

CAUSE NO. 1358861

P7

THE STATE OF TEXAS § IN THE 248TH DISTRICT COURT
VS. § OF HARRIS COUNTY, TEXAS
JOSE PEDRO ROJAS-MARTINEZ § JULY TERM, A. D., 2013

Members of the Jury:

The defendant, Jose Pedro Rojas-Martinez, stands charged by indictment with the offense of capital murder, alleged to have been committed on or about the 25th day of August, 2012, in Harris County, Texas. The defendant has pleaded not guilty.

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 if he commits murder, as hereinbefore defined, and the person murders an individual under ten years of age.

A person commits the offense of injury to a child if he intentionally or knowingly, by act, causes to a child, serious bodily injury.

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

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

"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.

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.

You are instructed that you may consider all relevant facts and circumstances surrounding the death, if any, and the previous relationship existing between the accused and the deceased, 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.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 25th day of August, 2012, in Harris County, Texas, the defendant, Jose Pedro Rojas-Martinez, did then and there unlawfully, intentionally or knowingly cause the death of Sofia Rojas, an individual under ten years of age, by stabbing Sofia Rojas with a deadly weapon, namely a knife, then you will find the defendant 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, or if you are unable to agree, you will next consider whether the defendant is

guilty of the lesser offense of intentionally or knowingly causing serious bodily injury to a child younger than fifteen years of age.

Therefore, if you find from the evidence beyond a reasonable doubt that on or about the 25th day of August, 2012, in Harris County, Texas, the defendant, Jose Pedro Rojas-Martinez, did then and there unlawfully, intentionally or knowingly cause serious bodily injury to Sofia Rojas, a child younger than fifteen years of age, by stabbing Sofia Rojas with a deadly weapon, namely a knife, then you will find the defendant guilty of intentionally or knowingly causing serious bodily injury to a child younger than fifteen years of age.

If you believe from the evidence beyond a reasonable doubt that the defendant is guilty of either capital murder on the one hand or intentionally or knowingly causing serious bodily injury to a child younger than fifteen years of age on the other hand, but you have a reasonable doubt as to which of said offenses he is guilty, then you must resolve that doubt in the defendant's favor and find him guilty of the lesser offense of intentionally or knowingly causing serious bodily injury to a child younger than fifteen years of age.

If you have a reasonable doubt as to whether the defendant is guilty of any offense defined in this charge you will acquit the defendant and say by your verdict "Not Guilty."

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 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.

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

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 Foreman 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.



George H. Godwin, Judge Presiding
248th District Court
Harris County, TEXAS

FILED

Loren Jackson
District Clerk

OCT 10 2013

Time:

9:43 AM

By:

Harris County, Texas



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JOSE PEDRO ROJAS-MARTINEZ § JULY TERM, A. D., 2013

CHOOSE ONE

"We, the Jury, find the defendant, Jose Pedro Rojas-Martinez, guilty of capital murder, as charged in the indictment."

FILED
Loren Jackson
District Clerk

OCT 10 2013

Time: 11:58 AM
Harris County, Texas

By: _____
Deputy

[Signature]
Foreman of the Jury

Michael Gomez
(Please Print) Foreman

"We, the Jury, find the defendant, Jose Pedro Rojas-Martinez, guilty of intentionally or knowingly causing serious bodily injury to a child younger than fifteen years of age."

Foreman of the Jury

(Please Print) Foreman

"We, the Jury, find the defendant, Jose Pedro Rojas-Martinez, not guilty."

Foreman of the Jury

(Please Print) Foreman