

NO. 2015-CR-12632

THE STATE OF TEXAS § IN THE DISTRICT COURT
VS. § 175TH JUDICIAL DISTRICT
ROBERT AGUILAR § BEXAR COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, Robert Aguilar, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 18th Day of August, 2015, 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 kidnapping.

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 that in the manner of its use or intended use is capable of causing death or serious bodily injury.

"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, including death.

"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 offense of 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.

IV.

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

V.

"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.

VI.

For the offense of kidnapping, 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 kidnapping, 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.

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.

VII.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 18th Day of August, 2015, in Bexar County, Texas, the defendant, Robert Aguilar, either acting alone or together as a party with Ace and/or Eric Ortega and/or James Hernandez AKA Pelon, did intentionally cause the death of an individual, namely, Angel Salazar, by shooting Angel Salazar with a deadly weapon, namely, a firearm, or by cutting or stabbing Angel Salazar with a sharp instrument, that in the manner of its use or intended use was capable of causing death or serious bodily injury, or by striking Angel Salazar with deadly weapons, namely, the hands or feet of Robert Aguilar, that in the manner of their use and intended use was capable of causing death or serious bodily injury, or by striking Angel Salazar with an object unknown to the grand jurors, that in the manner of its use or intended use was capable of causing death or serious bodily injury, or by causing Angel Salazar to strike his head against an object unknown to the grand jurors, that in the manner of its use or intended use was capable of causing death or serious bodily injury, or by a manner and means unknown to the grand jurors,

And Robert Aguilar, either acting alone or together as a party with Ace and/or Eric Ortega and/or James Hernandez AKA Pelon and/or Rudy Duque and/or Rene Guerrero and/or Michael

Garcia and/or George Quintanilla, was in the course of committing or attempting to commit kidnapping of Angel Salazar;

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 offense of murder.

VIII.

Our law provides that a person commits the offense of murder if he intentionally or knowingly causes the death of an individual, or if he intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual, or 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.

Kidnapping is a felony offense.

Aggravated assault with a deadly weapon is a felony offense.

IX.

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

"Intentionally" and "knowingly" as defined in Paragraph VI, apply and have the same meaning here.

X.

"Kidnapping" as defined in Paragraphs IV, V, and VI, applies and has the same meaning here.

XI.

Our law provides that a person commits an assault if the person intentionally or knowingly causes bodily injury to another.

A person commits aggravated assault if the person commits an assault, as defined above, and uses or exhibits a deadly weapon during the commission of the assault.

XII.

"Bodily injury," "deadly weapon," and "firearm" as defined in Paragraph II apply and have the same meaning here.

XIII.

For the offense of aggravated assault, 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 aggravated assault, 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.

XIV.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 18th Day of August, 2015, in Bexar County, Texas, the defendant, Robert Aguilar, either acting alone or together as a party with Ace and/or Eric Ortega and/or James Hernandez AKA Pelon, did intentionally or knowingly cause the death of an individual, namely, Angel Salazar, by shooting Angel Salazar with a deadly weapon, namely, a firearm, or by cutting or stabbing Angel Salazar with a sharp instrument, that in the manner of its use or intended use was capable of causing death or serious bodily injury, or by striking Angel Salazar with deadly weapons, namely, the hands or feet of Robert Aguilar, that in the manner of their use and intended use was capable of causing death or serious bodily injury, or by striking Angel Salazar with an object unknown to the grand jurors, that in the manner of its use or intended use was capable of causing death or serious bodily injury, or by causing Angel Salazar to strike his head against an object unknown to the grand jurors, that in the manner of its use or intended use was capable of causing death or serious bodily injury, or by a manner and means unknown to the grand jurors; or

If you find from the evidence beyond a reasonable doubt that on or about the 18th Day of August, 2015, in Bexar County, Texas, the defendant, Robert Aguilar, either acting alone or together as a party with Ace and/or Eric Ortega and/or James Hernandez AKA Pelon, with intent to cause serious bodily injury to an individual, namely, Angel Salazar, did commit an act clearly dangerous to human life that caused the death of Angel Salazar, by shooting Angel Salazar with a deadly weapon, namely, a firearm, or by cutting or stabbing Angel Salazar with a sharp instrument, that in the manner of its use or intended use was capable of causing death or serious bodily injury, or by striking Angel Salazar with deadly weapons, namely, the hands or feet of Robert Aguilar, that in the manner of their use and intended use was capable of causing death or serious bodily injury, or by striking Angel Salazar with an object unknown to the grand jurors, that in the manner of its use or intended use was capable of causing death or serious bodily injury, or by causing Angel Salazar to strike his head against an object unknown to the grand jurors, that in the manner of its use or intended use was capable of causing death or serious bodily injury, or by a manner and means unknown to the grand jurors; or

If you find from the evidence beyond a reasonable doubt that on or about the 18th Day of August, 2015, in Bexar County, Texas, the defendant, Robert Aguilar, either acting alone or together as a party with Ace and/or Eric Ortega and/or James Hernandez AKA Pelon, did intentionally or knowingly commit or attempt to commit a felony, namely kidnapping or aggravated assault with a deadly weapon, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt to commit kidnapping or aggravated assault with a deadly weapon, he did commit or attempt to commit an act clearly dangerous to human life that caused the death of Angel Salazar, by shooting Angel Salazar with a deadly weapon, namely, a firearm, or by cutting or stabbing Angel Salazar with a sharp instrument, that in the manner of its use or intended use was capable of causing death or serious bodily injury, or by striking Angel Salazar with deadly weapons, namely, the hands or feet of Robert Aguilar, that in the manner of their use and intended use was capable of causing death or serious bodily injury, or by striking Angel Salazar with an object unknown to the grand jurors, that in the manner of its use or intended use was capable of causing death or serious bodily injury, or by causing Angel Salazar to strike his head against an object unknown to the grand jurors, that in the manner of its use or intended use was capable of causing

death or serious bodily injury, or by a manner and means unknown to the grand jurors;

Then, you will find the defendant guilty of the lesser included offense of murder.

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 under our law a statement of a defendant made while he was in jail or in custody of an officer and while under interrogation shall be admissible in evidence if it appears that the same was freely and voluntarily made without compulsion or persuasion. However, before a statement made orally to officers may be considered voluntary, it must be shown by legal evidence beyond a reasonable doubt that prior to making such oral statement that the accused has been warned by the person to whom the statement is made, that

(1) he has the right to remain silent and not make any statement,

(2) that anything said by the defendant will be used against him at trial,

(3) that the statement will be used against him in court,

(4) that he has the right to terminate the questioning at any time during the interview or questioning,

(5) that he is entitled to the services of an attorney, his own or, if he is unable to employ one, a court-appointed attorney, to advise him prior to and during any questioning or interrogation, and

The accused knowingly, intelligently, and voluntarily waives the rights set out above.

So, in this case, if you find from the evidence beyond a reasonable doubt that prior to the time the defendant gave the alleged statement to Detective Saiz, if he did give it, the defendant knowingly, intelligently, and voluntarily waived the rights set out in the warning, you may consider the alleged statement.

If, however, you find beyond a reasonable doubt, or if you have a reasonable doubt thereof, that prior to the time the defendant gave the alleged statement to Detective Saiz, if he did give it, he did not knowingly, intelligently, and voluntarily waive the rights set out in the warning, you will wholly disregard the alleged statement, and not consider it for any purpose nor any evidence obtained as a result thereof.

You are instructed that if there is any testimony before you in this case regarding the defendant having committed offenses other than the offense alleged against him in the indictment in this case, you cannot consider said testimony for any purpose.

"On or about" means that the law does not require the state to prove the exact date the alleged offense was committed. You are instructed that the time of the offense mentioned must be some date anterior to the presentment of the indictment. The indictment in this case was presented on December 16, 2015.

You are instructed that under our law, voluntary intoxication does not constitute a defense to the commission of a crime. For the purpose of this law, intoxication means a disturbance of mental or physical capacity resulting from the voluntary introduction of any substance into the body.

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.

Written or recorded 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.

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."

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

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 or any internet service, or any text or instant messaging service; or any internet chat room, blog, or

website to communicate with anyone any information about this case or to conduct any research about this case until I accept your verdict.

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 or is intended.

After argument of counsel, you will retire to the jury room, select your own Foreperson and proceed with your deliberations. After you have reached a unanimous verdict, the Foreperson will certify thereto by filling in the appropriate form attached to this charge and signing his or her name as Foreperson. 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, the Foreperson shall notify the bailiff; any communication relative to the case must be written, prepared by the Foreperson and shall be submitted to the Court through the bailiff.

Respectfully submitted,



Judge Lorina Rummel
144th Judicial District Court
Bexar County, Texas

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BY Hester

NO. 2015-CR-12632

THE STATE OF TEXAS § IN THE DISTRICT COURT
VS. § 144TH JUDICIAL DISTRICT
ROBERT AGUILAR § BEXAR COUNTY, TEXAS

VERDICT FORM

We, the Jury, find the defendant, Robert Aguilar, not guilty.

FOREPERSON

OR

VERDICT FORM

We, the Jury, find the defendant, Robert Aguilar, guilty of capital murder as charged in the indictment.

Isidro M. Perez III
Isidro M. Perez III
FOREPERSON

OR

VERDICT FORM

We, the Jury, find the defendant, Robert Aguilar, guilty of the lesser included offense of murder.

FOREPERSON