

IN THE 34TH DISTRICT COURT OF
EL PASO COUNTY, TEXAS

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EL PASO COUNTY, TEXAS
BY *BSR/AMO*

THE STATE OF TEXAS

VS.

CAUSE NO. 20120D05089

LUIS ENRIQUE RODRIGUEZ

CHARGE OF THE COURT

LADIES AND GENTLEMEN:

I.

The defendant, LUIS ENRIQUE RODRIGUEZ, stands charged by an indictment. In Count I, the Defendant is charged with the offense of Capital Murder. In Counts II and III, the Defendant is charged with the offense of Engaging in Organized Criminal Activity. These acts are alleged to have been committed in El Paso County, Texas on or about the 22nd day of August, 2012. The defendant has pleaded not guilty.

II.

Definitions:

Our law provides that a person commits the offense of CAPITAL MURDER when he intentionally or knowingly causes the death of two or more individuals in the same criminal transaction.

Our law provides that a person commits the offense of ENGAGING IN ORGANIZED CRIMINAL ACTIVITY if, as a member of a criminal street gang, he commits or conspires to commit the offense of Murder.

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

“Individual” means a human being who is alive.

“Deadly weapon” means a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury.

“Criminal street gang” means three or more persons having common indentifying signs or symbols or an identifiable leadership who continuously or regularly associate in the commission of criminal activities.

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 or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist.

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 both. Each party to an offense may be charged with the commission of the 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 encourages or directs or aids or attempts to aid the other person to commit the offense. Mere presence alone will not make a person a party to an offense.

IV.

In this case Evidence that the defendant was previously convicted of an offense can be considered only for the limited purpose of determining if you believe the defendant. Even

though evidence was introduced that the defendant was previously convicted of an offense or offenses, you must not consider it as evidence of guilt in this case. You may choose to disregard the evidence and not consider it at all. But if you choose to consider the evidence, you must consider it only for the limited purpose of determining if you believe the defendant and the weight to give his testimony.

V.

AS TO COUNT I:

Now, if you find from the evidence beyond a reasonable doubt that on or about the 22nd day of August, 2012 in El Paso County, Texas, LUIS ENRIQUE RODRIGUEZ, Luis "Silent" Rodriguez, Eddie "Wicked" Noriega, Juan "Vago" Espino, and "Garfield" (hereinafter "Co-Defendants") did then and there intentionally or knowingly cause the death of an individual, namely, Luis Fierro, by shooting Luis Fierro with a firearm, and that the Co-Defendants did then and there intentionally or knowingly cause the death of another individual, namely, Roberto Renteria by shooting Roberto Renteria with a firearm, and both murders were committed during the same transaction, and the Defendant, LUIS ENRIQUE RODRIGUEZ, acting with the intent to promote or assist the Co-Defendants, solicited, encouraged, directed, aided or attempted to aid the Co-Defendants in the commission of the murder of Luis Fierro and the murder of Roberto Renteria, to wit: by inviting Luis Fierro to a meeting with LUIS ENRIQUE RODRIGUEZ, Eddie Noriega, and Luis Rodriguez; by picking up and giving a ride to Luis Fierro and Roberto Renteria to the scene of the shooting; by searching Luis Fierro and Roberto Renteria for wires or cell phones or guns; or by shooting Roberto Renteria, then you will find the defendant, LUIS

ENRIQUE RODRIGUEZ, GUILTY of CAPITAL MURDER, as alleged in Count 1 of the indictment. (VERDICT FORM B)

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 OF CAPITAL MURDER (VERDICT FORM A) and next consider whether the defendant is guilty of Engaging in Organized Criminal Activity.

AS TO COUNT II:

Now, if you find from the evidence beyond a reasonable doubt that on or about the 22nd day of August, 2012 in El Paso County, Texas, the defendant, LUIS ENRIQUE RODRIGUEZ, did then and there, as a member of a criminal street gang, to wit: Barrio Azteca, commit the offense of Murder against Luis Fierro, as alleged in the indictment, acting either alone or with the intent to promote or assist the Co-Defendants, and solicited, encouraged, directed, aided or attempted to aid the Co-Defendants as a member of a criminal street gang to commit the murder of Luis Fierro then you will find the defendant guilty of Count II as charged in the indictment. (VERDICT FORM C)

If you do not so find, or have a reasonable doubt thereof, you will next consider whether the defendant is guilty of the lesser-included offense of Murder.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that on or about the 22nd day of August, 2012 in El Paso County, Texas, the defendant, LUIS ENRIQUE RODRIGUEZ, did then and there, intentionally or knowingly cause the death of Luis Fierro by shooting Luis Fierro with a firearm; OR the Defendant, LUIS ENRIQUE RODRIGUEZ, did then and there acting with the intent to promote or assist the Co-

Defendants, solicited, encouraged, directed, aided or attempted to aid the Co-Defendants in intentionally or knowingly causing the death of Luis Fierro, then you will find the defendant guilty of the offense of the lesser-included offense of Murder of Luis Fierro and so say by your verdict (VERDICT FORM D)

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 of Count II. (VERDICT FORM E)

AS TO COUNT III:

Now, if you find from the evidence beyond a reasonable doubt that on or about the 22nd day of August, 2012 in El Paso County, Texas, the defendant, LUIS ENRIQUE RODRIGUEZ, did then and there, as a member of a criminal street gang, to wit: Barrio Azteca, commit the offense of Murder against Roberto Renteria, acting either alone or with the intent to promote or assist the Co-Defendants, and solicited, encouraged, directed, aided or attempted to aid the Co-Defendants as a member of a criminal street gang to commit the murder of Roberto Renteria As alleged in the indictment, then you will find the defendant guilty as charged in Count III of the indictment. (VERDICT FORM F)

If you do not so find, or have a reasonable doubt thereof, you will next consider whether the defendant is guilty of the lesser-included offense of Murder.

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that on or about the 22nd day of August, 2012 in El Paso County, Texas, the defendant, LUIS ENRIQUE RODRIGUEZ, did then and there, intentionally or knowingly cause the death of Roberto Renteria by shooting Roberto Renteria with a firearm; OR the Defendant, LUIS ENRIQUE RODRIGUEZ, did then and there acting with the intent to promote or assist the

Co-Defendants, solicited, encouraged, directed, aided or attempted to aid the Co-Defendants in intentionally or knowingly causing the death of Roberto Renteria, then you will find the defendant guilty of the offense of the lesser-included offense of Murder of Roberto Renteria and so say by your verdict. (VERDICT FORM G)

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 of Count III. (VERDICT FORM H)

VI.

General Instructions

After the attorneys have presented their summation, you will go to the jury room. You will then select one of your members, either male or female, as your Presiding Juror. It shall be your Presiding Juror's duty to preside over your discussions of and deliberations upon this case, to vote with you, and when you have unanimously agreed upon a verdict, to certify to your verdict by signing the same as Presiding Juror. You will have this charge with you in the jury room, and you shall refer to it for guidance during your deliberations. Suitable forms for your verdict are hereto attached; your verdict must be in writing and signed by your Presiding Juror. Your sole duty at this time is to determine the guilt or non-guilt of the defendant under the indictment in this cause; therefore restrict your deliberations solely to the issue of whether the defendant is guilty or not guilty.

After you have arrived at your verdict, you will notify the bailiff that you have reached your verdict.

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 as it is given you in this charge, and you are bound to be governed thereby.

You shall consider only the evidence and exhibits presented here in the courtroom through the witnesses who have testified. If you want to have the exhibits with you in the jury room for your deliberations, advise the bailiff. In deliberating on this case, you shall not talk to anyone except the members of the jury about it until you have been finally discharged from service on this jury.

If you want to communicate with the court, explain what you want in writing and deliver your message, signed by the Presiding Juror, to the bailiff, who will deliver it to the Court. Do not orally explain to the bailiff what you want.

The grand jury indictment is not evidence of guilt. It is a means whereby the defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered by you in passing upon the non-guilt or guilt of 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 in this case 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.

Concerning the manner of deliberations, you are instructed as follows:

- (a) In order to return a verdict, each juror must agree to it.
- (b) Jurors have a duty to consult with one another and to deliberate toward reaching an agreement, if a verdict can be reached without abrogating individual judgment.
- (c) Each juror must decide the case for themselves, but only after an impartial consideration of the evidence with their fellow jurors.
- (d) In the course of deliberations, a juror should not hesitate to re-examine their own views and change their opinion if ~~they~~ ^{UEM they} become convinced it is erroneous.
- (e) No juror should surrender their honest conviction as to the weight or effect of the evidence solely because of the opinion of their fellow jurors, or for the mere purpose of returning a verdict.
- (f) You shall not reach a verdict by lot or by chance or by any other method except by a fair and impartial deliberation of the law and the evidence.
- (g) Do not let bias, prejudice, or sympathy play any part in your deliberations.


JUDGE WILLIAM MOODY