

ORIGINAL

NO. 07-100058

THE STATE OF TEXAS

IN THE 147TH DISTRICT

VS.

COURT OF

ALBERT SEGURA

TRAVIS COUNTY, TEXAS

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The defendant, Albert Segura, stands charged by indictment with the offense of Capital Murder, alleged to have been committed in Travis County, Texas, on or about the 18th day of November 2007. To this charge the defendant has pleaded not guilty. You are instructed that the law applicable to this case is as follows:

I.

A person commits the offense of Capital Murder if he murders more than one person during the same criminal transaction or during different criminal transactions but the murders are committed pursuant to the same scheme or course of conduct.

A person commits the offense of Murder if he intentionally or knowingly causes the death of an individual.

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

II.

A person acts intentionally, or with intent, with respect to a result of his conduct when it is his conscious objective or desire to engage in the conduct or 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.

III.

CAPITAL MURDER

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that the defendant Albert Segura, as alleged in the indictment, did then and there murder more than one person during the same criminal transaction or during different criminal transactions but pursuant to the same scheme or course of conduct, you shall find the defendant Albert Segura on

Filed in The District Court of Travis County, Texas

SEP 25 2009

At 11:30 A.M.
Amalia Rodriguez-Mendoza, Clerk

or about the 18th day of November, 2007 in Travis County, Texas did then and there intentionally or knowingly cause the death of an individual, Billy Ferguson, by shooting him with a firearm, a deadly weapon; and the said Albert Segura, on or about the 18th day of November, 2007, did then and there intentionally or knowingly cause the death of an individual, Patricia Smith, by shooting her with a firearm, you will find the defendant guilty of Capital Murder and so say by your verdict; but if you do not so believe or if you have a reasonable doubt thereof, you will acquit the defendant of the offense of Capital Murder and say by your verdict "not guilty" and proceed to consider the charge of Murder as set forth in the following paragraph.

Only proceed to consider paragraphs IV. if you found the defendant not guilty in paragraph III.

IV. MURDER

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that the defendant Albert Segura on or about the 18th day of November, 2007 in Travis County, Texas did then and there intentionally or knowingly cause the death of an individual, Billy Ferguson, by shooting him with a firearm, you will find the defendant guilty of Murder of Billy Ferguson and so say by your verdict; but if you do not so believe or if you have a reasonable doubt thereof, you will acquit the defendant of the Murder of Billy Ferguson and say by your verdict "not guilty."

V.

In all criminal cases the burden of proof is on the State. 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 the defendant and say by your verdict "Not Guilty."

VII.

An accomplice as the word is here used, means anyone connected with the crime who could be charged as a party to the 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.

You are further instructed that mere presence of the accused in the company of an accomplice witness shortly before or after the time of the offense, if any, is not, in itself, sufficient corroboration of the accomplice witness' testimony.

A conviction cannot be had upon the testimony of an accomplice unless the jury first believes that the accomplice's evidence is true and that it shows the defendant is guilty of the offense charged against him, and even then you cannot convict unless the accomplice's testimony is corroborated by other evidence tending to connect the defendant with the offense charged, and the corroboration is not sufficient if it merely shows the commission of the offense, but it must tend to connect the defendant with its commission.

If you find from the evidence that the witness, David Valdez , was an accomplice, or you have a reasonable doubt thereof, as that term has been defined to you in the foregoing instructions, then you are instructed that if you find beyond a reasonable doubt that an offense was committed, you cannot find the defendant, Albert Segura, guilty upon the testimony of David Valdez, unless you first believe that the testimony of the said David Valdez is true and that it shows the defendant is guilty as charged in the indictment; and even then you cannot convict the defendant unless you further believe that there is other evidence in this case, outside the testimony of said David Valdez , tending to connect the defendant with the commission of the offense charged in the indictment and then from all the evidence you must believe beyond a reasonable doubt that the defendant is guilty.

VIII.

Any evidence obtained by an officer or other person in violation of any provision of the Constitution or laws of the State of Texas or of the Constitution or laws of the United States shall be disregarded by the jury.

By the term "probable cause" is meant that the facts and circumstances within the affiant's knowledge, and of which he had reasonable trustworthy information, are sufficient by themselves to warrant a person of reasonable caution to believe that an offense had been committed and that evidence pertaining to the offense is located within the place to be searched.

The law affords no protection to those who voluntarily abandon property. Voluntary abandonment occurs if the defendant intended to abandon the property and the decision to abandon the property was not induced by police misconduct. Intent may be inferred from words spoken, acts done, and other objective facts.

Now, before you consider the testimony of any witnesses concerning evidence taken from the automobile searched pursuant to the search warrant in San Antonio, you must first find beyond a reasonable doubt that the defendant did abandon the property or, find beyond a reasonable doubt, that the affidavit that was the basis for the issuance of the search warrant set forth probable cause that the vehicle contained evidence of the alleged crime. If you do not find that the property was abandoned and you find that there was a lack of probable cause, you will disregard such testimony and evidence.

IX.

The defendant is on trial solely on the charge contained in the indictment. In reference to the testimony given by David Valdez pertaining to the reasons, he was fearful of the defendant, other than the instant allegations, the testimony was admitted to aid you, if it does, in determining the credibility of his fears, and is not to be used as evidence to prove the character of the defendant, or

to prove any actions that he may have taken, that would be in conformity therewith in determining the guilt or innocence of the defendant in this cause.

X.

In a criminal case the law permits a defendant to testify in his own behalf but, he is not compelled to do so and the same law provides that the fact that a defendant does not testify shall not be considered as a circumstance against him. You will, therefore, not consider that the defendant did not testify as a circumstance against him; and you will not during your deliberations allude to, comment on, or in any manner refer to the fact that the defendant has not testified.

XI.

You are further instructed as a part of the law in this case that the indictment against the defendant is not evidence in the case, and that the true and sole use of the indictment is to charge the offense, and to inform the defendant of the offense alleged against him. The reading of the indictment to the jury in the statement of the case of the State against the defendant cannot be considered as a fact or circumstance against the defendant in your deliberations.

XII.

In deliberating on this case you are not to consider or discuss the punishment that may be assessed against this defendant in the event you find him guilty.

XIII.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case or any witness therein, and no juror is permitted to communicate to any other juror anything he may have heard regarding the case or any witness therein, from any source other than the witness stand.

XIV.

The defendant is on trial solely on the charge contained in the indictment. In reference to evidence, if any, (other than matters covered by paragraph IX. in this charge) that the defendant has previously participated in transactions or acts, other than that which is charged in the indictment in this case, you are instructed that you can not consider such other transactions or acts, if any, for any purpose unless you find and believe beyond a reasonable doubt that the defendant participated in such transactions or committed such acts, if any; and even then you may only consider the same for the purpose of determining identity or opportunity if it does, and for no other purpose.

XV.

In deliberating on this case you are not to refer to or discuss any matter or issue not in evidence before you, nor talk about this case to anyone not on your jury; and after the reading of this charge you shall not separate from each other, without permission of the court, until you have reached a verdict.

XVI.

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 you, and be governed thereby.

XVII.

After the arguments of counsel, you will retire and select one of your members as your foreperson. It is his or her duty to preside at your deliberations and to vote with you in arriving at your verdict. Your verdict must be unanimous, and after you have arrived at your verdict, you may use the forms attached hereto by having your foreperson complete and sign his or her name to the particular form that conforms to your verdict.



JON N. WISSER
JUDGE PRESIDING

NO. 07-100058

THE STATE OF TEXAS

IN THE 147TH DISTRICT

VS.

COURT OF

ALBERT SEGURA

TRAVIS COUNTY, TEXAS

VERDICT OF THE JURY
CAPITAL MURDER

We, the jury, find the defendant, Albert Segura, Guilty of the offense of
(guilty or not guilty)
Capital Murder, as alleged in the indictment.


FOREPERSON

If you have found the defendant guilty of Capital Murder do not consider the lesser offense of Murder and do not utilize the remaining verdict form.

Filed in The District Court
of Travis County, Texas

SEP 28 2009

At 10:55 A.M.
Amalia Rodriguez-Mendoza, Clerk

NO. 07-100058

THE STATE OF TEXAS

IN THE 147TH DISTRICT

VS.

COURT OF

ALBERT SEGURA

TRAVIS COUNTY, TEXAS

VERDICT OF THE JURY
MURDER

We, the jury, find the defendant, Albert Segura, _____ of the offense
(guilty or not guilty)
of the Murder of Billy Ferguson.

FOREPERSON

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THE STATE OF TEXAS

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VS.

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ALBERT SEGURA

TRAVIS COUNTY, TEXAS

JURY QUESTION

Ladies and Gentlemen of the Jury:

In that you have yet to arrive at a verdict, I want to offer you some time options:


_____ 1) Continue to deliberate, uninterrupted by dinner service, until you reach a verdict or desire to recess for the evening.

_____ 2) Continue to deliberate, with dinner being served, until you reach a verdict or desire to recess for the evening.

_____ 3) Recess at _____ p. m. and return Saturday morning at _____ a.m.

4) Recess at 7:00 p. m. and return Monday morning at 9:00 a.m.

Please arrive at a consensus and mark your selection.



Judge Presiding

Can we have the autopsy
report?

Also, we need who owns what
phone numbers.

Foreman Donald Shorn

The autopsy report was not
admitted in evidence so I cannot
give it to you

A handwritten signature in cursive script, appearing to be "J. Miller".

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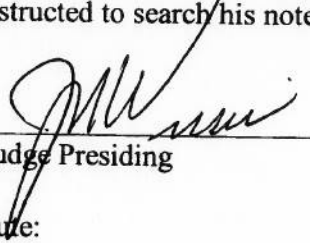
JURY QUESTION

Ladies and Gentlemen of the Jury:

I have your request for the testimony on the cell phones.

Your request is governed by the following rule: "If the jury disagree as to the statement of any witness, they may, upon applying to the court, have read to them from the court reporter's notes that part of such witness' testimony on the point in dispute."

Therefore, if you disagree concerning the statement of a witness and specify the point on which you disagree, the court reporter will be instructed to search his notes and read to you the testimony of the witness on that point.



Judge Presiding

Name of witness whose statement is subject to dispute:

Attorney(s) questioning witness at time of statement:

Statement in dispute:

PRESIDING JUROR

Requesting a portion
of the testimony
of Ray Anne because
there is disagreement
~~to~~ as to her statements
regarding the behavior
of A.J. while using
cocaine.

Some jurors recall
her saying he
behaved paranoid
while on cocaine
and others ~~do~~ don't
think she said anything
about his behavior while
on cocaine.

Witness - Ray Ann
Prosecution Attorney

For person Donald Harrison

This witness didn't say anything
about his behavior on cocaine

9-28-04
10:16 AM

JM

Question:

Must the jury
be unanimous in
its determination
of David Valdez
as an accomplice?

Foreperson

Donald Thorson

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IN THE 147TH DISTRICT

VS.

COURT OF

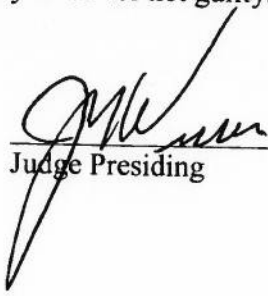
ALBERT SEGURA

TRAVIS COUNTY, TEXAS

SUPPLEMENTAL CHARGE OF THE COURT

In response to your question in which you ask whether the jury must be unanimous on whether David Valdez is an accomplice.

You are instructed that each juror should apply the facts to the law and arrive at an individual verdict. For the jury to arrive at a verdict, each the 12 individual jurors' verdicts must be the same; either 12 for guilty or 12 for not guilty.



Judge Presiding

May we open any or
all of the packaging
of the evidence to
further examine it?

Foreperson Don Johnson

yes

①

12:50