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CAUSE NO. 07-7-23,277-A COURT ADMINISTRATION

CATHY STUART DISTRICT CLERK, VICTORIA CO. TEXAS BY [Signature] Deputy

THE STATE OF TEXAS

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IN THE DISTRICT COURT
24TH JUDICIAL DISTRICT
VICTORIA COUNTY, TEXAS

V.

JESSE TEJEDA

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, **JESSE TEJEDA**, stands charged in Paragraph 1 of the indictment, with the offense of **CAPITAL MURDER**, alleged to have been committed on or about 14th day of June, A.D., 2007 in Victoria County, Texas.

1.

CAPITAL MURDER: A person commits the offense of **CAPITAL MURDER** if he commits **MURDER** by intentionally causing the death of an individual and intentionally commits the murder in the course of committing or attempting to commit a **ROBBERY** (as defined below).

For the offense of **CAPITAL MURDER**, the definition of "murder" is: "a person commits the offense of murder if the person intentionally causes the death of an individual." The definition of "intentionally" in the phrase "intentionally causes the death of an individual" is limited to the following: a person acts intentionally with respect to the result of his conduct when it is his conscious objective or desire to cause the result.

2.

MURDER: A Person commits the offense of **MURDER** if the person intentionally or knowingly causes the death of an individual or intends to cause seriously bodily injury

and commits an act clearly dangerous to human life that causes the death of an individual.

For MURDER, the definition of “intentionally” is limited to the following: a person acts intentionally with respect to the result of his conduct when it is his conscious objective or desire to cause the result.

For MURDER, the definition of “knowingly” is limited to the following: a person acts knowingly or with knowledge, with respect to the result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

A person acts recklessly, or is reckless, with respect to the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances, as viewed from the actor’s standpoint.

“Individual” means a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.

“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.

3.

ROBBERY: A person commits the offense of Robbery if, in the course of committing theft of property and with intent to obtain or maintain control of said property, he either intentionally or knowingly causes bodily injury to another, or

intentionally or knowingly threatens or places another in fear of imminent bodily injury or death. ROBBERY is a felony.

“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.

“Theft” is the unlawful appropriation of the corporeal personal property of another with the intent to deprive such person 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.

The following definition of “intentionally” applies except as noted in heading #1 & 2: 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 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.

4.

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.

Before you would be warranted in convicting the defendant of CAPITAL MURDER, you must find from the evidence beyond a reasonable doubt not only that on the occasion in question the defendant was in the course of committing the felony offense of robbery as defined in this charge, but also you must find beyond a reasonable doubt that during the commission of the robbery, if any, the defendant caused the death of Juan Palacios by submerging said Juan Palacios in water until he drowned.

5.

Now, if you find from the evidence beyond a reasonable doubt that on or about 14th day of June 2007, in Victoria County, Texas, the defendant, **JESSE TEJEDA** did then and there intentionally cause the death of an individual, namely: Juan Palacios, by submerging said Juan Palacios in water until he drowned, and the defendant, **JESSE TEJEDA**, did intentionally commit said murder in the course of committing

ROBBERY, then you will find the defendant guilty of the offense of **CAPITAL MURDER** as alleged in Paragraph 1 of 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 whether the defendant is guilty of the lesser included offense of **MURDER** under the instructions below.

6.

For the purpose of considering whether the defendant is guilty of the offense of **MURDER** under the application paragraph under the heading of #7 below, you are instructed a person commits the offense of **MURDER** if the person intentionally or knowingly commits the felony offense of **ROBBERY**, and in the course of and in furtherance of the commission, or in immediate flight from the commission, he intentionally or knowingly commits an act clearly dangerous to human life that causes the death of an individual. The definitions of heading #2 also apply.

7.

Now if you find from the evidence beyond a reasonable doubt that on or about the 14th day of June 2007 in Victoria County, Texas, the defendant **JESSE TEJEDA**, did and there, intentionally or knowingly commit the offense **ROBBERY**, and in the course of committing robbery and in furtherance of the commission, he intentionally or knowingly committed an act clearly dangerous to human life, to wit: beating, kicking, binding with tape, or submerging said Juan Palacios in water until he drowned, then you will find the defendant guilty of the ~~offense~~ lesser included offense of **MURDER** as alleged in Paragraph 2 of the indictment.

Unless you so find beyond a reasonable doubt, or if you have a reasonable doubt thereof, you will acquit the defendant of the offense of MURDER and next consider whether the defendant is guilty of the ~~offense of~~ lesser included offense of MANSLAUGHTER.

8.

Now, if you find from the evidence beyond a reasonable doubt that on or about ^{the} 14th day of June 2007 in Victoria County, Texas, the defendant, **JESSE TEJEDA** did recklessly cause the death of an individual, namely Juan Palacios, by: beating, kicking, binding with tape, or submerging said Juan Palacios in water until he drowned, then you will find the defendant guilty of manslaughter as charged in the indictment.

Unless you find that defendant is guilty of manslaughter 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.

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.

10.

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 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 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 of 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. In the event you have a reasonable doubt as to the defendant's guilt after considering these instructions and all the evidence before you, you will acquit the defendant say by your verdict "Not Guilty."

It is not required that the prosecution proves guilt beyond all possible doubt; it is required that the prosecution's proof excludes all "reasonable doubt" concerning the defendant's guilt.

11.

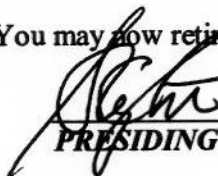
You are the exclusive judges of the facts proved, of the credibility of the witnesses, and the weight to be given their testimony, but the law you must be governed by, you shall receive in these written instructions.

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

No one has any authority to communicate with you except the officer who has you in charge. 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.

After you have retired, you may communicate with this court in writing through the officer who has you in charge. Do not attempt to talk to the officer who has you in charge, or the attorneys, or the court, or anyone else concerning any question you may have. After you have reached a unanimous verdict, the Foreman will certify thereto by filling in the appropriate form attached to this charge and signing his name as Foreman.

You may now retire to consider your verdict.



PRESIDING JUDGE