

07-DCR-046309  
CHCO  
Charge of the Court  
3202181

No. 07-DCR-046309



THE STATE OF TEXAS	§	IN THE DISTRICT COURT OF
	§	
VS.	§	FORT BEND COUNTY, TEXAS
	§	
LUIS CARLOS RODRIGUEZ	§	240 <sup>th</sup> JUDICIAL DISTRICT

**COURT'S CHARGE TO THE JURY**

The defendant, LUIS CARLOS RODRIGUEZ, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about May 27, 2006, in Fort Bend County, Texas. To this charge, the defendant has pleaded not guilty.

I.

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

A person commits capital murder if the person intentionally commits the murder in the course of committing or attempting to commit robbery.

A person commits robbery if, in the course of committing theft and with intent to obtain and maintain control of the property, he intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

II.

"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.

"Bodily injury" means physical pain, illness, or any impairment of physical condition.

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

"Theft" is a criminal offense that requires proof that the person unlawfully appropriated property of another with intent to deprive the owner of said property.

"Appropriation" and "appropriate," means 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" as used herein means tangible or intangible personal property or documents, including money that represents or embodies anything of value.

"Deprive" as used herein means to withhold property from the owner permanently.

"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 or coercion or force or threats.

"Owner" means a person who has title to the property, possession of the property, or a greater right to possession of the property than the person charged.

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

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 or 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.

### III.

All persons are parties to an offense who are guilty of acting together in the commission of 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 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 as being a party to an offense.

## IV.

You are instructed that voluntary intoxication does not constitute a defense to the commission of the crime. The term "intoxication" as used herein means disturbance of mental or physical capacity resulting from the introduction of any substance into the body.

## V.

The statement of the defendant has been admitted in evidence before you. You are instructed that unless you, the jury, believe beyond a reasonable doubt that the statement was voluntarily made, you, the jury, shall not consider such statement for any purpose nor any evidence obtained as a result thereof.

## VI.

Now, keeping the foregoing instructions in mind, if you find from the evidence beyond a reasonable doubt that on or about May 27, 2006, in Fort Bend County, Texas, the defendant, LUIS CARLOS RODRIGUEZ, acting alone or as a party, did then and there intentionally cause the death of Arnulfo Aguilar by blunt force trauma in the course of committing or attempting to commit the robbery of Arnulfo Aguilar, then you will find the defendant, LUIS CARLOS RODRIGUEZ, 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 of Capital Murder and next consider the lesser included offense of Murder.

## VII.

A person commits the offense of murder if he intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual or if he commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

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.

Robbery is a felony offense.

Now bearing the foregoing instruction and the instructions in Paragraphs II, III, IV, and V, if you find from the evidence beyond a reasonable doubt that on or about May 27, 2006, in Fort Bend County, Texas, the defendant, LUIS CARLOS RODRIGUEZ, acting alone or as a party, did then and there intending to cause serious bodily injury and committing an act clearly dangerous to human life, committing blunt force trauma, caused the death of Arnulfo Aguilar; OR did then and there intending to commit or attempt to commit the robbery of Arnulfo Aguilar, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, the defendant, LUIS CARLOS RODRIGUEZ, did then and there commit or attempt to commit an act clearly dangerous to human life, committing blunt force trauma, that caused the death of Arnulfo Aguilar, you will find the defendant, LUIS CARLOS RODRIGUEZ, guilty of Murder.

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."

#### VIII.

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 offense, if any.

Evidence of other crimes, wrongs or acts may not be considered by you to prove the character of the defendant or to show action in conformity therewith. You are instructed that if there is testimony before you in this case regarding the defendant having committed other acts other than the offense alleged against him in the indictment in this case, you cannot consider such other acts, if any, unless you first find and believe beyond a reasonable doubt that the defendant committed such acts, if any; therefore, if you do not believe, or if you have a reasonable doubt thereof, you will not consider such testimony for any purpose. You may only consider said acts, if any, for purposes of establishing the relevant facts and circumstances

surrounding the killing, the previous relationship existing between the accused and the deceased, defendant's motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

#### IX.

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.

#### X.

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 the person's trial. The law does not require a defendant to prove his or her innocence or produce any evidence at all. The burden of proof throughout the trial is always on the state.

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 a careful and impartial consideration of all the evidence in the case.

You are instructed that the criminal indictment is not evidence of guilt. It is the means whereby a Defendant is brought to trial in a felony prosecution. It is not evidence, nor can it be considered by you in passing upon the innocence or guilt of this 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.

If any juror starts to mention the defendant's election not to testify in this case, then it is the duty of the other jurors to stop him at once.

#### XI.

You have been permitted to take notes during the testimony in this case. In the event any of you took notes, you may rely on your notes during deliberations. However, you may not share your notes with other jurors and you should not permit other jurors to share their notes with you. You may, however, discuss the contents of your notes with the other jurors. You shall not use your notes as authority to persuade your fellow jurors. In your deliberations, give no more and no less weight to the views of a fellow juror just because the juror did or did not take notes. Your notes are not official transcripts. They are personal memory aids, just like the notes of the judge and the lawyers. Notes are valuable as a stimulant to your memory. On the other hand, you might make an error in observing or you might make a mistake in recording what you have seen or heard. Therefore, you are not to use your notes as authority to persuade fellow jurors of what the evidence was during the trial.

Occasionally, during jury deliberations, a dispute arises as to the testimony presented. If this should occur in this cause, you shall inform the court and request that the court read the portion of disputed testimony to you from the official transcript. You shall not rely on your notes to resolve the dispute because those notes, if any, are not official transcripts. The dispute must be settled by the official transcript, for it is the official transcript, rather than the juror's notes, upon which you must base your determination of the facts and, ultimately, your verdict in this case.

#### XII.

During your deliberations 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.

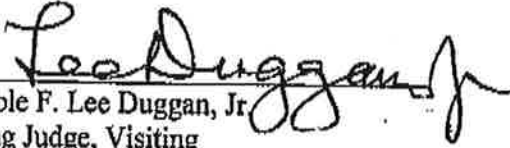
After you have retired to your jury room, you should select one of your members as your presiding juror. It is his or her duty to preside at your deliberations, vote with you and, when you have unanimously agreed upon a verdict, to certify your verdict by signing the same as presiding

juror. You are the exclusive judges of the facts proved, of the credibility of the witnesses, and of the weight to be given to the evidence, but you are bound to receive the law from the Court, which is herein given to you, and be governed thereby. You may make reasonable inferences from the evidence admitted.

A form for your verdict is hereto attached; your verdict must be in writing and signed by your presiding juror. Your sole duty at this time is to determine the guilt or innocence of the defendant and you are to restrict your deliberations solely to the issue of guilt or innocence of the defendant.

No one has any authority to communicate with you except the officer who has you in charge. You may communicate with the court only in writing, signed by your presiding juror, delivered to the court by the officer who has you in charge. Do not attempt to talk to the officer, the attorneys, or the court concerning questions you may have.


After the court reads this charge, you may not separate from each other without the court's permission, nor may you talk with anyone not of your jury regarding this case. The presiding juror's duty is to preside at your deliberations and to vote with you in arriving at a unanimous verdict. After you have arrived at your verdict, you must have your presiding juror indicate the jury verdict by signing the particular form or forms that coincide with your verdict.

  
Honorable F. Lee Duggan, Jr.  
Presiding Judge, Visiting  
240<sup>th</sup> Judicial District Court  
Fort Bend County, Texas

**FILED**

SEP - 4 2014

AT

  
Denise Renee Elliott  
Clerk District Court, Fort Bend Co., TX

No. 07-DCR-046309

THE STATE OF TEXAS

§  
§  
§  
§  
§

IN THE DISTRICT COURT OF

VS.

FORT BEND COUNTY, TEXAS

LUIS CARLOS RODRIGUEZ

240<sup>th</sup> JUDICIAL DISTRICT

**VERDICT OF THE JURY**

We, the Jury, find the defendant, LUIS CARLOS RODRIGUEZ "Guilty" of Capital Murder as charged in the indictment.

**FILED**

SEP - 4 2014

AT

*[Signature]*  
Clerk District Court, Fort Bend Co., TX

*[Signature]*

Presiding Juror

**MOHSIN HASSAN**

OR

We, the Jury, find the defendant, LUIS CARLOS RODRIGUEZ "Not Guilty" of Capital Murder as charged in the indictment.

\_\_\_\_\_  
Presiding Juror

*If you find the defendant, LUIS CARLOS RODRIGUEZ "Not Guilty" of Capital Murder, proceed to consider the lesser included offense of Murder.*



No. 07-DCR-046309

THE STATE OF TEXAS

§  
§  
§  
§  
§

IN THE DISTRICT COURT OF

VS.

FORT BEND COUNTY, TEXAS

LUIS CARLOS RODRIGUEZ

240<sup>th</sup> JUDICIAL DISTRICT

VERDICT OF THE JURY

We, the Jury, find the defendant, LUIS CARLOS RODRIGUEZ "Guilty" of the lesser included offense of Murder.

\_\_\_\_\_  
Presiding Juror

OR

We, the Jury, find the defendant, LUIS CARLOS RODRIGUEZ "Not Guilty" of the lesser included offense of Murder.

\_\_\_\_\_  
Presiding Juror