

CAUSE NO. 17192-B

FILED

THE STATE OF TEXAS

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IN THE DISTRICT COURT 18

VS.

PATRICIA HENDERSON
DISTRICT CLERK
OF TAYLOR COUNTY, TEXAS

ROBERTO ALCALA

104TH JUDICIAL DISTRICT AS
Taylor County, Texas

CHARGE TO THE JURY

LADIES AND GENTLEMEN OF THE JURY:

The defendant, ROBERTO ALCALA, stands charged in Count One of the indictment with the offense of Capital Murder, alleged to have been committed on or about November 30, 2008, in Taylor County, Texas. To this charge, the defendant has pleaded not guilty.

The defendant, ROBERTO ALCALA, stands charged in Count Two, Paragraph One of the indictment with the offense of Murder, alleged to have been committed on or about November 30, 2008, in Taylor County, Texas. To this charge, the defendant has pleaded not guilty.

The defendant, ROBERTO ALCALA, stands charged in Count Two, Paragraph Two of the indictment with the offense of Murder, alleged to have been committed on or about November 30, 2008, in Taylor County, Texas. To this charge, the defendant has pleaded not guilty.

The defendant, ROBERTO ALCALA, stands charged in Count Two, Paragraph Three of the indictment with the offense of Murder, alleged to have been committed on or about November 30, 2008, in Taylor County, Texas. To this charge, the defendant has pleaded not guilty.

1.

A person commits capital murder when such person intentionally commits the murder in the course of committing or attempting to commit the offense of robbery.

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

A person commits the offense of murder if he intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual.

A person commits the offense of murder if he commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

A person commits the offense of robbery if, in the course of committing theft and with intent to obtain or maintain control of the property, he:

- (1) intentionally, knowingly, or recklessly causes bodily injury to another; or
- (2) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

“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.

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

2.

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

“Felony” means an offense so designated by law or punishable by death or confinement in a penitentiary. You are instructed that Robbery is a felony.

“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 disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

“Deadly weapon” means anything that in the manner of its use or intended use is capable of causing death or serious bodily injury. A handgun is a deadly weapon.

3.

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.

4.

You are instructed that you are to consider this entire charge as a whole.

5.

If you find from the evidence beyond a reasonable doubt, that on or about the 30th day of November, 2008, in Taylor County, Texas, the defendant ROBERTO ALCALA, did then and there, while in the course of attempting to commit or committing, Robbery of Jessie Jeffrey Villarreal, did then and there intentionally cause the death of Jessie Jeffrey Villarreal by shooting the said Jessie Jeffrey Villarreal in the head with a deadly weapon, to-wit: A Handgun, thereby causing the death of the said Jessie Jeffrey Villarreal, then you will find the defendant guilty of the offense of Capital Murder as alleged in Count One of the indictment.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant, ROBERTO ALCALA, not guilty of Capital Murder as alleged in Count One of the indictment, or if you are unable to agree to a verdict as to Capital Murder, you will next consider Count Two, Paragraph One of the indictment.

6.

If you find from the evidence beyond a reasonable doubt, that on or about the 30th day of November, 2008, in Taylor County, Texas, the defendant ROBERTO ALCALA, did then and there intentionally or knowingly cause the death of an individual, namely, Jessie Jeffrey Villarreal, by shooting him in the head with a deadly weapon, to-wit: A Handgun, then you will find the defendant guilty of the offense of Murder as alleged in Count Two, Paragraph One of the indictment.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant, ROBERTO ALCALA, not guilty of Murder as alleged in Count Two, Paragraph One of the indictment and next consider Count Two, Paragraph Two of the indictment.

7.

If you find from the evidence beyond a reasonable doubt, that on or about the 30th day of November, 2008, in Taylor County, Texas, the defendant ROBERTO ALCALA, did then and there intentionally or knowingly commit or attempt to commit an act clearly dangerous to human life, to-wit: shooting Jessie Jeffrey Villarreal, in the head with a deadly weapon, to-wit: A Handgun, thereby causing the death of said Jessie Jeffrey Villarreal, and the said ROBERTO ALCALA was then and there in the course of intentionally or knowingly committing a felony, to-wit: Robbery, and the said death of the said Jessie Jeffrey Villarreal was caused while the said ROBERTO ALCALA was in the course of and in furtherance of the commission or attempt of the said felony, then you will find the defendant guilty of the offense of Murder as alleged in Count Two, Paragraph Two of the indictment.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant, ROBERTO ALCALA, not guilty of Murder as

alleged in Count Two, Paragraph Two of the indictment and next consider Count Two, Paragraph Three of the indictment.

8.

If you find from the evidence beyond a reasonable doubt, that on or about the 30th day of November, 2008, in Taylor County, Texas, the defendant ROBERTO ALCALA, did then and there intentionally or knowingly, with intent to cause serious bodily injury to an individual, namely, Jessie Jeffrey Villarreal, commit an act clearly dangerous to human life, to-wit: shooting the said Jessie Jeffrey Villarreal in the head with a deadly weapon, to-wit: A Handgun, thereby causing the death of the said Jessie Jeffrey Villarreal, then you will find the defendant guilty of the offense of Murder as alleged in Count Two, Paragraph Three of the indictment.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant, ROBERTO ALCALA, not guilty of Murder as alleged in Count Two, Paragraph Three of the indictment and say by your verdict, Not Guilty.

9.

A grand jury indictment is the means whereby an accused person 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 issue 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.

10.

Voluntary intoxication does not constitute a defense to the commission of a crime. "Intoxication" means disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

11.

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, indicted for, or otherwise charged with the offense gives rise to no inference of guilt at that person's trial. The law does not require an accused person 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 an accused person guilty and the prosecution 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, then you are to acquit the Defendant and say by your verdict "not guilty".

12.

Do not let bias, prejudice or sympathy play any part in your deliberations. 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 of the case you will receive in this Charge from the Court and you must be governed thereby.

13.

After you retire to the jury room, you should select one of your members as your Presiding Juror. It is the Presiding Juror's duty to preside at your deliberations and to vote with you.

14.

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. It is only from the witness stand that the Jury is permitted to receive evidence regarding the case. If any evidence has been withdrawn from the Jury by the Court, you will not discuss nor consider it for any purpose.

15.

The only function of the Jury under this Charge is to determine the guilt, if any, of the Defendant of the offense or offenses defined in this Charge. Therefore, in your deliberation, you will not mention nor consider the matter of punishment. Punishment, if any, is the subject of other proceedings.

16.

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 or direct questions you may have to the Court in writing through this officer. Any communication relative to the cause must be written, prepared and signed 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 question you may have.

Your verdict must be unanimous, and after you have reached a unanimous verdict, the Presiding Juror will certify to your verdict by using the appropriate form attached to this Charge and by signing the form as Presiding Juror.


LEE HAMILTON, Judge Presiding

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IN THE DISTRICT COURT
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104TH JUDICIAL DISTRICT


VERDICT OF THE JURY

We, the Jury, find the Defendant, ROBERTO ALCALA, not guilty.

PRESIDING JUROR

OR

We, the Jury, find the Defendant, ROBERTO ALCALA, guilty of Capital Murder as alleged in Count One of the indictment.



PRESIDING JUROR

OR

We, the Jury, find the Defendant, ROBERTO ALCALA, guilty of Murder as alleged in Count Two, Paragraph One of the indictment.

PRESIDING JUROR

OR

We, the Jury, find the Defendant, ROBERTO ALCALA, guilty of Murder, as alleged in Count Two, Paragraph Two of the indictment.

PRESIDING JUROR

OR

We, the Jury, find the Defendant, ROBERTO ALCALA, guilty of Murder, as alleged in Count Two, Paragraph Three of the indictment.

PRESIDING JUROR