

IN THE DISTRICT COURT OF EL PASO COUNTY, TEXAS  
243rd JUDICIAL DISTRICT

THE STATE OF TEXAS

VS.

ALFREDO HOLGUIN

CAUSE NO. 20120D01334

CHARGE OF THE COURT

**LADIES AND GENTLEMEN OF THE JURY:**

After the attorneys have presented their summations, you will go to the jury room. You will then select one of your members as your presiding juror. It shall be your presiding juror's duty to preside over your discussions of and deliberations upon the case, vote with you and when you have unanimously agreed upon a verdict by signing the same as your presiding juror.

You will have this charge with you in the jury room, and shall refer to it for guidance during your deliberations. Suitable forms for your verdict are attached hereto; your verdict must be in writing and signed by your presiding juror. Your sole duty at this time is to determine the guilt or innocence of the Defendant under the indictment in this case; and restrict your deliberations solely to the issue of whether the Defendant is guilty or not guilty.

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 as it is given to you in this charge, and you are bound to be governed thereby.

You shall consider only the evidence and exhibits presented here in the courtroom through the witnesses who have testified. If you want to have the exhibits with you in the jury room for your deliberations, advise the bailiff. In deliberating on this case, you shall not talk to anyone except the members of the jury about it until you have been finally discharged from service on this jury.

If you want to communicate with the Court, explain what you want in writing and deliver your message, signed by your presiding juror, to the bailiff, who will deliver it to the Court. Do not orally explain to the bailiff what you want.

You are instructed that the Grand Jury indictment is not evidence of guilt, it is a means whereby the Defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered by you in passing upon the innocence or guilt of 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 does not give rise to any inference of guilt at the 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.

Our law provides that a Defendant may testify on 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 into consideration for any purpose whatsoever as a circumstance against him.

You are instructed that 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.

Each party to an offense may be charged with commission of the offense.

Each party to an offense may be charged and convicted without alleging that he acted as a principal or accomplice.

You are instructed that 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.

You are further instructed that if a person 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.

You are instructed that the term "on or about" means any time anterior to the presentment of the indictment and within the period of the statute of limitations. The indictment in this cause was presented on MARCH 8, 2012. There is no statute of limitations for the charge of Capital Murder.

**Boldface** lettering of words or phrases in this charge indicates that such words or phrases are defined in this charge and nothing else.

## DEFINITIONS

You are instructed that 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.

You are instructed that a person acts "**knowingly**", or with knowledge, with respect to the nature of his conduct or to the circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to the result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

A person commits "**capital murder**" when he intentionally commits the murder in the course of committing or attempting to commit kidnapping

A person commits "**murder**" when he intentionally or knowingly causes the death of an individual.

A person commits "**kidnapping**" when he intentionally or knowingly abducts another person.

"**Abduct**" means to restrain a person with intent to prevent his liberation by using or threatening to use deadly force.

A person commits "**unlawful restraint**" when he intentionally or knowingly restrains another person

"**Restrain**" means to restrict a person's movements *without consent*, so as to interfere substantially with the person's liberty by moving the person from one place to another or by confining the person. Restraint is "*without consent*" if it is accomplished by force, intimidation, or deception

"**Deadly force**" means force that is intended or known by the actor to cause, or in the manner of its use or intended use is capable of causing death or serious bodily injury

The term "**in the course of**" means conduct that occurs in an attempt to commit, during the commission, or in immediate flight after the attempt or commission.

The term "**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.

The Defendant, ALFREDO HOLGUIN, stands charged by Indictment with CAPITAL MURDER, alleged to have occurred on or about the 6<sup>th</sup> day of October 2002. To these charges the Defendant has pleaded not guilty.

Now if you find from the evidence beyond a reasonable doubt that on or about the 6th day of October, 2002, in El Paso County, State of Texas that ALFREDO HOLGUIN, did then and there intentionally cause the death of MARK ANTHONY CEDILLO by shooting him with a firearm, and ALFREDO HOLGUIN was in the course of committing or attempting to commit the offense of kidnapping; OR if you find from the evidence beyond a reasonable doubt that Benito Holguin intentionally caused the death of MARK ANTHONY CEDILLO by shooting him with firearm and Benito Holguin was then and there in course of committing or attempting to commit the offense of kidnapping, and you further find beyond a reasonable doubt that ALFREDO HOLGUIN, acting with intent to promote or assist the commission of the offense, encouraged, directed, aided, or attempted to aid Benito Holguin in the commission of said offense; OR if you find from the evidence beyond a reasonable doubt that Benito Holguin intentionally caused the death of MARK ANTHONY CEDILLO by shooting him with a firearm and Benito Holguin was then and there in the course of committing or attempting to commit the offense of kidnapping, and you further find beyond a reasonable doubt that acting with intent to promote or assist the commission of the offense of kidnapping, ALFREDO HOLGUIN encouraged, solicited, directed, aided, or attempted to aid Benito Holguin in the commission or attempted commission of the said kidnapping, if any, and that the shooting of MARK ANTHONY CEDILLO, if there was such, was done in furtherance of the conspiracy to kidnap MARK ANTHONY CEDILLO, if any, and was an offense that should have been anticipated as a result of carrying out the conspiracy, then you will find the Defendant guilty of CAPITAL MURDER as charged in the Indictment. (Verdict Form A)

Unless you so find beyond a reasonable doubt or if you have a reasonable doubt thereof, you will next consider whether or not the Defendant, either acting alone or with others as a party as that term has been defined, intentionally or knowingly unlawfully restrained MARK ANTHONY CEDILLO as a lesser included offense of the offense of Capital Murder, as charged in the Indictment. If you find the Defendant not guilty of Capital Murder, but guilty of the lesser included offense of UNLAWFUL RESTRAINT then you will so indicate in Verdict Form B.

Unless you so find beyond a reasonable doubt or if you have a reasonable doubt thereof, you will acquit the Defendant, ALFREDO HOLGUIN, of CAPITAL MURDER, as charged in the indictment and the lesser included offense of UNLAWFUL RESTRAINT. (Verdict Form C)

### **MANNER OF DELIBERATIONS**


- a. In order to return a verdict, each juror must agree thereto.
- b. Jurors have a duty to consult with one another to deliberate with a view of reaching an agreement, if it can be done without abrogating individual judgement.

- c. Each juror must decide the case for themselves, but only after an impartial consideration of the evidence with their fellow jurors.
- d. In the course of deliberations, a juror should not hesitate to re-examine their own views and change their opinion if convinced it is erroneous.
- e. No juror should surrender their honest conviction as to the weight or effect of the evidence only because of the opinion of fellow jurors, or for the mere purpose of returning a verdict.
- f. In arriving at your verdict, it will not be proper to fix the same by lot, chance, or any other method than by full, fair and free exercise of the opinion of the individual jurors under evidence admitted before you.
- g. Do not let bias, prejudice, or sympathy play any part in your deliberations.

The Presiding Juror or any other juror who observes a violation of the Court's instructions shall immediately warn the one who is violating the same and caution the juror not to do so again.

After you have arrived at your verdict, you will notify the bailiff that you have reached your verdict.

Respectfully submitted,



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BILL D. HICKS  
243rd Judicial District Court

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*[Handwritten signature]*  
DEPUTY

**VERDICT FORM A**

We, the Jury, find the Defendant, ALFREDO HOLGUIN, Guilty of Capital Murder as charged in the Indictment.

*[Handwritten signature]*  
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PRESIDING JUROR

**VERDICT FORM B**

We, the Jury, find the Defendant, ALFREDO HOLGUIN, Guilty of the lesser-included offense of Unlawful Restraint.

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PRESIDING JUROR

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VERDICT FORM C

We, the Jury, find the Defendant, ALFREDO HOLGUIN, Not Guilty of Capital Murder as charged in the Indictment and Not Guilty of the lesser included offense of Unlawful Restraint.

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PRESIDING JUROR