

CAUSE #B-14-1134-SA

THE STATE OF TEXAS	§	IN THE DISTRICT COURT
VS.	§	119 <sup>th</sup> JUDICIAL DISTRICT
ISIDRO MIGUEL DELACRUZ	§	TOM GREEN COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, Isidro Miguel Delacruz, is accused of Capital Murder. The defendant has pleaded “not guilty,” and you have heard all of the evidence that will be produced on whether the defendant has been proved guilty.

Both sides will soon present final arguments. Before they do so, I must now give you the instructions you must follow in deciding whether the defendant has been proved guilty or not.

You will have a written copy of these instructions to take with you and to use during your deliberations.

First I will tell you about some general principles of law that must govern your decision of the case. Then, I will tell you about the specific law applicable to this case. Finally, I will instruct you on the rules that must control your deliberations.

**General Principles**

***The Indictment.*** The indictment is not evidence of guilt. The indictment is only a document required to bring the case before you. The indictment cannot be considered in any way by the jury. Do not consider the fact that the defendant has been arrested, confined, or indicted or otherwise charged. You may not draw any inference of guilt from any of these circumstances.

***Presumption of Innocence.*** The defendant is presumed innocent of the charge. 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 law does not require a defendant to prove his innocence or produce any evidence at all. 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 presumption of innocence alone is sufficient to acquit the defendant.

***Burden of Proof.*** The burden of proof throughout the trial is always on the state. The defendant does not have the burden to prove anything. The state must prove every element of the offense beyond a reasonable doubt to establish guilt for the offense. If the state proves every element of the offense beyond a reasonable doubt, then you must find the defendant guilty. If the state does not prove every element of the offense beyond a reasonable doubt, then you must find the defendant not guilty. If, after you have considered all the evidence and these instructions, you have a reasonable doubt about whether the defendant is guilty, you must find the defendant not guilty.

***Jury as Fact Finder.*** As the jurors, you review the evidence and determine the facts and what they prove. You judge the believability of the witnesses and what weight to give their testimony.

In judging the facts and the believability of the witnesses, you must apply the law provided in these instructions.

**Evidence.** The evidence consists of the testimony and exhibits admitted in the trial. You must consider only evidence to reach your decision. You must not consider, discuss, or mention anything that is not evidence in the trial. You must not consider or mention any personal knowledge or information you may have about any fact or person connected with this case that is not evidence in the trial.

Statements made by the lawyers are not evidence. The questions asked by the attorneys are not evidence. Evidence consists of the testimony of the witnesses and materials admitted into evidence.

Nothing the judge has said or done in this case should be considered by you as an opinion about the facts of this case or influence you to vote one way or the other.

You should give terms their common meanings, unless you have been told in these instructions that the terms are given special meanings. In that case, of course, you should give those terms the meanings provided in the instructions.

While you should consider only the evidence, you are permitted to draw reasonable inferences from the testimony and exhibits that are justified in the light of common experience. In other words, you may make deductions and reach conclusions that reason and common sense lead you to draw from the facts that have been established by the evidence.

You are to render a fair and impartial verdict based on the evidence admitted in the case under the law that is in these instructions. Do not allow your verdict to be determined by bias or prejudice.

**Admitted Exhibits.** You may, if you wish, examine exhibits. If you wish to examine an exhibit, the Presiding Juror will inform the court and specifically identify the exhibit you wish to examine. Only exhibits that were admitted into evidence may be given to you for examination.

**Testimony.** Certain testimony will be read back to you by the court reporter if you request. To request that testimony be read back to you, you must follow these rules. The court will allow testimony to be read back to the jury only if the jury, in a writing signed by the Presiding Juror, (1) states that it is requesting that testimony be read back, (2) states that it has a disagreement about a specific statement of a witness or a particular point in dispute, and (3) identifies the name of the witness who made the statement. The court will then have the court reporter read back only that part of the statement that is in disagreement.

**The Verdict.** The law requires that you render a verdict of either “guilty” or “not guilty.” The verdict of “not guilty” simply means that the state’s evidence does not prove the defendant guilty beyond a reasonable doubt.

You may return a verdict only if all twelve of you agree on this verdict.

When you reach a verdict, the Presiding Juror should notify the court.

**The Defendant’s Right to Remain Silent.** The defendant has a constitutional right to remain silent. The defendant may testify on his own behalf. The defendant may also choose not to testify. The defendant’s decision not to testify cannot be held against him, and it is not evidence of guilt. You must not speculate, guess, or even talk about what the defendant might have said if he had taken

the witness stand or why he did not. The Presiding Juror of the jury must immediately stop any juror from mentioning the defendant's decision not to testify.

***Date of the Offense.*** You are instructed that the State is not required to prove the exact date alleged in the indictment, but may prove the offense, if any, to have been committed at any time prior to the presentment of the indictment, so long as the offense, if any, occurred within 10 years of the date of the presentment of the indictment.

### ***Provisions Specific to the Case***

#### ***Accusation***

The state accuses the defendant of having committed the offense of Capital Murder. Specifically, the accusation is that the defendant Isidro Miguel Delacruz, on or about the 2nd day of September 2014, and before the presentment of the indictment, in Tom Green County, Texas, did then and there intentionally and knowingly cause the death of an individual, namely, Naiya Villegas, an individual younger than 10 years of age, by cutting the throat of the said Naiya Villegas with a knife.

#### ***Relevant Statutes***

A person commits an offense of Capital Murder if the person intentionally or knowingly causes the death of an individual and if the person murders an individual under 10 years of age. To prove that the defendant is guilty of Capital Murder, the state must prove, beyond a reasonable doubt, the following elements:

1. The defendant caused the death of an individual; and
2. The defendant acted with intent to cause the death of an individual, or with knowledge that his conduct was reasonably certain to cause the death of an individual; and
3. The individual was under 10 years of age.

The state must prove, beyond a reasonable doubt, the accusation of Capital Murder.

#### ***Definitions.***

“Intentionally”- A person intentionally causes the death of an individual if the person has the conscious objective or desire to cause that death.

“Knowingly”- A person knowingly causes the death of an individual if the person is aware that his conduct is reasonably certain to cause that death.

“Child” means a person 10 years of age or younger.

“Individual” means a human being who is alive.

### ***Application of the Law to the Facts***

You must determine whether the state has proved, beyond a reasonable doubt, the following:

1. The defendant, Isidro Miguel Delacruz, in Tom Green County, Texas, on or about the 2nd day of September, 2014 caused the death of an individual namely, Naiya Villegas by cutting the throat of the said Naiya Villegas with a knife; and
2. The defendant caused the death of Naiya Villegas (a) intentionally, or (b); knowingly; and
3. The individual, Naiya Villegas was then under 10 years of age.

You must all agree on elements listed above, but you do not have to agree on the culpable mental states listed in paragraph 2, above.

If you all agree the state has failed to prove, beyond a reasonable doubt, any of the elements listed above, you must find the defendant “not guilty.”

If you all agree the state has proved, beyond a reasonable doubt, each of the elements listed above, you must find the defendant “guilty”.

### ***Rules That Control Deliberations***

You must follow these rules while you are deliberating and until you reach a verdict. After the closing arguments by the attorneys, you will go into the jury room.

Your first task will be to pick your Presiding Juror. The Presiding Juror should conduct the deliberations in an orderly way. Each juror has one vote, including the Presiding Juror. The Presiding Juror must supervise the voting, vote with other members on the verdict, and sign the verdict sheet.

While deliberating and until excused by the trial court, all jurors must follow these rules:

1. You must not discuss this trial with any court officer, or the attorneys, or anyone not on the jury. You may not communicate with anyone who is not a juror in this case, except the Bailiff, by telephone, texting, Facebook, blog, or any other means during the course of your deliberations or until after a verdict has been reached and the Judge has released you from this instruction.
2. You must not discuss this case unless all of you are present in the jury room. If anyone leaves the room, then you must stop your discussions about the case until all of you are present again.
3. You must communicate with the judge only in writing, signed by the Presiding Juror and given to the judge through the Bailiff.
4. You must not conduct any independent investigations, research, or experiments.
5. You must tell the judge if anyone attempts to contact you about the case before you reach your verdict.

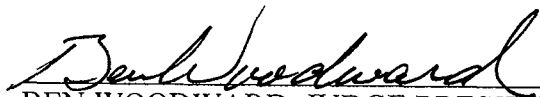
Your sole duty at this point is to determine whether the defendant has been proved guilty beyond a reasonable doubt. You must restrict your deliberations to this matter.

After you have arrived at your verdict, you are to use one of the forms attached to these instructions. You should have your Presiding Juror sign his or her name to the particular form that

conforms to your verdict.

After the closing arguments by the attorneys, you will begin your deliberations to decide your verdict.

SIGNED AT 8:59 o'clock A. M. on March 29, 2018.

  
BEN WOODWARD, JUDGE PRESIDING

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VS.  
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IN THE DISTRICT COURT  
119<sup>th</sup> JUDICIAL DISTRICT  
TOM GREENCOUNTY, TEXAS


**VERDICT OF THE JURY**

**Use only the verdict form below that conforms to your findings and cross out the other form.**

~~We, the jury, unanimously find Isidro Miguel Delacruz **NOT GUILTY** of the offense of Capital Murder as charged in the indictment.~~

\_\_\_\_\_  
Presiding Juror

We, the jury, unanimously find Isidro Miguel Delacruz **GUILTY** of Capital Murder as charged in the indictment.

  
\_\_\_\_\_  
Presiding Juror