

NO. 2007-CR-4563A

THE STATE OF TEXAS § IN THE DISTRICT COURT
VS. § 187TH JUDICIAL DISTRICT
ARMANDO LEZA § BEXAR COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, Armando Leza, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 4th Day of April, 2007, in Bexar County, Texas. The defendant has pleaded not guilty.

I.

Our law provides that a person commits the offense of murder if he intentionally causes the death of an individual.

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.

II.

A person commits a robbery if, in the course of committing theft, as defined hereinafter, and with intent to obtain or maintain control of the property, he intentionally or knowingly causes bodily injury to another, or intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

A person commits aggravated robbery if the person commits a robbery, as defined above, and uses or exhibits a deadly weapon.

III.

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

IV.

"Individual" means a human being who has been born and is alive.

"In the course of committing" an offense means conduct that occurs in an attempt to commit, during the commission, or in immediate flight after the attempt or commission of the offense.

"Attempt" to commit an offense occurs if, with specific intent to commit an offense, a person does an act amounting to more than mere preparation that tends, but fails, to effect the commission of the offense intended.

"Deadly weapon" means 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 disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

"Appropriation" and "appropriate" mean to acquire or otherwise exercise control over property other than real property. Appropriation of property is unlawful if it is without the owner's effective consent.

"Property" means tangible or intangible personal property or documents, including money, that represents or embodies anything of value.

"Deprive" means to withhold property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the property is lost to the owner.

"Effective consent" means assent in fact, whether express or apparent, and includes consent by a person legally authorized to act for the owner. Consent is not effective if induced by deception or coercion.

"Owner" means a person who has title to the property, possession of the property, or a greater right to possession of the property than the person charged.

V.

For the offenses of murder and capital murder, 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.

VI.

For the offenses of aggravated robbery, robbery, and theft, a person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

For the offenses of aggravated robbery, robbery, and theft, a person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. For the offenses of aggravated robbery, robbery, and theft, 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.

VII.

Our law provides a person is criminally responsible as a party to an offense if the offense is committed by his own conduct, or by the conduct of another for which he is criminally responsible, or by both. Each party to an offense may be charged with commission of the offense.

Mere presence alone will not make a person a party to an offense. 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.

If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed in furtherance of the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy. Capital murder, aggravated robbery, robbery are felony offenses.

The term "conspiracy", as used in these instructions, means an agreement between two or more persons, with intent that a felony be committed, that they, or one or more of them, engage in conduct that would constitute the offense. An agreement constituting a conspiracy may be inferred from acts of the parties.

VIII.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 4th Day of April, 2007, in Bexar County, Texas, the defendant, Armando Leza, either acting alone or together as a party with Dolores Trevino, did intentionally cause the death of an individual, namely, Caryl Jean Allen, by cutting or stabbing Caryl Jean Allen with a deadly weapon, namely, a knife, that in the manner of its use or intended use was capable of causing death or serious bodily injury, and Armando Leza, either acting alone or together as a party with Dolores Trevino, was in the course of committing or attempting to commit the offense of robbery of Caryl Jean Allen;

Or, if you find from the evidence beyond a reasonable doubt that on or about the 4th Day of April, 2007, in Bexar County, Texas, Dolores Trevino did intentionally cause the death of an individual, namely, Caryl Jean Allen, by cutting or stabbing Caryl Jean Allen with a deadly weapon, namely, a knife, that in the manner of its use or intended use was capable of causing death or serious bodily injury, and Dolores Trevino was in the course of committing or attempting to commit the offense of robbery of Caryl Jean Allen, and that the defendant, Armando Leza, acting with the intent to promote or assist in the commission of the offense of capital murder, did solicit, encourage, direct, aid or attempt to aid Dolores Trevino in the commission of the offense of capital murder;

Or, if you find from the evidence beyond a reasonable doubt that Armando Leza entered into a conspiracy with Dolores Trevino to

commit the felony offense of robbery and that on or about the 4th Day of April, 2007, in Bexar County, Texas, in an attempt to carry out this agreement, Dolores Trevino intentionally caused the death of an individual, namely, Caryl Jean Allen, by cutting or stabbing Caryl Jean Allen with a deadly weapon, namely, a knife, that in the manner of its use or intended use was capable of causing death or serious bodily injury, and Dolores Trevino was in the course of committing or attempting to commit the offense of robbery of Caryl Jean Allen, and that such offense was committed in furtherance of the unlawful purpose to commit robbery and was an offense that should have been anticipated as a result of the carrying out of the conspiracy to commit robbery;

Then, you will find the defendant guilty of capital murder as charged in the indictment.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty of capital murder as charged in the indictment, and next consider whether he is guilty of the lesser included offense of aggravated robbery.

IX.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 4th Day of April, 2007, in Bexar County, Texas, the defendant, Armando Leza, either acting alone or together as a party with Dolores Trevino, while in the course of committing theft of property and with intent to obtain or maintain control of said property, did intentionally or knowingly cause bodily injury to another, namely, Caryl Jean Allen, or did intentionally or knowingly threaten or place another, namely, Caryl Jean Allen, in fear of imminent bodily injury or death, and Armando Leza, either acting alone or together as a party with Dolores Trevino, did use or exhibit a deadly weapon, to-wit: a knife, that in the manner of its use or intended use was capable of causing death or serious bodily injury;

Or, if you find from the evidence beyond a reasonable doubt that on or about the 4th Day of April, 2007, in Bexar County, Texas, Dolores Trevino, while in the course of committing theft of property and with intent to obtain or maintain control of said property, did intentionally or knowingly cause bodily injury to another, namely, Caryl Jean Allen, or did intentionally or knowingly threaten or place another, namely, Caryl Jean Allen, in fear of imminent bodily injury or death, and Dolores Trevino did use or exhibit a deadly weapon, to-wit: a knife, that in the manner of its use or intended use was capable of causing death or serious bodily injury, and that the defendant, Armando Leza, acting with the intent to promote or assist in the commission of the offense of

aggravated robbery, did solicit, encourage, direct, aid or attempt to aid Dolores Trevino in the commission of the offense of aggravated robbery;

Or, if you find from the evidence beyond a reasonable doubt that Armando Leza entered into a conspiracy with Dolores Trevino to commit the felony offense of robbery and that on or about the 4th Day of April, 2007, in Bexar County, Texas, in an attempt to carry out this agreement, Dolores Trevino, while in the course of committing theft of property and with intent to obtain or maintain control of said property, did intentionally or knowingly cause bodily injury to another, namely, Caryl Jean Allen, or did intentionally or knowingly threaten or place another, namely, Caryl Jean Allen, in fear of imminent bodily injury or death, and Dolores Trevino did use or exhibit a deadly weapon, to-wit: a knife, that in the manner of its use or intended use was capable of causing death or serious bodily injury, and that such offense was committed in furtherance of the unlawful purpose to commit robbery and was an offense that should have been anticipated as a result of the carrying out of the conspiracy to commit robbery;

Then, you will find the defendant guilty of aggravated robbery.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty of aggravated robbery, and next consider whether he is guilty of the lesser included offense of robbery.

X.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 4th Day of April, 2007, in Bexar County, Texas, the defendant, Armando Leza, either acting alone or together as a party with Dolores Trevino, while in the course of committing theft of property and with intent to obtain or maintain control of said property, did intentionally or knowingly cause bodily injury to another, namely, Caryl Jean Allen, or did intentionally or knowingly threaten or place another, namely, Caryl Jean Allen, in fear of imminent bodily injury or death, then you will find the defendant guilty of robbery.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty of robbery, and next consider whether the defendant is guilty of the lesser included offense of theft.

XI.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 4th Day of April, 2007, in Bexar County, Texas, the defendant, Armando Leza, either acting alone or together as a party with Dolores Trevino, with intent to deprive the owner, namely: Caryl Jean Allen, of property, did unlawfully appropriate said property by acquiring or otherwise exercising control over the property, said property being other than real property which had an aggregate value of \$50, without the effective consent of the owner, then you will find the defendant guilty of theft with the aggregate value of \$50.

If you do not so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will find the defendant not guilty.

Our law provides 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 these cases, 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 him.

Written statements made by a witness to investigators or other officers or police reports made by officers and tendered by the prosecution to the defense for purposes of cross-examination are not part of the evidence unless introduced in evidence. Many times statements and reports may be marked with an exhibit number but are neither offered nor received in evidence. I can send only statements and reports received in evidence to the jury room.

You are instructed that the Grand Jury indictment is not evidence of guilt. It is the means whereby a defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered by you in passing upon the guilt of this defendant.

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 are instructed that you are not to let bias, prejudice, or sympathy play any part in reaching a verdict in this case.

After you have retired to your jury room, you should select one of your members as your "foreman". It is his or her duty to preside at your deliberations, vote with you and, when you have unanimously agreed upon a verdict on a particular offense, if any, to certify to your verdict by signing the same as "foreman."

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given to the testimony, but you are bound to receive the law from the Court which is herein given to you and be governed thereby. In order to return a verdict, each juror must agree thereto, but jurors have a duty to consult with one another and to deliberate with a view to reaching an agreement, if it can be done without violence to individual judgment.

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

In the course of deliberations, a juror should not hesitate to re-examine his own views and change his opinion if convinced it is erroneous. However, no juror should surrender his honest conviction as to the weight or effect of the evidence solely because of the opinion of his fellow jurors, or for the mere purpose of returning a verdict.

From time to time throughout the trial the Court has been called upon to pass on the question of whether or not certain offered evidence might properly be admitted. You are not to be concerned with the reasons for such ruling and are not to draw any inferences from them. Whether offered evidence is admissible is purely a question of law. In admitting evidence to which an objection is made, the court does not determine what weight should be given such evidence; nor does it pass on the credibility of the witness. As to any offer of evidence that has been rejected by the Court, you, of course, must not consider the same; as to any question to which an objection was sustained, you must not conjecture as to what the answer might have been or as to the reason for the objection.

You are instructed that you are not to allow yourselves to be influenced in any degree whatsoever by what you may think or surmise the opinion of the Court to be. The Court has no right by any word or any act to indicate any opinion respecting any matter of fact involved in this case, nor whether the defendant is guilty or not guilty. The Court has not intended to express any such opinion, and if you have observed anything which you have or may interpret as the Court's opinion upon any matter of fact in this case of whether the defendant is guilty or not guilty, you must wholly disregard it.

You are instructed that the statements of counsel made during the course of the trial or during the argument, if not supported by evidence, or statements of law made by counsel, if not in harmony with the law as stated to you by the Court in these instructions, are to be wholly disregarded.

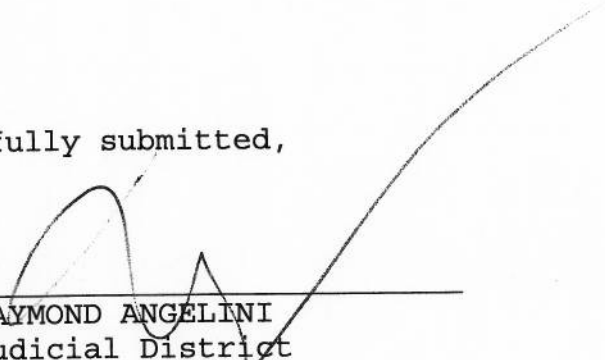
All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that a person has been arrested, confined, or indicted for, or otherwise charged with the offense gives rise to no inference of guilt at 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.

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."

Suitable forms for your verdict are hereto attached for your convenience if you desire to use the same, but such forms are not intended to suggest to you in any way what your verdict should be, and you may make use of the same. However, your verdict must be in writing and signed by your foreman. Your sole duty at this time is to determine whether the evidence has proven the guilt of the defendant beyond a reasonable doubt under the indictment in this cause and restrict your deliberations to that issue and nothing else. After you have retired, no one has any authority to communicate with you except the officer who has you in charge. Do not attempt to talk to the officer, or anyone else concerning any question you may have; instead address your inquiry to the Court in writing. If the jury wishes to communicate with the Court, they shall notify the bailiff. Any communication relative to the case must be written, prepared by the foreman, and shall be submitted to the Court through the bailiff.

Respectfully submitted,



Judge RAYMOND ANGELINI
187th Judicial District
Bexar County, Texas

THE STATE OF TEXAS § IN THE DISTRICT COURT
VS. § 187TH JUDICIAL DISTRICT
ARMANDO LEZA § BEXAR COUNTY, TEXAS

VERDICT FORM

~~We, the Jury, find the defendant, Armando Leza, not guilty.~~

~~_____
FOREMAN~~

VERDICT FORM

We, the Jury, find the defendant, Armando Leza, guilty of capital murder as charged in the indictment.



FOREMAN

VERDICT FORM

~~We, the Jury, find the defendant, Armando Leza, guilty of aggravated robbery.~~

~~_____
FOREMAN~~

VERDICT FORM

~~We, the Jury, find the defendant, Armando Leza, guilty of robbery.~~

~~_____
FOREMAN~~

VERDICT FORM

~~We, the Jury, find the defendant, Armando Leza, guilty of theft.~~

~~_____
FOREMAN~~