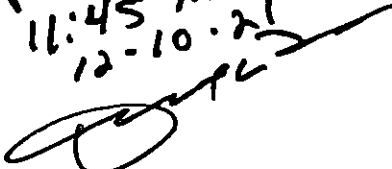


Prison
11:45 A.M.
12-10-21


NO. B-20-0175-CR

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

OF ECTOR COUNTY, TEXAS

FABIAN CHAVEZ POLVON

161ST JUDICIAL DISTRICT

FILED FOR RECORD
Cause No.: **B-20-0175-CR**
Ector County, Texas
12/10/2021 2:31:35 PM
Clarissa Webster
District Clerk
By Deputy: Ronquillo, Tina

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The Defendant, FABIAN CHAVEZ POLVON, stands charged by Indictment with the offense of Capital Murder, alleged to have been committed in Ector County, Texas, on or about the 26th day of November, 2019. The Defendant has pled not guilty by reason of insanity.

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 in the same criminal transaction.

"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 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.

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.

Temporary insanity caused by voluntary intoxication is not to be considered by you in determining the guilt or innocence of the accused.

But you are reminded that the State must prove all the elements of the offense beyond a reasonable doubt.

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.

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 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.

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 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.

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 must be governed by, is contained in these written instructions.

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, identify, absence of mistake or accident, or consciousness of guilt, if any. You cannot consider the testimony unless you find and believe beyond a reasonable doubt that these acts, if any, were committed by the defendant.

Now, if you believe from the evidence beyond a reasonable doubt that on or about the 26th day of November, 2019, in Ector County, Texas, the Defendant, FABIAN CHAVEZ POLVON, did then and there intentionally or knowingly cause the death of an individual, namely, JOSEPH GRANADO, by shooting JOSEPH GRANADO with a firearm,

and did then and there intentionally or knowingly cause the death of another individual, namely, TIFFANY POLVON, by shooting TIFFANY POLVON with a firearm, and both murders were committed during the same criminal transaction, then you will find the Defendant 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 and say by your verdict "Not Guilty".

You are instructed that no act done in a state of insanity can be punished as an offense. It is an affirmative defense to prosecution of a criminal action that, at the time of the conduct charged against a person, as a result of severe mental disease or defect, he did not know that his conduct was wrong.

The severe mental disease or defect must have existed at the very time or times inquired about, that is, at the very time of the alleged commission of the offense.

The term "mental disease or defect" does not include an abnormality manifested only by repeated criminal or otherwise anti-social conduct.

The burden of proof is upon the defendant to prove this affirmative defense by a preponderance of the evidence.

By the term "preponderance of the evidence" is meant the greater weight and degree of the credible evidence in this case.

Now, if you believe from the evidence beyond a reasonable doubt that on or about the 26th day of November, 2019, in Ector County, Texas, the Defendant, FABIAN CHAVEZ POLVON, did then and there intentionally or knowingly cause the death of an individual, namely, JOSEPH GRANADO, by shooting JOSEPH GRANADO with a firearm,

and did then and there intentionally or knowingly cause the death of another individual, namely, TIFFANY POLVON, by shooting TIFFANY POLVON with a firearm, and both murders were committed during the same criminal transaction, then you will find the Defendant guilty of Capital Murder as alleged in the indictment, but, if you further believe, by a preponderance of the evidence in the case, that at the time he committed the act, if he did, the defendant, as a result of severe mental disease or defect, did not know that his conduct was wrong, then you will find the defendant "Not Guilty by Reason of Insanity," and so state in your verdict.

Under the instructions given to you herein, you will state in your verdict whether you find the defendant "Not Guilty," "Guilty," or "Not Guilty by reason of insanity." Forms for your verdict are provided with these instructions.

You are instructed that in considering your verdict you may consider all relevant facts and circumstances surrounding the killing, if any, and the previous relationship existing between the accused and the deceased, together with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the alleged killing, if any.

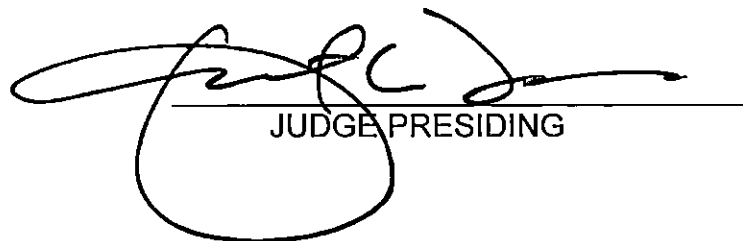
After you retire to the jury room, you should select one of your members as your Foreperson. It is his or her duty to preside at your deliberations, vote with you, and, when you have unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form attached hereto, and signing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

No one has any authority to communicate with you except the officer who has you in charge. 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.

Your sole duty at this time is to determine whether the Defendant is "not guilty," "guilty" or "not guilty by reason of insanity" in this cause and you must restrict your deliberations accordingly.

1. In order to return a verdict, each juror must agree thereto;
2. Jurors have a duty to consult with one another and to deliberate with a view of reaching an agreement, if it can be done without violence to individual judgment;
3. Each juror must decide the case for himself or herself, but only after an impartial consideration of evidence with their fellow jurors;
4. In the course of deliberations, jurors should not hesitate to reexamine their own views and change their opinion if convinced it is erroneous;
5. In arriving at your verdict, it will not be proper to fix the same by lot, chance, or any other method than by a full, fair and free exercise of the opinion of the individual jurors under the evidence admitted before you.
6. After you have retired, you may communicate with this court in writing through the officer who has you in charge.
7. After you have reached a unanimous verdict, the Foreperson will certify thereto by filling in the appropriate form attached to this charge and signing his or her name as Foreperson.



JUDGE PRESIDING

NO. B-20-0175-CR

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

OF ECTOR COUNTY, TEXAS

FABIAN CHAVEZ POLVON

161ST JUDICIAL DISTRICT

VERDICT

We, the Jury, find the Defendant, FABIAN CHAVEZ POLVON, "Not Guilty" of the offense of Capital Murder, as charged in the Indictment.

FOREPERSON

NO. B-20-0175-CR

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

OF ECTOR COUNTY, TEXAS

FABIAN CHAVEZ POLVON

161ST JUDICIAL DISTRICT

VERDICT

We, the Jury, find the Defendant, FABIAN CHAVEZ POLVON, "Guilty", beyond a reasonable doubt, of the offense of Capital Murder, as charged in the Indictment.


FOREPERSON

NO. B-20-0175-CR

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

OF ECTOR COUNTY, TEXAS

FABIAN CHAVEZ POLVON

161ST JUDICIAL DISTRICT

VERDICT

We, the Jury, find the Defendant, FABIAN CHAVEZ POLVON, "Not Guilty by reason of insanity" of the offense of Capital Murder, as charged in the Indictment.

FOREPERSON