

CAUSE NO. 07-CR-721-G

THE STATE OF TEXAS

VS.

MANUEL VELEZ

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IN THE DISTRICT COURT OF

CAMERON COUNTY, TEXAS

404TH JUDICIAL DISTRICT

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, **MANUEL VELEZ**, stands charged by indictment with the offense of Capital Murder, alleged to have been committed in Cameron County, Texas, on or about the 31st day of October, 2005. To this charge defendant pleaded not guilty.

1.

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

A person commits the offense of Capital Murder when such person commits the offense of murder as defined herein, if any, to an individual under six years of age.

2.

"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 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.

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 and that the circumstances exist. 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.

A person acts “recklessly”, or “is reckless”, with respect to the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances, as viewed from the actor’s standpoint.

A person acts with “criminal negligence,” or “is criminally negligent,” with respect to the result of his conduct when he ought to be aware of a substantial and unjustifiable risk that the result complained of will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard care of that an ordinary person would exercise under all the circumstances, as viewed from the standpoint of the person charged.

3.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 31st day of October, 2005 in Cameron County, Texas, the defendant, MANUEL VELEZ, did intentionally or knowingly cause the death of an individual namely, ANGEL MORENO, by striking ANGEL MORENO on or about the victim’s head with defendant’s hands or feet, or striking the victim’s head against a surface unknown to the grand jury, or by striking victim’s head with an object unknown to the grand jury, and the said ANGEL MORENO was then and there an individual younger than six years of age, then you will find the defendant, MANUEL VELEZ, “Guilty” of Capital Murder, as charged in the indictment.

Unless you so find from the evidence beyond a reasonable doubt or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not Guilty" of the offense of Capital Murder. In the event that you find the defendant "Not Guilty" of Capital Murder, then you will next consider whether the defendant committed the lesser included offense of intentional or knowing injury to a child.

4.

Our law provides that a person commits an offense if he intentionally or knowingly, by act, causes serious bodily injury to a child.

"Child" means a person 14 years of age or younger.

"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.

Now, if you find from the evidence beyond a reasonable doubt that on or about October 31, 2005, in Cameron County, Texas, the defendant, MANUEL VELEZ, did then and there, intentionally or knowingly cause serious bodily injury to ANGEL MORENO, a child under 14, by striking ANGEL MORENO on or about the victim's head with defendant's hands or feet, or striking the victim's head against a surface unknown to the grand jury, or by striking victim's head with an object unknown to the grand jury, then you will find the defendant guilty of the lesser included offense of intentional or knowing injury to a child.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not Guilty" of the lesser included offense of intentional or knowing injury to a child. In the event that you find the

defendant "not guilty" of intentional or knowing injury to a child, then you will next consider whether the defendant committed the lesser included offense of manslaughter.

5.

A person commits the offense of manslaughter if he recklessly causes the death of an individual.

Now, if you find from the evidence beyond a reasonable doubt that on or about October 31, 2005, in Cameron County, Texas, the defendant, MANUEL VELEZ, did recklessly cause the death of an individual, namely ANGEL MORENO, by striking ANGEL MORENO on or about the victim's head with defendant's hands or feet, or striking the victim's head against a surface unknown to the grand jury, or by striking victim's head with an object unknown to the grand jury, then you will find the defendant guilty of the lesser included offense of manslaughter.

Unless you find that defendant is guilty of manslaughter beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant and say by your verdict "Not Guilty" of the lesser included offense of manslaughter. In the event that you find the defendant "not guilty" of manslaughter, then you will next consider whether the defendant committed the lesser included offense of criminally negligent homicide.

6.

A person commits an offense if he causes the death of an individual by criminal negligence.

Now, if you find from the evidence beyond a reasonable doubt that on or about October 31, 2005, in Cameron County, Texas, the defendant, MANUEL VELEZ, did cause the death of an individual, ANGEL MORENO, by striking ANGEL MORENO on or about the

victim's head with defendant's hands or feet, or striking the victim's head against a surface unknown to the grand jury, or by striking victim's head with an object unknown to the grand jury, and the defendant should have been aware, but failed to perceive, that death or serious bodily injury would result from such actions, then you will find the defendant guilty of the lesser included offense of criminally negligent homicide.

Unless you find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant and say by your verdict "Not Guilty" of the lesser included offense of criminally negligent homicide.

7.

You are instructed that under our law a statement of a defendant made while the defendant was in jail or other place of confinement or in the custody of an officer shall be admissible in evidence if it appears that the same was freely and voluntarily made, without compulsion or persuasion, provided, however, that it be made in writing and signed by the accused, and show that the accused has been warned prior to making such statement or confession, by the person to whom the same is made that (1) he has the right to remain silent and not make any statement at all and that any statement he makes may be used against him at his trial; (2) any statement he makes may be used as evidence against him in court; (3) he has the right to have a lawyer present to advise him prior to and during any questioning; (4) he may have his own lawyer, or, if he is unable to employ a lawyer, he has the right to have a lawyer appointed to advise him prior to and during any questioning; and (5) he has the right to terminate the interview or questioning at any time.

So, in this case, if you find beyond a reasonable doubt that the aforementioned warning was given the defendant prior to his having made such statement, before you may

consider such statement as evidence in this case, you must find from the evidence beyond a reasonable doubt that prior to and during such statement, the defendant knowingly, intelligently and voluntarily waived the rights hereinabove set out in the said warning, and unless you so find, or if you have a reasonable doubt thereof, you will not consider the statement or confession for any purpose whatsoever or any evidence obtained as a result of same.

8.

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.

9.

In the event any of you took notes, you may rely on your notes during your deliberations. However, you may not share your notes with the other jurors and you should not permit the other jurors to share their notes with you. You may, however, discuss the contents of your notes with the other jurors.

Notes are not to be considered as evidence. In the event of disagreement of testimony, the jurors may request disputed testimony to be read from the official record by the court reporter.

A grand jury indictment is merely the means under our law by which a Defendant is brought to trial in a felony prosecution. It is not evidence of guilt and you should not consider it in passing on 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 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.

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, but the law you shall receive in these written instructions, and you must 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 rulings 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 on 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 the guilt or innocence of the Defendant. 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 or of the guilt or innocence of the Defendant, 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.

After you retire to the jury room, you should first select one of your members as your 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 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. You must not discuss nor consider punishment during your deliberations. You are to concern yourselves solely with the question of guilt or innocence without any regard whatsoever to the possible punishment for the offense charged.

You may communicate with this Court during your deliberations. The communication must be in writing through the officer who has you in charge. Any such writing must be signed by the Presiding Juror. 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.



After you have reached a unanimous verdict, the Presiding Juror will certify thereto by filling in the appropriate form attached to this charge and signing his or her name as Presiding Juror. The Presiding Juror will then notify the officer who has you in charge that you have reached a verdict. Afterwards you will then be brought into open court.

Signed: October 22nd, 2008




HON. ABEL C. LIMAS
Presiding Judge
404th Judicial District Court
Cameron County, Texas

FILED 2:55 O'CLOCK P M
AURORE DE LA GARZA, CLERK

OCT 23 2008 
DISTRICT COURT OF CAMERON COUNTY, TEXAS
DEPUTY 

07-CR-721-G

THE STATE OF TEXAS

VS.

MANUEL VELEZ

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IN THE DISTRICT COURT OF

CAMERON COUNTY, TEXAS

404TH JUDICIAL DISTRICT

FORMS OF VERDICT - CAPITAL MURDER

We, the Jury, find the Defendant, MANUEL VELEZ, "Not Guilty" of Capital Murder.

Presiding Juror

OR

We, the Jury, find the Defendant, MANUEL VELEZ, "Guilty" of Capital Murder.



Presiding Juror

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THE STATE OF TEXAS

VS.

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IN THE DISTRICT COURT OF

CAMERON COUNTY, TEXAS

404TH JUDICIAL DISTRICT

FORMS OF VERDICT – INTENTIONAL OR KNOWING INJURY TO A CHILD

We, the Jury, find the Defendant, MANUEL VELEZ, "Not Guilty" of the lesser included offense of Intentional or Knowing Injury to a Child.

Presiding Juror

OR

We, the Jury, find the Defendant, MANUEL VELEZ, "Guilty" of the lesser included offense of Intentional or Knowing Injury to a Child.

Presiding Juror

07-CR-721-G

THE STATE OF TEXAS

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IN THE DISTRICT COURT OF

VS.

CAMERON COUNTY, TEXAS

MANUEL VELEZ

404TH JUDICIAL DISTRICT

FORMS OF VERDICT – MANSLAUGHTER

We, the Jury, find the Defendant, MANUEL VELEZ, "Not Guilty" of the lesser included offense of Manslaughter.

Presiding Juror

OR

We, the Jury, find the Defendant, MANUEL VELEZ, "Guilty" of the lesser included offense of Manslaughter.

Presiding Juror