

CAUSE NO. 08-04-00032-CRF

COPY

STATE OF TEXAS

IN THE DISTRICT COURT

VS.

81st JUDICIAL DISTRICT

ROBERT RODRIGUEZ MORENO, JR.

FRIO COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, Robert Rodriguez Moreno, Jr., stands charged by indictment with the offense of capital murder, alleged to have been committed in Frio County, Texas, on or about February 29, 2008. To this charge, the defendant has pleaded not guilty.

A person commits the offense of murder if he intentionally 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 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.

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.

If there was no such common design and intent of all, including the defendant, to commit the offense, or if the offense, if any, was committed by one, acting independently

of the defendant in so doing and without participation by him in the design and intent to commit it, then the Defendant is not guilty, and, if you have a reasonable doubt as to this issue, you must give the defendant the benefit of the doubt and acquit him.

Upon the law of accomplice witness testimony, you are instructed that Ignacio Carrillo was an accomplice, if any offense was committed, as alleged in the indictment. With this in mind, you are further instructed that you cannot convict the Defendant upon Ignacio Carrillo's testimony, unless you first believe that his testimony is true and shows the guilt of the Defendant as charged in the indictment, and then you cannot convict the Defendant unless Ignacio Carrillo's testimony is corroborated by other evidence tending to connect the Defendant with the offense charged. The corroboration is not sufficient if it merely shows the commission of an offense, but it must tend to connect the Defendant with its commission, and then from all the evidence, you must believe beyond a reasonable doubt that the Defendant is guilty of the offense charged against him.

Now, if you find from the evidence that Ignacio Carrillo's testimony is true and shows the guilt of the Defendant as charged in the indictment, and that Ignacio Carrillo's testimony is not corroborated by other evidence tending to connect the Defendant with the offense charged, or that Ignacio Carrillo's testimony is untrue and does not show the guilt of the Defendant as charged in the indictment, and that Ignacio Carrillo's testimony is corroborated by other evidence tending to connect the Defendant with the offense charged, then in either case, or if you have a reasonable doubt thereof, you will acquit the defendant.

Now, if you find from the evidence beyond a reasonable doubt that on or about February 29, 2008, in Frio County, Texas, the defendant, Robert Rodriguez Moreno, Jr., either acting alone or as a party, as that term has been previously defined, did intentionally or knowingly cause the death of Linda Alaniz by shooting her with a firearm, and you further find that Robert Rodriguez Moreno, Jr. did then and there intentionally or knowingly cause the death of Adan Martinez by shooting him with a firearm, and you further find that both murders were committed during the same criminal transaction, then you will find the defendant, Robert Rodriguez Moreno, Jr., 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 of capital murder and say by your verdict "Not Guilty."

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

Our law provides that a defendant may testify in his own behalf if he elects to do so. This is a right given to 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 question 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 he 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 instructed not to 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 you must be governed by the law you shall receive in these written instructions.

After you retire to the jury room, you should select one of your members as your Presiding Juror. 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 Presiding Juror.

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.

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 this 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 questions you may have.

Your sole duty at this time is to determine the guilt or innocence of the defendant under the indictment in this cause and restrict your deliberations solely to the issue of guilt or innocence of the defendant.

Following the arguments of counsel, you will retire to consider your verdict.

Filed:

Respectfully submitted,

FILED
AT 12:53 O'CLOCK P M

MAR 25 2009
Ramon B. Rodriguez
CLERK DISTRICT COURT
FRIG COUNTY, TEXAS
By *Julie W...*
DEPUTY

Donna S. Rayes
DONNA S. RAYES
JUDGE PRESIDING

CAUSE NO. 08-04-00032-CRF

STATE OF TEXAS

IN THE DISTRICT COURT

VS.

81st JUDICIAL DISTRICT

ROBERT RODRIGUEZ MORENO, JR.

FRIO COUNTY, TEXAS

VERDICT FORM

We, the jury, find the defendant, Robert Rodriguez Moreno, Jr., guilty of capital murder.

Presiding Juror

CAUSE NO. 08-04-00032-CRF

STATE OF TEXAS

IN THE DISTRICT COURT

VS.

81ST JUDICIAL DISTRICT

ROBERT RODRIGUEZ MORENO, JR.

FRIO COUNTY, TEXAS

VERDICT FORM

We, the jury, find the defendant, Robert Rodriguez Moreno, Jr., not guilty.

FILED
AT 4:45 O'CLOCK P. M.
MAR 25 2009
[Signature]
CLERK DISTRICT COURT
FRIO COUNTY, TEXAS
By _____
DEPUTY

[Signature]
Presiding Juror