

THE STATE OF TEXAS	§	IN THE DISTRICT COURT OF
	§	
VS.	§	CAMERON COUNTY, TEXAS
	§	
MELISSA ELIZABETH LUCIO	§	138TH JUDICIAL DISTRICT

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, Melissa Elizabeth Lucio, stands charged by indictment with the offense of capital murder, alleged to have been committed in Cameron County, Texas on the 17th day of February, 2007. To this charge the defendant has 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 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 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.

3.

Now, if you find from the evidence beyond a reasonable doubt that on or about the 17th day of February, 2007, in Cameron County, Texas, the Defendant, Melissa Elizabeth Lucio, did then and there intentionally or knowingly cause the death of an individual, namely, Mariah Alvarez, by striking, shaking, or throwing Mariah Alvarez with defendant's hand or foot or other object unknown to the Grand Jury, and the said Mariah Alvarez was then and there an individual younger than six years of age, then you will find the defendant, Melissa Elizabeth Lucio, guilty of Capital Murder as charged in the indictment.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of capital murder and say by your verdict "Not Guilty".

4.

Our law provides that a defendant may testify in her own behalf if she elects to do so. This, however, is a privilege accorded a defendant, and in the event she elects not to testify, that fact cannot be taken as a circumstance against her. 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.

5.

You are instructed that in considering your verdict you may consider all relevant facts and circumstances surrounding the killing, 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 alleged killing, if any.

6.

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 courts 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 enough 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 her and say by your verdict "Not Guilty".

You are the exclusive judges of the facts proven, 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 in 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: July *J.A.*, 2008.

[Signature]
Judge Presiding



A TRUE COPY I CERTIFY
AURORA DE LA GARZA, CLERK
DISTRICT COURT CAMERON COUNTY, TEXAS

AUG 15 2008

BY *[Signature]*
DEPUTY

FILED 9:40 O'CLOCK A.M.
AURORA DE LA GARZA, DIST. CLERK

[Signature]
JUL 18 2008
DISTRICT COURT, CAMERON COUNTY TEXAS
BY *[Signature]*

CAUSE NO. 07-CR-885-B

THE STATE OF TEXAS

§ IN THE DISTRICT COURT OF

VS

§ CAMERON COUNTY, TEXAS

MELISSA ELIZABETH LUCIO

§ 138TH JUDICIAL DISTRICT

FORMS OF VERDICT

We, the Jury, find the Defendant, Melissa Elizabeth Lucio, "*Not Guilty*".

Presiding Juror

We, the Jury, find the Defendant, Melissa Elizabeth Lucio, "*Guilty*" of the offense of Capital Murder as alleged in the indictment.

Melissa Quintanilla

Presiding Juror

FILED 3:58 O'CLOCK P M
AURORA DE LA GARZA, DIST. CLERK

JUL - 8 2008

DISTRICT COURT, CAMERON COUNTY, TEXAS
BY *Janet Lopez* DEPUTY

A TRUE COPY I CERTIFY
AURORA DE LA GARZA, CLERK
DISTRICT COURT CAMERON COUNTY, TEXAS

AUG 15 2008

BY *Janet Lopez*
DEPUTY

