

CAUSE NO. F15-75460-I

THE STATE OF TEXAS

-vs.-

EDUARDO RAYO

§ IN THE CRIMINAL DISTRICT
§
§ COURT NO. 2
§
§ DALLAS COUNTY, TEXAS

2016 JUN - 9 PM 2:34
DALLAS COUNTY
CLERK OF COURT

COURT'S CHARGE TO THE JURY

MEMBERS OF THE JURY:

The defendant, Eduardo Rayo, stands charged by indictment with the offense of capital murder alleged to have been committed in Dallas County, Texas, on or about April 11, 2015.

The defendant has pleaded not guilty to this charge.

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JUN 16 2016
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COURT ADMINISTRATION

OFFENSE DEFINITIONS

A person commits the offense of **capital murder** if he intentionally causes the death of an individual in the course of committing or attempting to commit robbery.

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

A person commits the offense of **robbery** if, in the course of committing theft, as that term is defined later in these instructions, and with intent to obtain and maintain control of property of another, he intentionally or knowingly threatens, or places another in fear of, imminent bodily injury or death.

MENTAL STATE DEFINITIONS

A person acts intentionally, or with intent, with respect to the 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.

TERM DEFINITIONS

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

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

"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.

"Theft" is the unlawful appropriation of the personal property of another, without the owner's effective consent, with the intent to deprive such person of said property.

"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.

The term **"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, coercion, force, threats, or fraud.

"Owner" means a person who has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the person charged.

"Possession" means actual care, custody, control or management of property.

The term **"bodily injury"** means physical pain, illness, or any impairment of physical condition, including death.

"Deadly weapon" means a firearm or anything manifestly designed, made or adapted for the purpose of inflicting death, serious bodily injury, or anything in the manner of its use or intended use that is capable of causing death or serious bodily injury.

"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.

Voluntary intoxication does not constitute a defense to the commission of a crime.

"Intoxication" means disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

PARTIES DEFINITIONS

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 the commission of the 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. Mere presence alone will not constitute one as a party to an offense.

CONSPIRACY PARTIES DEFINITIONS

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 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.

“Conspiracy” is committed if, with intent that a felony be committed, a person agrees with one or more persons that they or one or more of them engage in conduct that would constitute the offense and he or one or more of them performs an overt act in pursuance of the

agreement.

An agreement constituting a conspiracy may be inferred from acts of the parties.

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

Mere presence alone will not constitute one a party to an offense.

APPLICATION OF THE LAW TO THE FACTS- CAPITAL MURDER

Now, considering all the law contained in the court's charge, if you unanimously find and believe from the evidence beyond a reasonable doubt that on or about April 11, 2015, in Dallas County, Texas, the defendant, Eduardo Rayo, either acting alone or with another as a party to the offense, did unlawfully then and there intentionally cause the death of Heather Molina, an individual, hereinafter called deceased, by shooting the deceased with a firearm, a deadly weapon, and the defendant, either acting alone or with another as a party, was then and there in the course of committing or attempting to commit the offense of robbery of said deceased, you shall find the defendant guilty of capital murder as charged in the indictment.

OR

If you believe from the evidence beyond a reasonable doubt that the defendant, Eduardo Rayo, entered into a conspiracy with an unknown person to commit the felony offense of robbery and that on or about the 11th day of April, 2015 in Dallas County, Texas, in the attempt to carry out this agreement, if any, the unknown person did then and there intentionally cause the death of an individual, Heather Molina, by shooting the said Heather Molina with a deadly weapon, to-wit: a firearm, if he did, and that such offense was committed in furtherance of the unlawful purpose of the conspiracy to commit robbery, and was an offense that should have been anticipated as the result of the carrying out of the agreement,

then you will find the defendant, Eduardo Rayo, guilty of the offense of Capital Murder, though he may have had no intent to commit it, and so say by your verdict.

If you do not so believe, or if you have a reasonable doubt thereof, or if you are unable to agree, you will next consider whether the defendant is guilty of the lesser included offense of murder.

APPLICATION OF THE LAW TO THE FACTS - MURDER

Now, considering all the law contained in the court's charge, if you unanimously find and believe from the evidence beyond a reasonable doubt that on or about April 11, 2015, in Dallas County, Texas, the defendant, Eduardo Rayo, either acting alone or with another as a party to the offense, did intentionally or knowingly cause the death of Heather Molina, an individual, hereinafter called deceased, by shooting the deceased with a firearm, a deadly weapon, you shall find the defendant guilty of murder as included in the indictment.

OR

Now bearing in mind the foregoing instructions, if you believe from the evidence beyond a reasonable doubt that the defendant, Eduardo Rayo, entered into a conspiracy with an unknown person to commit the felony offense of robbery and that on or about the 11th day of April, 2015 in Dallas County, Texas, in the attempt to carry out this agreement, if any, the unknown person did then and there knowingly cause the death of an individual, Heather Molina, by shooting the said Heather Molina with a deadly weapon, to-wit: a firearm, if he did, and that such offense was committed in furtherance of the unlawful purpose of the conspiracy to commit robbery, and was an offense that should have been anticipated as the result of the carrying out of the agreement, then you will find the defendant, Eduardo Rayo, guilty of the

offense of Murder as included in the indictment, though he may have had no intent to commit it, and so say by your verdict.

If you should find from the evidence beyond a reasonable doubt that the Defendant is either guilty of capital murder or of the lesser-included offense of murder, but you have a reasonable doubt as to which offense he is guilty of, then you should resolve that doubt in the Defendant's favor and find the defendant guilty of the lesser-included offense of murder.

If you do not so believe, or if you have a reasonable doubt thereof, or if you are unable to agree, you will next consider whether the defendant is guilty of the lesser included offense of aggravated robbery.

APPLICATION OF THE LAW TO THE FACTS – AGGRAVATED ROBBERY

Now, if you unanimously find from the evidence beyond a reasonable doubt that on or about the 11th day of April, 2015, in Dallas County, Texas, the defendant, Eduardo Rayo, did then and there, acting alone or as a party as that term has been previously defined, unlawfully, while in the course of committing theft of property and with intent to obtain or maintain control of the property, intentionally or knowingly threaten or place Heather Molina in fear of imminent bodily injury or death, and the defendant did then and there use or exhibit a deadly weapon, to-wit: a firearm, then you will find the defendant guilty of aggravated robbery, as included in the indictment.

If you should find from the evidence beyond a reasonable doubt that the Defendant is either guilty of capital murder as charged in the indictment, the lesser-included offense of murder or the lesser-included offense of aggravated robbery, but you have a reasonable doubt as to which offense he is guilty of, then you should resolve that doubt in the Defendant's favor

and find the defendant guilty of the lesser-included offense of aggravated robbery.

If you have a reasonable doubt as to whether the defendant is guilty of any offense defined in this charge, then you should acquit the defendant and say by your verdict not guilty.

CONCLUDING INSTRUCTIONS

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 issue of guilt of the defendant.

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.

You are instructed that if there is any testimony before you in this case regarding the defendant having committed offenses or acts other than the offense alleged against him in the indictment in this case, you cannot consider such testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offenses or act, if any were committed. Even then, you may only consider the same in determining the defendant's motive, opportunity, intent, plan, identity, knowledge or absence of mistake or accident, if any alleged against him in the indictment in this case, and not for any other purpose.

All persons are presumed 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 the inference of guilt at this 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 element as charged beyond a reasonable doubt, and if it fails to do so, you must acquit the defendant. However, it is not required that the prosecution prove guilt beyond all possible doubt; it is only required that the prosecution's proof exclude all reasonable doubt concerning the defendant's guilt.

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

During your deliberation in this case, you must not consider, discuss, or relate any matters not in evidence before you. You should not consider or 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, nor shall you in deciding your verdict discuss the punishment which may be assessed in the event that the defendant is found guilty.

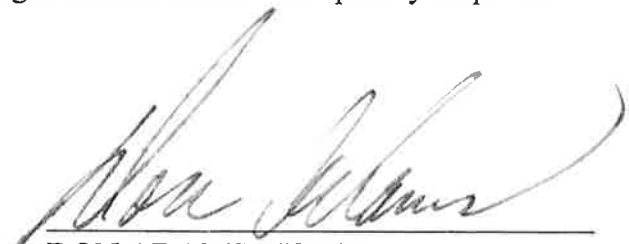
Your verdict must be unanimous and shall be arrived at by due deliberation and not by majority vote or by any method of chance.

You are the exclusive judges of the facts proved, the credibility of the witnesses, and the weight to be given to the testimony. However, you must receive and follow the law provided to you by the court.

After argument of counsel, you will retire to consider your verdict in this case. You should begin by selecting one of your members as presiding juror. It is the duty of the presiding juror to preside at your deliberations, to vote equally as any other juror in arriving at a verdict, and to sign the verdict on behalf of the jury.

Any communications with the Court must be in writing, signed by the presiding juror through the bailiff who has you in their charge. No one has any authority to communicate with you except the bailiff who has you in his or her charge. Do not attempt to talk to the bailiff, the attorneys, or the Court concerning any question you may have.

You may deliberate as long as you need. There is no time limit. If you have a verdict, or if you wish to have a break, turn on the red light and the sheriff will quickly respond.

A handwritten signature in cursive script, appearing to read "Don Adams", written over a horizontal line.

DON ADAMS, JUDGE
CRIMINAL DISTRICT COURT NO. 2
DALLAS COUNTY, TEXAS

VERDICT FORMS

We, the jury, unanimously find the defendant, Eduardo Rayo, GUILTY of capital murder, as charged in the indictment.


PRESIDING JUROR (Signature)

Danielle T Collins
(Printed name)

OR

We, the jury, unanimously find the defendant, Eduardo Rayo, GUILTY of murder, as included in the indictment.

PRESIDING JUROR (Signature)

(Printed name)

OR

We, the jury, unanimously find the defendant, Eduardo Rayo, GUILTY of aggravated robbery, as included in the indictment.

PRESIDING JUROR (Signature)

(Printed name)

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CLERK OF DISTRICT COURT
DALLAS COUNTY TEXAS

OR

We, the jury, unanimously find the defendant, Eduardo Rayo, NOT GUILTY.

PRESIDING JUROR (*Signature*)

(*Printed name*)