Intentionally" and "knowingly" as defined in Paragraph VIII apply and have the same meaning herein.

XVII.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 3rd day of December, 2014, in Bexar County, Texas, the defendant, Dominique Green, either acting alone or together with another as a party, while in the course of committing theft of property and with intent to obtain or maintain control of said property, did intentionally or knowingly threaten or place Reynaldo Guerrero, Jr., in fear of imminent bodily injury or death, and Dominique Green did use or exhibit a deadly weapon, to-wit: a firearm, then you will find the defendant guilty of aggravated robbery.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, or if you are unable to agree, you will next consider whether the defendant is guilty of the lesser included offense of theft.

XVIII.

"Theft" as defined in Paragraph V applies and has the same meaning herein.

"Appropriation" or "appropriate" as defined in Paragraph VII applies and has the same meaning herein.

"Property," "deprive," "effective consent," and "owner," as defined in Paragraph VII apply and have the same meaning herein.

"Intentionally" and "knowingly" as defined in Paragraph VIII apply and have the same meaning herein.

XIX.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 3rd day of December, 2014, in Bexar County, Texas, the defendant, Dominique Green, either acting alone or together with another as a party, with intent to deprive the owner, namely: Reynaldo Guerrero, Jr., of property, namely: speakers, did unlawfully appropriate said property by acquiring or otherwise exercising control over the property, said property being other than real property which had a value of Five Hundred Dollars (\$500.00) or more but less than One Thousand, Five Hundred Dollars (\$1,500.00), without the effective consent of the owner, then you will find the defendant guilty of theft.

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.

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

Our law provides 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 or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against him.

During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as telephone, cell phone, smart phone, iPhone, Blackberry, or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, My Space, LinkedIn, YouTube or Twitter, to communicate with anyone any information about this case or to conduct any research about this case until I accept your verdict.

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.

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 determining whether the 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.

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.

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 instructed that you are not to let bias, prejudice, or sympathy play any part in your deliberations. You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given the testimony but the law of the case you must receive from the Court as contained in these instructions, and be governed thereby. 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 was intended.

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. The forms are not intended to suggest to you what your verdict should be.

Your sole duty at this time is to determine whether the defendant is guilty under the indictment in this cause; and restrict your deliberations to the issue of whether the defendant is guilty or not guilty, and nothing else. If the Jury wishes to communicate with the Court, they shall notify the bailiff. Any communication relative to the case must be written, prepared by the Presiding Juror and shall be submitted to the Court through the bailiff.

Respectfully submitted,

FILED
O'CLOCK M
JUL 21 2016
DONNA KAY MCKINNEY
District Clerk, Bexar County, Texas
BY *Angela Salinas*
DEPUTY



JUDGE SID L. HARLE
226th Judicial District Court
Bexar County, Texas

THE STATE OF TEXAS § IN THE DISTRICT COURT
VS. § 226TH JUDICIAL DISTRICT
DOMINIQUE GREEN § BEXAR COUNTY, TEXAS

VERDICT FORM

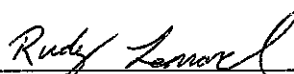
We, the Jury, find the defendant, Dominique Green, not guilty.

PRESIDING JUROR

OR

VERDICT FORM

We, the Jury, find the defendant, Dominique Green, guilty of capital murder as charged in the indictment.



PRESIDING JUROR

OR

VERDICT FORM

We, the Jury, find the defendant, Dominique Green, guilty of murder.

PRESIDING JUROR

OR

VERDICT FORM

We, the Jury, find the defendant, Dominique Green, guilty of aggravated robbery.

PRESIDING JUROR

OR

VERDICT FORM

We, the Jury, find the defendant, Dominique Green, guilty of theft.

PRESIDING JUROR