

CAUSE NO. F15-76401-W

THE STATE OF TEXAS

§

V.

§

BRENDA DELGADO

§

IN THE 363RD JUDICIAL DISTRICT COURT OF DALLAS COUNTY, TEXAS

2019 JUN - 7 10:10 AM
FELICIA PEREZ
DISTRICT CLERK
DALLAS CO. TEXAS
depu

FILED

JURY INSTRUCTIONS

MEMBERS OF THE JURY:

The defendant, Brenda Delgado, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about September 2, 2015, in Dallas County, Texas. To this charge, the defendant has pleaded not guilty. You are instructed that the law applicable to this case is as follows:

Offense Definitions

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

A person commits capital murder if the person commits murder, as that term is herein defined, and:

- (1) the person commits the murder for remuneration or the promise of remuneration or employs another to commit the murder for remuneration or the promise of remuneration; or
- (2) the person intentionally commits the murder in the course of committing or attempting to commit robbery.

A person commits robbery if, in the course of committing theft, as that term is herein defined, and with intent to obtain or maintain control of the property of another, the person intentionally, knowingly or recklessly causes bodily injury to another.

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

Term Definitions

"Actor" means a person whose criminal responsibility is in issue in a criminal action.

"Another" means a person other than the actor.

"Appropriate" 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.

"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.

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

"Deadly weapon" means a firearm.

"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, threat, or fraud.

"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.

"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.

"Individual" means a human being who is alive.

"Owner" means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the person charged.

"Person" means an individual.

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

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

Mental State Definitions

The following definition applies to the offense of capital murder:

A person acts intentionally, or with intent, with respect to a result of her conduct when it is her conscious objective or desire to cause the result.

A person acts knowingly, or with knowledge, with respect to a result of her conduct when she is aware that her conduct is reasonably certain to cause the result.

The following definitions apply to the offense of robbery:

A person acts intentionally, or with intent, with respect to the nature of her conduct or to a result of her conduct when it is her 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 her conduct or to circumstances surrounding her conduct when she is aware of the nature of her conduct or that the circumstances exist. A person acts knowingly, or

with knowledge, with respect to a result of her conduct when she is aware that her conduct is reasonably certain to cause the result.

A person acts recklessly, or is reckless, with respect to circumstances surrounding her conduct or the result of her conduct when she is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

Criminal Responsibility for Conduct of Another

A person is criminally responsible if the result would not have occurred but for her conduct.

A person is criminally responsible as a party to an offense if the offense is committed by her own conduct, by the conduct of another for which she is criminally responsible, or by both. Each party to an offense may be charged with 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, she solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense. Mere presence alone does not make one a party to an offense.

Accomplice Witnesses

A person who has been charged with the same offense as the defendant is an accomplice.

A conviction cannot be had upon the testimony of an accomplice unless the jury first believe that the accomplice's testimony is true and that it shows the defendant is guilty of the offense charged against her, and even then you cannot convict unless the accomplice's 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.

You are charged that Crystal Cortes is an accomplice if any offense was committed, and you are instructed that you cannot convict the defendant upon the testimony of Crystal Cortes unless you first believe that her testimony is true and that it shows the defendant is guilty as charged in the indictment. Even then, you cannot convict the defendant unless you further believe that there is other evidence in this case, outside of the testimony of Crystal Cortes, tending to connect the defendant with the commission of the offense charged in the indictment, and then from all the evidence you must believe beyond a reasonable doubt that the defendant is guilty.

Capital Murder

Now bearing in mind the foregoing instructions, if you unanimously find from the evidence beyond a reasonable doubt that on or about September 2, 2015, in

Dallas County, Texas, the defendant, Brenda Delgado did intentionally or knowingly cause the death of Kendra Hatcher, an individual, by employing Kristopher Love to murder Kendra Hatcher for remuneration or the promise of remuneration, to wit: drugs and United States currency from defendant and a drug cartel, and pursuant to said agreement, Kristopher Love did intentionally or knowingly cause the death of Kendra Hatcher by shooting her with a firearm, a deadly weapon, then you will find the defendant guilty of capital murder as charged in the indictment.

OR

If you unanimously find from the evidence beyond a reasonable doubt that on or about September 2, 2015, in Dallas County, Texas, Kristopher Love did intentionally cause the death of Kendra Hatcher, an individual, by shooting her with a firearm, a deadly weapon, while in the course of committing or attempting to commit the offense of robbery of Kendra Hatcher, and if you further find from the evidence beyond a reasonable doubt that the defendant, Brenda Delgado, acting with the intent to promote or assist in the commission of the offense, did solicit, encourage, direct, aid, or attempt to aid Kristopher Love in intentionally causing the death of Kendra Hatcher, then you will find the defendant guilty of capital murder.

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."

Presumptions and Burden of Proof

In all criminal cases, the burden of proof is on the State. 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 her trial. The law does not require a defendant to prove her 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 this case.

The State 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 State prove the defendant's guilt beyond all possible doubt; it is required that the State's proof excludes all "reasonable doubt" concerning the defendant's guilt.

In the event that you have a reasonable doubt as to the defendant's guilt after considering all the evidence before you and these instructions, you will acquit the defendant and say by your verdict "not guilty."

Evidentiary Instructions

You are instructed that you are not to allow yourselves to be influenced in any degree whatsoever by what you may think or surmise the opinion of the Court to be. The Court has no right by any word or any act to indicate any opinion

respecting any matter of fact involved in this case, nor to indicate any desire respecting its outcome. The Court has not intended to express any opinion upon any matter of fact in this case, and if you have observed anything which you have or may interpret as the Court's opinion upon any matter of fact in this case, you must wholly disregard it.

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.

You are instructed that you may consider all relevant facts and circumstances surrounding the alleged killing and the previous relationship existing between the defendant and the deceased, if any, together with all relevant facts and circumstances going to show the condition of the mind of the defendant at the time of the offense alleged in the indictment.

You are instructed that the defendant may testify in her own behalf if she chooses to do so, but if she elects not to do so, that fact cannot be taken by you as

a circumstance against her or prejudice her 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.

You are instructed that if there is any testimony before you in this case regarding the defendant's having committed an offense other than the offense alleged against her in the indictment in this case, you cannot consider that testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offense, if any was committed, and even then you may only consider it in determining the motive, opportunity, intent, preparation, plan, knowledge, or state of mind of the defendant, if any, and for no other purpose.

Concluding Instructions

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 to follow the law from the Court.

After you have retired to consider the verdict, no one has any authority to communicate with you except the bailiff who has you in charge. You may communicate with this Court in writing, signed by your presiding juror, through the bailiff who has you in charge. Do not attempt to talk to the bailiff, 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 attached forms by having your presiding juror sign the particular form that conforms to your verdict.



JUDGE TRACY HOLMES
363rd Judicial District Court
Dallas County, Texas

FILED

2019 JUN -7 AM 8:48

FELICIA PITRE
DISTRICT CLERK
DALLAS CO., TEXAS

DEPUTY

VERDICT FORMS

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

Pamela K. Conner
Presiding Juror Signature

Pamela K. Conner
Presiding Juror Printed Name

We, the jury, find the defendant not guilty.

Presiding Juror Signature

Presiding Juror Printed Name