

By the term "serious bodily injury" is meant 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 "deadly weapon" means anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

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.

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.

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.

4.

Now if you find from the evidence beyond a reasonable doubt that on or about the 5th day of April, 2009 in Taylor County, Texas the defendant Adriel Demetrio Flores, III, did then and there intentionally or knowingly cause the death of an individual, namely, Lazaro Carrillo, by shooting him with said deadly weapon, to wit: a handgun, that in the manner of its use and intended use was capable of causing death or serious bodily injury.

OR

If you find from the evidence beyond a reasonable doubt that on or about the 5th day of April, 2009, in Taylor County, Texas, the defendant, Adriel

Demetrio Flores, III, did then and there intentionally or knowingly cause serious bodily injury to an individual, namely, Lazaro Carrillo, by shooting him with said deadly weapon, to wit: a handgun, then you will find the defendant guilty of murder as alleged 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 the lesser included offense of aggravated assault.

5.

Now if you find from the evidence beyond a reasonable doubt that on or about the 5th day of April, 2009, in Taylor County, Texas, the defendant, Adriel Demetrio Flores, III, did then and there intentionally or knowingly, use or exhibit a deadly weapon, to wit: a handgun, and the said Adriel Demetrio Flores, III did then and there intentionally or knowingly threaten Lazaro Carrillo with imminent bodily injury by the use of said deadly weapon, then you will find the defendant guilty of the lesser included offense of aggravated assault.

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 the lesser included offense of aggravated assault.

If you find from the evidence beyond a reasonable doubt that the defendant is guilty of either murder or aggravated assault, but you have a reasonable doubt as to which of the the 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 aggravated assault.

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

6.

Upon the law of self defense, you are instructed that a person is justified in using force against another when and to the degree he reasonably believes the force is immediately necessary to protect himself against the other person's use or attempted use of unlawful force.

A person is justified in using deadly force against another if he would be justified in using force against the other in the first place, as above set out, and when he reasonably believes that such force is immediately necessary to protect himself against the other person's use or attempted use of unlawful deadly force.

By the term "deadly force" as herein used is meant force that is intended or known by the person using it to cause, or in the manner of its use or intended use is capable of causing death or severe bodily injury.

By the term "reasonable belief" as herein used is meant a belief that would be held by an ordinary and prudent person in the same circumstances as defendant.

7.

When a person is attacked with unlawful deadly force, or he reasonably believes he is under attack or attempted attack with unlawful deadly force, and there is created in the mind of such person a reasonable expectation or fear of death or serious bodily injury, then the law excuses or justifies such person in resorting to deadly force by any means at his command to the degree that he reasonably believes to be immediately necessary, viewed from his standpoint at the time, to protect himself from such attack or attempted attack. It is not necessary that there be an actual attack or attempted attack, as a person has a right to defend his life and person from apparent danger as fully and to the same extent as he would had the danger been real, provided that he acted upon a reasonable apprehension of danger, as it appeared to him from his standpoint at the time, and that he reasonably believed such force was immediately necessary to protect himself against the other person's use or attempted use of unlawful deadly force.

8.

You are further instructed that, in determining the existence of real or apparent danger, it is your duty to consider all of the facts and circumstances in evidence in the case before you and consider the words, acts, and conduct, if any, of Lazaro Carrillo at the time of and prior to the time of the alleged killing, if any, and, in considering such circumstances, you should place yourselves in defendant's position at that time and view them from his standpoint alone. The defendant would have a right to consider any previous difficulties with the deceased, particularly any previous threats by deceased to harm the defendant, and if defendant reasonably believed, as viewed from his standpoint alone, that Lazaro Carrillo was then and there going to execute such threats to do him bodily harm and that such action on his own part was essential to protect himself, then he would have a right to use such force as is necessary to defend himself.

9.

Now, if you find from the evidence beyond a reasonable doubt that on the occasion in question the defendant, Adriel Demetrio Flores, III, did shoot Lazaro Carrillo with a handgun as alleged, but you further find from the evidence that, viewed from the standpoint of the defendant at the time, from words or conduct, or both, of Lazaro Carrillo, it reasonably appeared to the defendant that his life or person was in danger and there was created in his mind a reasonable expectation or fear of death or serious bodily injury from the use of unlawful deadly force at the hands of Lazaro Carrillo, and that, acting under such apprehension, he reasonably believed that the use of deadly force on his part was immediately necessary to protect him against Lazaro Carrillo's use or attempted use of unlawful deadly force, and he shot the said Lazaro Carrillo, then you should acquit the defendant on the grounds of self defense, or, if you have reasonable doubt as to whether or not the defendant was acting in self-defense on the occasion and under the circumstances, then you should give the benefit of that doubt to defendant and find him not guilty.

10.

If you find from the evidence beyond a reasonable doubt that (1) at the time and place in question the defendant did not reasonably believe that he was in danger of death or serious bodily injury, or (2) defendant, under the circumstances,

did not reasonable believe that the degree of force actually used by him was immediately necessary to protect himself against Lazaro Carrillo's use or attempted use of unlawful deadly force, if any, as viewed from defendant's standpoint at the time, then you must find against the defendant on the issue of self-defense.

11.

A person is justified in using deadly force against another to protect land or tangible, movable property when and to the degree he reasonably believes the deadly force is immediately necessary to prevent the others imminent commission of robbery or theft during the nighttime.

12.

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 Defendant's 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.

13.

You are charged that you cannot consider the fact that an indictment was returned by the Grand Jury against the Defendant in this case as any evidence of his guilt.

14.

Do not let bias, prejudice or sympathy play any part in your deliberations. You are the exclusive judges of the facts proved, the credibility of the witnesses and the weight to be given the testimony, but the law of the case you will receive in charge from the Court and be governed thereby.

15.

After you retire to the jury room, you should select one of your members as your Presiding Juror. It is his/her duty to preside at your deliberations and vote with you.

16.

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. It is only from the witness stand that the jury is permitted to receive evidence regarding the case. If any evidence has been withdrawn from the jury by the Court, you will not discuss or consider it for any purpose.

17.

The only function of the jury under this charge is to determine the guilt, if any, of the defendant of the offense or offenses defined in this charge. Therefore, in your deliberation, you will not mention or consider the matter of punishment. Punishment, if any, is the subject of other proceedings.

18.

Your verdict must be unanimous, and 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/her name as Presiding Juror.

ROBERT JONES
Judge Presiding

