

THE STATE OF TEXAS § IN THE 282ND JUDICIAL
V. § DISTRICT COURT OF
PEDRO ALARCON § DALLAS COUNTY, TEXAS

FILED
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FELICIA PITRE
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DALLAS CO., TEXAS
DEPUTY

COURT'S INSTRUCTIONS TO THE JURY

MEMBERS OF THE JURY:

The defendant, Pedro Alarcon, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about May 12, 2016, in Dallas County, Texas. To this charge the defendant has entered a plea of not guilty.

OFFENSE DEFINITIONS

Our law provides that a person commits murder if he intentionally or knowingly causes the death of an individual.

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

A person commits robbery if, in the course of committing theft, as that term is herein defined, and with intent to obtain and maintain control of property of another, he intentionally

or knowingly (a) causes bodily injury to another or (b) threatens or places another in fear of imminent bodily injury or death.

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

“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.

A person commits “theft” if he unlawfully appropriates personal property with the intent to deprive the owner of said property.

DEFINITIONS

“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.

“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.

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

A “deadly weapon” is (a) a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury, or (b) anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

“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, coercion, threats, force, or fraud.

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.

An “indictment” is the charging instrument and is no evidence of guilt. Therefore, you shall not consider the indictment in this case as any evidence of guilt.

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

“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.

“Property” means tangible or intangible personal property including anything severed from the land, or a document, including money, that represents or embodies anything of value.

“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.

DEFINITIONS OF CULPABLE MENTAL STATES

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.

CRIMINAL RESPONSIBILITY FOR CONDUCT OF ANOTHER

All persons are parties to an offense who are guilty of acting together in the commission of the offense. 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 both.

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

“Conspiracy” means an agreement between two or more persons, with intent that a felony be committed, that they, or one or more of them, engage in conduct that would constitute the offense. An agreement constituting a conspiracy may be inferred from acts of the parties.

If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, then all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of

the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy. Capital murder, robbery, attempted robbery, and aggravated robbery are felony offenses.

ACCOMPLICE WITNESS TESTIMONY

You are instructed that an "accomplice," as the term is here used, means anyone connected with the crime charged as a party thereto and includes all persons who are connected with the crime by unlawful act or commission on their part transpiring either before or during or immediately after 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 further instructed that a conviction cannot be had upon the testimony of an accomplice alone unless the jury first believes that the accomplice's evidence is true and that it shows the defendant is guilty as charged. Even then you cannot convict on the accomplice's testimony unless the accomplice's testimony is corroborated by other evidence tending to connect the defendant with the offense charged. The corroboration is not sufficient if it merely shows the commission of the offense; it must also tend to connect the defendant with its commission.

Mere presence of the defendant with an accomplice before, during or after the commission of a crime is not sufficient corroboration of an accomplice witness' testimony to convict the defendant.

The witness M. Sanchez is an accomplice as a matter of law, if an offense was committed, and you cannot convict the defendant upon the testimony of M. Sanchez alone unless you first believe that his testimony is true and shows that the defendant is guilty as

charged. Even then you cannot convict the defendant upon the testimony of M. Sanchez alone unless you further believe that there is other evidence in the case, outside of his testimony, tending to connect the defendant with the offense committed, if you find that an offense was committed. The corroboration is not sufficient if it merely shows the commission of the offense. It must also 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.

You are further instructed that one or more accomplices cannot corroborate each other. Such corroborative evidence, if any, must be from some source other than the accomplices.

CONSTITUTIONAL RIGHTS

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 you 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. This burden rests upon the State throughout the trial and never shifts to the defendant. If the State fails to meet its burden, you must acquit the defendant.

It is not required that the prosecution proves 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 the defendant may testify in his own behalf if he chooses to do so, but if he elects not to do so, that fact cannot be taken by you as a circumstance against him or prejudice him in any way. 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.

APPLICATION OF THE LAW AND FACTS

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that on or about May 12, 2016, in Dallas County, Texas, the defendant, Pedro Alarcon, acting alone or as a party, intentionally caused the death of John Horton, an individual, by shooting John Horton with a firearm, and the defendant was then and there in the course of committing or attempting to commit the offense of robbery of John Horton;

OR

if you believe from the evidence beyond a reasonable doubt, that on or about May 12, 2016, in Dallas County, Texas, the defendant, Pedro Alarcon, entered into a conspiracy with one or more of the following persons: Jayona Jones, R. Sanchez, or M. Sanchez, hereinafter referred to as "the others," to commit the felony offense of robbery, and that in the attempt to carry out this conspiracy, if any, one or more of the others did intentionally cause the death of John Horton, by shooting him with a firearm, and if you further find beyond a reasonable doubt that intentionally causing the death of John Horton was committed in furtherance of the

unlawful purpose to commit robbery and should have been anticipated as a result of carrying out the conspiracy to commit robbery, whether or not the defendant, Pedro Alarcon, had the intent to cause the death of John Horton, then you will find the defendant, Pedro Alarcon, guilty of capital murder as alleged in the indictment.

If you do not so believe, or if you have a reasonable doubt thereof, or if you are unable to agree, you will next go on to consider whether the defendant is guilty of the offense of murder as included in the indictment.

Bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt, that on or about May 12, 2016, in Dallas County, Texas, the defendant, Pedro Alarcon, acting alone or as a party, as that term has been defined, intentionally or knowingly caused the death of John Horton, an individual, by shooting John Horton with a firearm, then you will find the defendant, Pedro Alarcon, guilty of murder as included in the indictment.

If you do not so believe, or if you have a reasonable doubt thereof, or if you are unable to agree, you will then consider whether the defendant is guilty of aggravated robbery, as included in the indictment.

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt, that on or about May 12, 2016, in Dallas County, Texas, the Defendant, Pedro Alarcon, acting alone or as a party, as herein defined, while in the course of committing theft of property and with intent to obtain or maintain control of said property, without the effective consent of John Horton and with intent to deprive John Horton of said property, did intentionally, knowingly or recklessly cause bodily injury to John Horton by shooting him with a firearm, and the defendant used or exhibited a deadly weapon, to wit: a firearm, you will find the defendant guilty of aggravated robbery as included in the indictment.

If you do not so find, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not Guilty."

If you should find from the evidence beyond a reasonable doubt that the defendant is either guilty of capital murder or murder or aggravated robbery, but you have a reasonable doubt as to which offense he is guilty of, then you should resolve that doubt in the defendant's favor and find the defendant guilty of the lesser included offense of aggravated robbery.

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 instructed that if there is any testimony before you in this case regarding the defendant having committed offenses or acts other than the offense alleged against him in the indictment in this case, you cannot consider such testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offenses or acts, if any were committed. Even then, you may only consider the same in determining the motive, opportunity, intent, plan, identity, knowledge or absence of mistake or accident, of the defendant and for no other purpose.

VOLUNTARY INTOXICATION

Voluntary intoxication does not constitute a defense to the commission of a crime. "Intoxication" means disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

EVIDENTIARY RULINGS

At times throughout the trial, the Court has been called upon to pass on the question of whether or not certain offered evidence might properly be admitted. Do not be concerned with the reasons for such rulings and draw no inferences from them. Whether offered evidence is admissible is purely a question of law. In admitting evidence to which an objection is made, the Court does not determine what weight should be given such evidence; nor does it pass on the credibility of the witness. As to any offer of evidence that has been rejected by the Court, you of course must not consider the same. As to any question to which an objection was sustained, you must not conjecture as to what the answer might have been or as to the reason for the objection.

JURY GUIDELINES

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, and no juror is permitted to communicate to any other juror anything he may have heard regarding the case from any source other than the witness stand.

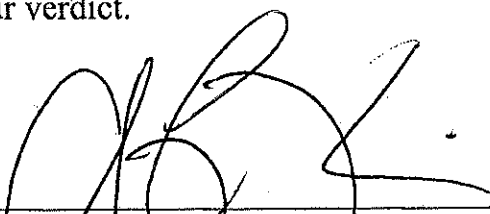
In deliberating on this case, you are not to refer to or discuss any matter or issue not in evidence before you, and you are not to talk about this case to anyone not of your jury.

Mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feeling is to play no 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 to the testimony. But you are bound to receive and be governed by the law from the Court, which is herein given you.

After you have retired to consider the verdict, no one has any authority to communicate with you except the officer who has you in charge. You may communicate with this Court in writing, signed by your presiding juror, through the officer who has you in charge. Do not attempt to talk to the officer, the attorneys, or the Court concerning any question you may have.

After argument of counsel, you will retire and select one of your members as your presiding juror. It is the duty of your presiding juror to preside at your deliberations and to vote with you in arriving at a verdict. Your verdict must be unanimous, and after you have arrived at your verdict, you may use one of the forms attached hereto by having your presiding juror sign the particular form that conforms to your verdict.



**HON/AMBER GIVENS-DAVIS, JUDGE
282ND JUDICIAL DISTRICT COURT
DALLAS COUNTY, TEXAS**

CAUSE NO. F16-75711-S

THE STATE OF TEXAS

§ IN THE 282ND JUDICIAL

V.

§ DISTRICT COURT OF

PEDRO ALARCON

§ DALLAS COUNTY, TEXAS

VERDICT FORMS

We, the jury, unanimously find the defendant, Pedro Alarcon, guilty of capital murder, as charged in the indictment.

Presiding Juror (Signature)

Presiding Juror (Print)

OR

We, the jury, unanimously find the defendant, Pedro Alarcon, guilty of murder as included in the indictment.

Presiding Juror (Signature)

Presiding Juror (Print)

OR

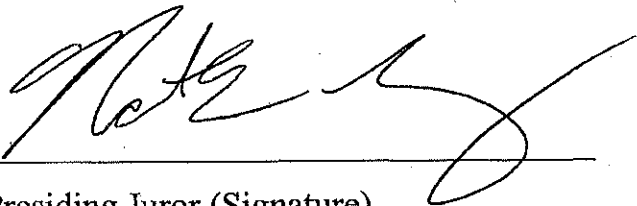
We, the jury, unanimously find the defendant, Pedro Alarcon, guilty of aggravated robbery as included in the indictment.

Presiding Juror (Signature)

Presiding Juror (Print)

OR

We, the jury, unanimously find the defendant, Pedro Alarcon, not guilty.



Presiding Juror (Signature)

Nathan Curry

Presiding Juror (Print)

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