

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

THE STATE OF TEXAS

VS.

CAUSE NO. F12-63241-W

EDER MORALES

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, Eder Morales, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 6th day of December, 2012, 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:

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

A person commits the offense of capital murder when the person intentionally causes the death of an individual as defined above during the course of committing or attempting to commit the offense of obstruction.

The offense of obstruction is a felony offense.

A person commits the offense of obstruction if he intentionally or knowingly harms or threatens to harm another by an unlawful act:

1) to prevent or delay the service of another as a:

A) witness, prospective witness, or informant, or

B) person who has reported or who the actor knows intends to report the occurrence of a crime.

"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.

"Prospective Witness" means any person involved in an offense with the defendant, who sees the defendant committing an offense, or who hears the defendant discuss committing an offense.

"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.

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

A person acts intentionally, or with intent, with respect to the 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.

You are instructed that if there is any testimony before you in this case regarding the defendant's having committed offenses 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 other offenses, if any were committed, and even then you may only consider the same in determining the intent or motive or plan of the defendant, if any, in connection with the offense, if any, alleged against him in the indictment in this case, and for no other purpose.

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a privilege 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.

The term "intoxication" means the disturbance of mental or physical capacity resulting from the introduction of any substance into the body. You are instructed that voluntary intoxication does not constitute a defense to the

commission of a crime.

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 by 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.

Each party to an offense may be charged with the commission of the offense. Mere presence alone at the time and the place of the commission of an offense, if any was committed, does not constitute one criminally responsible as a party to the offense.

You are instructed that both Danny Martinez and Veronica Gutierrez are accomplices as a matter of law to the offense about which they have testified.

You are further instructed that a conviction cannot be had upon the testimony of an accomplice unless the jury first believe that the accomplice's evidence 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'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.

Now, if you believe from the evidence beyond a reasonable doubt that an offense was committed, then you cannot convict the defendant upon the testimony of the said Danny Martinez or Veronica Gutierrez unless you first believe that the testimony of the said Danny Martinez or Veronica Gutierrez is true and that it shows the defendant is guilty as charged in the indictment; and even then you cannot convict the defendant unless you further believe that there is other evidence in the case, outside of the evidence of the said Danny Martinez or Veronica Gutierrez 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.

You are instructed that a witness may be impeached by showing that he or she has previously been convicted of a felony offense or a crime involving moral turpitude. Such impeachment evidence may be considered by you to aid you in determining (if it does so) the weight, if any, to be given the testimony of the witness at trial and their credibility.

Now, bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that on

or about the 6th day of December, 2012, in Dallas County, Texas, as alleged in the indictment, the defendant, Eder Morales, either acting alone or as a party, did then and there intentionally cause the death of Isamara Nino, an individual, hereinafter called deceased, by shooting deceased with a firearm, a deadly weapon, and the defendant, either acting alone or as a party, was then and there in the course of committing or attempting to commit the offense of obstruction, then you will find the defendant guilty of capital murder and so say by your verdict.

Unless you so find from the evidence beyond a reasonable doubt or you have a reasonable doubt thereof, you shall acquit the defendant and say by your verdict, "Not Guilty."

In all criminal cases the burden of proof is on the State.

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. You are not to be concerned with the reasons for such rulings and are not to draw any 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 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.

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 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 her and say by your verdict "Not guilty".

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, which is herein given you, and be governed thereby.

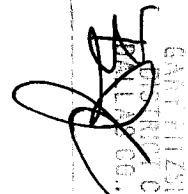
After you retire to the jury room, you will select one of your members as your presiding juror. It is the presiding juror's duty to preside at your deliberations, vote with you, and when you have unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form attached hereto, and signing the same as presiding juror.

During your deliberations, no one has any authority to communicate with you except the officer who has you in charge. You must not consider, discuss, or relate any matters not in evidence before you. You should neither 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.

You may communicate with this Court in writing through the bailiff who has you in charge. Your written communication must be signed by the presiding juror. Do not attempt to talk to the bailiff, the attorneys, or the Court regarding any question you may have concerning the trial of the case. After you have reached a unanimous verdict or if you desire to communicate with the Court, please use the jury call button on the wall and one of the bailiffs will respond.



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

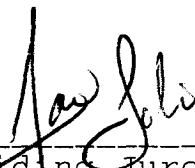

GAIL FITZSIMMONS
CLERK
DALLAS COUNTY, TEXAS
DEPUTY

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V E R D I C T F O R M S

We, the jury, find the Defendant, Eder Morales, guilty of capital murder, as charged in the Indictment.



Presiding Juror
PRINTED NAME: J A I M E S O L I S - O R T I Z

-OR-

We, the jury, find the Defendant, Eder Morales, "Not Guilty."

Presiding Juror
PRINTED NAME: _____