

08-DCR-49886
CHCO
Charge of the Court
2207606



No. 08-DCR-49886

THE STATE OF TEXAS	{	IN THE DISTRICT COURT OF
	}	
VS.	{	FORT BEND COUNTY, TEXAS
	}	
RODOLFO DOMINGUEZ JR.	{	400 TH JUDICIAL DISTRICT
	}	

COURT'S CHARGE TO THE JURY

LADIES AND GENTLEMEN OF THE JURY:

The defendant, RODOLFO DOMINGUEZ JR., stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 5TH day of April 2008, in Fort Bend County, Texas. The defendant has pleaded not guilty.

I.

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 murders more than one person during the same criminal transaction.

II.

"Individual" means a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.

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.

III.

Now, if you find from the evidence beyond a reasonable doubt that on or about April 5, 2008 in Fort Bend County, Texas, the defendant, Rodolfo Dominguez Jr., did intentionally or knowingly cause the deaths of George Leal and Norma Garcia during the same criminal transaction by shooting George Leal and Norma Garcia with a firearm, then you will find the defendant, Rodolfo Dominguez Jr., guilty of capital murder as charged in the indictment.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of murder and say by your verdict "Not Guilty."

IV.

You are instructed that unless you believe from the evidence beyond a reasonable doubt that the alleged confession or statement introduced into evidence was freely and voluntarily made by the defendant without compulsion or persuasion, or if you have a reasonable doubt thereof, you shall not consider such alleged statement or confession for any purpose nor any evidence obtained as a result thereof.

V.

You have been provided testimony from individuals with expertise in certain areas in order to assist you in determining the facts in this case. If you determine that because of a witnesses' education, training, or experience they can provide particular insight in their field of expertise you may give their testimony whatever weight you determine to be appropriate. However, such witnesses may be viewed in the same way as any other witness when determining their credibility and trustworthiness. You are the ultimate judges of the facts as you determine them.

VI.

The State has introduced evidence of extraneous crimes or bad acts other than the one charged in the indictment in this case. This evidence was admitted only for the purpose of assisting you, if it does, for the purpose of showing the defendant's motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, if any. You cannot consider the testimony unless you find and believe beyond a reasonable doubt that the defendant committed these acts, if any, were committed.

VII.

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 the defendant.

VIII.

You have been permitted to take notes during the testimony in this case. In event any of you took notes, you may rely on your notes during deliberations. However, you may not share your notes with other jurors and you should not permit other jurors to share their notes with you. You may, however, discuss the contents of your notes with the other jurors. You shall not use your notes as authority to persuade your fellow jurors. In your deliberations, give no more and no less weight to the views of a fellow juror just because the juror did or did not take notes. Your notes are not official transcripts. They are personal memory aids, just like the notes of the judge and the

lawyers. Notes are valuable as a stimulant to your memory. On the other hand, you might make an error in observing or you might make a mistake in recording what you have seen or heard. Therefore, you are not to use your notes as authority to persuade fellow jurors of what the evidence was during the trial.

Occasionally, during jury deliberations, a dispute arises as to the testimony presented. If this should occur in this case, you shall inform the Court and request that the Court read the portion of disputed testimony to you from the official transcript. You shall not rely on your notes to resolve the dispute because those notes, if any, are not official transcripts. The dispute must be settled by the official transcript, for it is the official transcript, rather than the juror's notes, upon which you must base your determination of the facts and, ultimately, your verdict in this case.

IX.

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 for, confined, 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.

You are further charged that an indictment is no evidence as to the guilt of the Defendant, and you will not consider it as such. It is simply the means whereby the Defendant is informed of the nature of the offense alleged against him.

You are charged that you are the exclusive judges of the facts proven, of the credibility of the witnesses and of the weight to be given their testimony, but the law of the case you must receive from the Court as laid down in these instructions, and be governed thereby.

You are limited in your deliberations upon a verdict to the consideration and discussion of such facts and circumstances only as were admitted in evidence, or as are reasonably deducible from the evidence. You cannot legally and must not consider nor discuss any fact or circumstance not thus in evidence or reasonably deducible from the evidence. Nor may a juror relate to any of the others any fact or circumstance of which he may have or claim to have knowledge or information that was not introduced in evidence. Neither may any of the jurors lawfully discuss anything else, so far as the evidence is concerned, other than the evidence introduced by the parties and admitted by the Court.

You will not talk about the case with anyone not of your jury, and even among yourselves, only when you are all together in the jury room prior to being discharged by the Court.

Your deliberations at this time are limited solely to the issue of whether the Defendant is guilty or not guilty of the offense charged and you are not authorized to pass upon the punishment, if any, to be imposed.


After argument of counsel, you will retire to the jury room, select your own Presiding Juror and proceed with your deliberations. It is the duty of your Presiding Juror to preside over your deliberations and to vote with you in arriving at your verdict. Your verdict must be unanimous.

After you have retired, you may communicate with this Court in writing through the officer who has you in charge. Do not attempt to talk to the officer, the attorneys, or

the Court concerning any questions you may have. After you have reached a unanimous verdict, the Presiding Juror will certify thereof by filling in the appropriate form attached to this charge and signing his or her name as Presiding Juror.



Hon. Clifford J. Yacek
Judge Presiding

FILED
DEC 05 2012
AT 9:26 A.M.

Clerk District Court, Fort Bend Co., TX

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	}	
RODOLFO DOMINGUEZ JR.	{	400 TH JUDICIAL DISTRICT
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VERDICT FORM

We the Jury do hereby find the Defendant, Rodolfo Dominguez Jr., "Not Guilty" of the offense of Capital Murder as charged in the indictment.

Presiding Juror

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VERDICT FORM

We the Jury do hereby find the Defendant, Rodolfo Dominguez Jr., "Guilty" of the offense of Capital Murder as charged in the indictment.

L. Lane Joffin

 Presiding Juror

FILED

DEC 05 2012

AT 2:35 PM

Ann Rene Elliott
 Clerk District Court, Fort Bend Co., TX