

THE STATE OF TEXAS  
VS  
JESUS REYNALDO PEREZ RODRIGUEZ

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LAURA HINOJOSA, CLERK  
District Courts, Hidalgo County  
By LR Deputy

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, JESUS REYNALDO PEREZ RODRIGUEZ, stands charged by indictment with the offense of ATTEMPTED CAPITAL MURDER, alleged to have been committed in Hidalgo County, Texas, on or about JANUARY 25, 2002, and to this charge the Defendant has pled, "Not guilty."

1.

Our law provides that a person commits the offense of Murder when the person intentionally or knowingly causes the death of an individual.

A person commits the offense of Capital Murder when such person murders more than one person during the same criminal transaction.

2.

A person commits an offense if, with specific intent to commit an offense, he does an act amounting to more than mere preparation that tends, but fails, to effect the commission of the offense intended. This is an attempt to commit an offense.

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.

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3/28/07  
10:55 A.M.  
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All persons are parties to an offense who are guilty of acting together in the commission of an 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.

## 5.

Now, if you find from the evidence beyond a reasonable doubt that on or about JANUARY 25, 2002, in Hidalgo County, Texas, ROSFEL GARZA or JUAN MORALES or "JULIAN" or CARLOS GONZALEZ CANTU or RUBEN VILLARREAL with the specific intent to commit the offense of Capital Murder of Carlos Viacobo, Jaime Viacobo, and Julio Viacobo, during the same criminal transaction, do an act, to-wit: shot the aforesaid individuals with a firearm, which amounted to more than mere preparation that tended but failed to effect the commission of the offense intended, and the Defendant, JESUS REYNALDO PEREZ RODRIGUEZ, then and there knew of the intent, if any, of the said ROSFEL GARZA or JUAN MORALES or "JULIAN" or CARLOS GONZALEZ CANTU or RUBEN VILLARREAL to shoot Carlos Viacobo, Jaime Viacobo, and Julio Viacobo, and the Defendant acted with intent to promote or assist the commission of the offense by ROSFEL GARZA or JUAN MORALES or "JULIAN" or CARLOS GONZALEZ CANTU or RUBEN VILLARREAL, by aiding or attempting to aid ROSFEL GARZA or JUAN MORALES or "JULIAN" or CARLOS GONZALEZ CANTU or RUBEN VILLARREAL to commit the offense of shooting Carlos Viacobo, Jaime Viacobo, and Julio Viacobo, then you will find the Defendant "Guilty" of the offense of Attempted Capital Murder

as alleged in Count 2 of the indictment.

Unless you so find, or if you have a reasonable doubt thereof, you will acquit the Defendant of the offense of Attempted Capital Murder and say by your verdict "Not Guilty".

6.

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.

7.

You are instructed that the allegation that the offense was committed on or about JANUARY 25, 2002, does not bind the State to any one particular date but may include any date prior to SEPTEMBER 13, 2006, the date the indictment was filed and within the statute of limitations.

You are instructed that there is no statute of limitation for the offense of Attempted Capital Murder.

8.

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.

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. You will be governed by the law you shall receive in these written instructions.

When you retire to the jury room, you should first select one of your members as Presiding Juror. It is the Presiding Juror's 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 thereto, and signing the same as Presiding Juror.

In order to return a verdict, each juror must agree thereto, but jurors have a duty to consult with each other and to deliberate with a view of reaching an agreement, if it can be done without violence to individual judgment.

Each juror must decide the case for himself or herself, but only after an impartial consideration of the evidence with his or her fellow jurors.

In the course of deliberations, a juror should not hesitate to re-examine his or her own views and change his or her opinion if convinced it is erroneous. However, no juror should surrender his or her honest

conviction as to the weight or effect of the evidence solely because of the opinion of his or her fellow jurors, or for the mere purpose of returning a verdict.

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.

You should not discuss or consider punishment for the offense charged for any purpose. You must concern yourselves solely with the question of guilt or innocence of the Defendant under these written instructions without regard to any possible punishment imposed by law for the offense charged.

During your deliberations, you are instructed that you should not consider the remarks, rulings or actions of the presiding judge during this trial as any indication of the Court's opinion as to the guilt or innocence of the Defendant. The remarks, rulings and actions of the presiding judge were upon matters of the law only and were not upon the facts which you, and you alone, must determine.

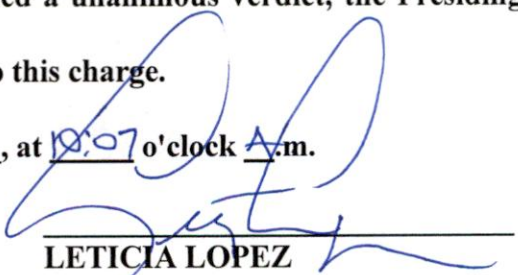
While you are deliberating, no one has authority to communicate with you except the officer who has you in charge being the Bailiff. However, after you have retired, you may communicate with the Court as to any questions you may have, but that communication must be in writing through the officer of the Court.

When you have reached a verdict you will notify the bailiff in writing, as to reaching a verdict, but not what the verdict is.

Do not let bias, prejudice, or sympathy play any part in your deliberations.

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

Filed on this the 28 day of March, 2007, at 10:07 o'clock A.m.

  
LETICIA LOPEZ  
Judge Presiding  
389TH District Court  
Hidalgo County, Texas

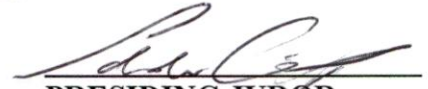
THE STATE OF TEXAS  
VS  
JESUS REYNALDO PEREZ RODRIGUEZ

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IN THE 389TH DISTRICT COURT  
OF  
HIDALGO COUNTY, TEXAS

FORMS OF VERDICT

We, the Jury, find the Defendant, JESUS REYNALDO PEREZ RODRIGUEZ, GUILTY of the offense of ATTEMPTED CAPITAL MURDER, as charged in the indictment.

  
PRESIDING JUROR

OR

We, the Jury, find the Defendant, JESUS REYNALDO PEREZ RODRIGUEZ, NOT GUILTY.

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PRESIDING JUROR

3/29/07 Received verdict by  
Judge Betty Lopez @ 5:21 p.m.