

ORIGINAL

CAUSE NO. 1481921

P11

THE STATE OF TEXAS § IN THE 209TH DISTRICT COURT
VS. § OF HARRIS COUNTY, TEXAS
GUADALUPE WALLY RODRIGUEZ § JULY TERM, A. D., 2016

Members of the Jury:

The defendant, Guadalupe Wally Rodriguez, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 22nd day of August, 2013, in Harris County, Texas. The defendant has pleaded not guilty.

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

A person commits the offense of capital murder if he commits murder, as hereinbefore defined, and the person intentionally or knowingly causes the death of more than one person during the same criminal transaction.

"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.

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

"Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent

RECORDER'S MEMORANDUM
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disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

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.

All persons are parties to an offense who are guilty of acting together in the commission of the offense. 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. Mere presence alone will not constitute one a party to an offense.

You are instructed that it is your duty to consider the evidence of all relevant facts and circumstances surrounding the deaths and the previous relationship, if any, existing between the accused and John Shepherd and the accused and Daniel Rebeiz together with all relevant facts and circumstances going to show the condition of the mind of the defendant at the time of the alleged offense.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 22nd day of August, 2013, in Harris County, Texas, the defendant, Guadalupe Wally Rodriguez, did then and there unlawfully, during the same criminal transaction, intentionally or knowingly cause the death of John Shepherd by shooting John Shepherd with a deadly weapon, to wit: a firearm, and intentionally or knowingly cause the death of Daniel Rebeiz, by shooting Daniel Rebeiz, with a deadly weapon, to wit: a firearm; or

If you find from the evidence beyond a reasonable doubt that on or about the 22nd day of August, 2013, in Harris County, Texas, Antonio Anguiano, did then and there unlawfully, during the same criminal transaction, intentionally or knowingly cause the death of John Shepherd by shooting John Shepherd with a deadly weapon, to wit: a firearm, and intentionally or knowingly cause the death of Daniel Rebeiz, by shooting Daniel Rebeiz, with a deadly weapon, to wit: a firearm, and that the defendant, Guadalupe Wally Rodriguez, with the intent to promote or assist the commission of the offense, if any, solicited, encouraged, directed, aided or attempted to aid Antonio Anguiano to commit the offense, if he did, then you will find the defendant guilty of capital murder, as charged in the indictment.

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

Our law provides that 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 to or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against him.

You are instructed that witnesses may be impeached by showing that they have made other and different statements out of court, or upon a former judicial investigation of the facts from those made before you on the trial. You may consider such impeaching evidence, if any, as it may tend to affect the weight to be given the testimony of the witnesses so impeached and their credibility (if it does do so); but such impeaching evidence, if any, is not to be considered by you as tending to establish the alleged guilt of the defendant, or any fact in this case.

You are further instructed that any evidence that any witness has been convicted in any case or cases was admitted before you for the purpose of aiding you, if it does aid you, in passing upon the credibility of the witness and the weight to be given his or her testimony, and you will not consider the same for any other purpose.

You have been permitted to take notes. You may rely on your individual notes to help you recall the evidence. You may not share your notes with any other juror. You are not to use your notes as authority in an effort to persuade any other juror. You are to give no less weight to any juror's recollection of the evidence because that juror did not take notes, and you are to give no greater weight to a juror's recollection of the evidence because a juror did take notes.

A Grand Jury indictment is the means whereby a defendant is brought to trial in a felony prosecution. It is not evidence of guilt nor can it be considered by you in passing upon the question of guilt of the defendant. The burden of proof in all criminal cases rests upon the State throughout the trial and never shifts to 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 he 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."

You are the exclusive judges of the facts proved, of the credibility of the witnesses and the weight to be given their testimony, but the law you shall receive in these written instructions, and you must be governed thereby.

After you retire to the jury room, you should select one of your members as your Presiding Juror. It is his or her 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.

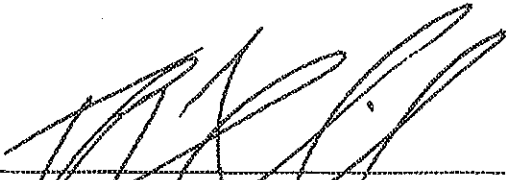
During your deliberations in this case, you must not consider, discuss, nor relate any matters not in evidence before you. You should not consider nor mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence.

No one has any authority to communicate with you except the officer who has you in charge. After you have retired, you may communicate with this Court in writing through this officer. Any communication relative to the cause must be written and prepared by the Presiding Juror and shall be submitted to the court through this officer. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the Court, or anyone else concerning any questions you may have.

Your sole duty at this time is to determine the guilt or lack thereof of the defendant under the indictment in this cause and

restrict your deliberations solely to the issue of guilt or lack thereof of the defendant.

Following the arguments of counsel, you will retire to consider your verdict.



Terry Flagniken, Judge Presiding
209th District Court
Harris County, TEXAS

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V E R D I C T

"We, the Jury, find the defendant, Guadalupe Wally Rodriguez,
not guilty."

Presiding Juror

(Please Print) Presiding Juror

"We, the Jury, find the defendant, Guadalupe Wally Rodriguez,
guilty of capital murder, as charged in the indictment."

Lance C Jordan

Presiding Juror

LANCE C JORDAN

(Please Print) Presiding Juror

FILED

Chris Daniel
District Clerk

Time: *NOV 14 2016*
12:47 PM
Harris County, Texas
By: *[Signature]*
Deputy