

Verdict Received
Bless 4/12/22
@ 2:31pm

CASE NO. CR-2960-19-D (COUNT ONE)

THE STATE OF TEXAS
VS
GABINO SALINAS

§
§
§

IN THE 206TH DISTRICT COURT
OF
HIDALGO COUNTY, TEXAS

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, GABINO SALINAS, stands charged by indictment with the offense of Capital Murder alleged to have been committed in Hidalgo County, Texas, on or about November 8, 2017, and to this charge the Defendant has pleaded not guilty.

1.

A person commits the offense of Capital Murder when such person intentionally commits the murder in the course of committing or attempting to commit the offense of Kidnapping.

Our law provides that a person commits the offense of Murder when the person intentionally or knowingly causes the death of an individual.

A person commits the offense of Kidnapping if he intentionally or knowingly abducts another person.

A person commits the offense of Aggravated Kidnapping if he intentionally or knowingly abducts another person with the intent to inflict bodily injury on him or uses or exhibits a deadly weapon during the commission of the offense.

2.

“Abduct” means to restrain a person with intent to prevent his liberation by secreting or holding him in a place where he is not likely to be found or using or threatening to use deadly force.

"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.

"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 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.

"Restrain" means to restrict a person's movements without consents, 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.

"Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes the death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

3.

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.

4.

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.

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.

By the term "conspiracy", as used in these instructions, is meant an agreement between two or more persons, with intent that a felony be committed, that they, or one or more of them, engage in conduct that would constitute the offense. An agreement constituting a conspiracy may be inferred from acts of the parties. You are instructed that the offenses of capital murder, murder, aggravated ~~murder~~^{kidnapping}, and ~~kidnapping~~^{kidnapping} are all felony offenses.

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The mere presence, if any, of the Defendant, GABINO SALINAS, at the scene of the alleged offense, alone by itself, would not constitute him a party to the offense.

5.

You are instructed that an "accomplice," as the term is here used, means anyone connected with the crime charged, as a party thereto. and includes all persons who are connected with the crime by unlawful act or omission on their part transpiring either before or during the time of the commission of the offense, and whether or not they were present and participated in the commission of the crime. 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. Mere presence alone, however, will not constitute one a party to an offense.

You are further instructed that 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 also tend to

connect the defendant with its commission.

Now, if you believe from the evidence beyond a reasonable doubt that an offense was committed and you further believe from the evidence that the witness Ricardo Moreno was an accomplice, or you have a reasonable doubt as to whether he was or not, as that term is defined in the foregoing instructions, then you cannot convict the defendant upon the testimony of Ricardo Moreno unless you first believe that the testimony of Ricardo Moreno is true and that it shows the defendant is guilty as charged in the indictment; even then you cannot convict the defendant unless you further believe that there is other evidence in the case, outside of the evidence of Ricardo Moreno 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.

Now, if you believe from the evidence beyond a reasonable doubt that an offense was committed and you further believe from the evidence that the witness Wilmer Noe Luque Vasquez was an accomplice, or you have a reasonable doubt as to whether he was or not, as that term is defined in the foregoing instructions, then you cannot convict the defendant upon the testimony of Wilmer Noe Luque Vasquez unless you first believe that the testimony of Wilmer Noe Luque Vasquez is true and that it shows the defendant is guilty as charged in the indictment; even then you cannot convict the defendant unless you further believe that there is other evidence in the case, outside of the evidence of Wilmer Noe Luque Vasquez 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.

Now, if you believe from the evidence beyond a reasonable doubt that an offense was committed and you further believe from the evidence that the witness Luis Miguel Garza was an accomplice, or you have a reasonable doubt as to whether he was or not, as that term is defined in the foregoing instructions,

then you cannot convict the defendant upon the testimony of Luis Miguel Garza unless you first believe that the testimony of Luis Miguel Garza is true and that it shows the defendant is guilty as charged in the indictment; even then you cannot convict the defendant unless you further believe that there is other evidence in the case, outside of the evidence of Luis Miguel Garza 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.

6.

Now, if you find from the evidence beyond a reasonable doubt that on or about November 8, 2017, in Hidalgo County, Texas, the Defendant, GABINO SALINAS, did then and there intentionally cause the death of an individual, namely, Jose Angel Martinez, by shooting the said Jose Angel Martinez with a firearm or by a manner and means unknown to the grand jurors, or acted as a party thereto as previously defined, and the defendant was then and there in the course of committing or attempting to commit the offense of kidnapping of Jose Angel Martinez, then you will find the Defendant guilty of the offense of CAPITAL MURDER, as charged in the indictment;

OR

If you find from the evidence beyond a reasonable doubt that the Defendant, GABINO SALINAS, entered into a conspiracy with Benjamin Sanchez, Sandy Lutz, or Hector Guerra, to commit the felony offense of kidnapping and that on or about November 8, 2017, in Hidalgo County, Texas, and while in the course of committing or attempting to commit such kidnapping, if any, Benjamin Sanchez, Sandy Lutz, or Hector Guerra did then and there intentionally cause the death of an individual, namely, Jose Angel Martinez by shooting him with a firearm or by a manner and means unknown to the grand jury and that such offense was committed in furtherance of the unlawful purpose of the conspiracy to commit kidnapping, 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 guilty of CAPITAL MURDER, though he may have had no intent to commit it.

Unless you unanimously so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of the offense of CAPITAL MURDER and next proceed to the lesser included offense of MURDER.

7.

If you find from the evidence beyond a reasonable doubt that on or about November 8, 2017, in Hidalgo County, Texas, the Defendant, GABINO SALINAS, did intentionally cause the death of Jose Angel Martinez by shooting him with a firearm or by a manner and means unknown to the grand jurors, or acted as a party thereto as previously defined, but you have a reasonable doubt as to whether the Defendant was then and there engaged in the commission of kidnapping of Jose Angel Martinez at the time of the cause of death, if any, then you will find the Defendant guilty of MURDER, but not CAPITAL MURDER.

Unless you unanimously so find from the evidence beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the Defendant of the offense of MURDER and next proceed to the lesser included offense of AGGRAVATED KIDNAPPING.

8.

If you find from the evidence beyond a reasonable doubt that on or about November 8, 2017, in Hidalgo County, Texas, the Defendant, GABINO SALINAS, did intentionally or knowingly abduct Jose Angel Martinez, with the intent to inflict bodily injury on him or did then and there use or exhibit a deadly weapon during the commission of the abduction, or acted as a party thereto as previously defined, then you will find the Defendant guilty of AGGRAVATED KIDNAPPING.

Unless you unanimously 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."

9.

You are instructed that the Defendant may be convicted of only one of the offenses defined in these instructions, to wit: Capital Murder, Murder, or Aggravated Kidnapping and the Defendant can be convicted only as to that offense, if any, which is proved beyond a reasonable doubt.

10.

If you should find from the evidence beyond a reasonable doubt that the Defendant is either guilty of Capital Murder or Murder, but you have a reasonable doubt as to which offense Defendant is guilty of, then you should resolve that doubt in the Defendant's favor, and in such event, you will find the Defendant guilty of the lesser offense of Murder.

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If you should find from the evidence beyond a reasonable doubt that the Defendant is either guilty of ~~Capital~~ Murder or Aggravated Kidnapping, but you have a reasonable doubt as to which offense Defendant is guilty of, then you should resolve that doubt in the Defendant's favor, and in such event, you will find the Defendant guilty of the lesser offense of Aggravated Kidnapping.

If you should find from the evidence that Defendant is guilty of neither Capital Murder nor Murder nor Aggravated Kidnapping, or if you have a reasonable doubt thereof, you will find the Defendant Not Guilty.

11.

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

with all relevant facts and circumstances going to show the condition of the mind of the accused at the time of the killing in question, if any.

12.

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.

13.

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. 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 a person has been arrested, confined, 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. You will be governed by the law you shall receive in these written instructions.

When you retire to the jury room, you should first select one of your members as 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 thereto, and signing the same as Presiding Juror.

In order to return a verdict, each juror must agree thereto, but jurors have a duty to consult with each other and to deliberate with a view of reaching an agreement, if it can be done without violence to individual judgment.

Each juror must decide the case for himself or herself, but only after an impartial consideration of the evidence with his or her fellow jurors.

In the course of deliberations, a juror should not hesitate to re-examine his or her own views and change his or her opinion if convinced it is erroneous. However, no juror should surrender his or her honest conviction as to the weight or effect of the evidence solely because of the opinion of his or her fellow jurors, or for the mere purpose of returning a verdict.

Do not discuss the case with anyone else, either in person or by any other means. Do not do any independent investigation about the case or conduct any research. Do not look up any words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with the other jurors. You may not use any electronic device or media, such as a telephone, cell phone, smart phone, iPhone, Blackberry or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, MySpace, LinkedIn, YouTube or Twitter, to communicate with anyone any information about this case or to conduct any research about this case until I accept your verdict.

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 should not discuss or consider punishment for the offense charged for any purpose. You must concern yourselves solely with the question of guilt or innocence of the Defendant under these written instructions without regard to any possible punishment imposed by law for the offense charged.

During your deliberations, you are instructed that you should not consider the remarks, rulings or actions of the presiding judge during this trial as any indication of the Court's opinion as to the guilt or innocence of the Defendant. The remarks, rulings and actions of the presiding judge were upon matters of the law only and were not upon the facts which you and you alone must determine.

While you are deliberating, no one has authority to communicate with you except the officer who has you in charge being the Bailiff. However, after you have retired, you may communicate with the Court as to any questions you may have, but that communication must be in writing through the officer of the Court.

When you have reached a verdict you will notify the bailiff in writing, as to reaching a verdict, but not what the verdict is.

Do not let bias, prejudice, or sympathy play any part in your deliberations.

Your verdict must be unanimous, and after you have reached a unanimous verdict, the Presiding Juror will certify thereto by signing the appropriate form attached to this charge.

Filed on this the 12th day of April, 2022, at 9:30 o'clock a.m.



ROSE GUERRA REYNA
JUDGE PRESIDING
206TH DISTRICT COURT
HIDALGO COUNTY, TEXAS