

No. 7902881 C
The State of Texas Vs. JESSE GARZ
Charge: MURDER

IN THE NAME AND BY AUTHORITY OF
THE GRAND JURY, for the County of
charged, and organized as such at the _____
Judicial District Court for said County

_____ J
hereinafter styled Defendant, on or about the _____
and before the presentment of this indictment
intentionally and knowingly
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knees and with his feet

NAME _____

Capt. Win

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FILED

Nov 30 1 27 PM '79

OSCAR SOLIZ, CLERK
CRIMINAL DISTRICT COURT,
TARRANT COUNTY, TEXAS
BY *[Signature]*

against the peace and dignity of the State.

MICROF



County

DISTRICT COURTS

OSCAR SOLIZ / DISTRICT CLERK

P.O. BOX 2987 / CORPUS CHRISTI, TEXAS 78403
AREA CODE 512 888-0450

Date February 15, 1995

Albert Pena III
Wilson Plaza Suite 836
615 Leopard
Corpus Christi, Tx 78476

Re: T.S.O.T. -VS- Jesse Garza
Cause Number: 79-CR-881-C

NOTICE

Take notice that pursuant to Amended Article 2.21 of the Code of Criminal Procedures, the eligible exhibit(s) under the above style and cause number now being held by the Criminal Department of the District Clerk's Office will be disposed of unless a written request is received by this office before the 31st day after the date of this notice.

Send your request to the above address on the letter head and to the attention of the Criminal Department.

List of exhibit(s):

State Exhibits:

#1-3 Pictures
#5 Black Pants
#6-7 Police Lineup
#8-9 Blown Up Picture
#10-24 Pictures
#26 Drawing
#27 Mens Brief
#28-50 Pictures
#51 Hair Fragments
#52 Picture
#53 Finger Print Card
#54 Hair
#55 Drivers License

Defendants Exhibits:

#7 City Map

Punishment: Not Guilty

THE STATE OF TEXAS	X	In the 94th District Court of
VS.	X	Nueces County, Texas
JESSE GARZA	X	

CHARGE OF THE COURT

LADIES AND GENTLEMEN OF THE JURY:

The Defendant, Jesse Garza, stands charged by indictment with the offense of Murder, alleged to have been committed in Nueces County, Texas, on or about the 20th day of November, 1979. The Defendant has pleaded not guilty.

1.

Our law provides that a person commits murder if he intentionally or knowingly causes the death of an individual.

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 that the circumstances exist.

A person acts knowingly, or 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 should find and believe from the evidence beyond a reasonable doubt that on or about the 20th day of November, 1979, in Nueces County, Texas, the Defendant, Jesse Garza, did intentionally or knowingly cause the death of Dalia Saucedo, by striking her on and about her neck, chest, and abdomen with his fist, with his knees and with his feet as alleged in the indictment, then you will find the Defendant guilty of Murder.

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OSCAR SOLIZ, CLERK
DISTRICT COURT, NUECES COUNTY, TEXAS
By Victor M. Saldana Deputy

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4.

If you do not believe from the evidence, or if you have a reasonable doubt thereof, that the Defendant intentionally and knowingly caused the death of Dalia Saucedo by striking her on or about her neck, chest, and abdomen with his fists, with his knees and with his feet, you cannot convict him of Murder. In that event, you will next consider whether the Defendant is guilty of Voluntary Manslaughter.

5.

Our law further provides that a person commits the offense of voluntary manslaughter if he intentionally or knowingly causes the death of an individual, except that he cause the death under the influence of sudden passion arising from an adequate cause.

6.

The term "sudden passion" means passion directly caused by and arising out of provocation by the individual killed or another acting with the person killed, which passion arises at the time of the offense ^{AND} is not solely the result of former provocation.

The term "adequate cause" means cause that would commonly produce a degree of anger, rage, resentment, or terror in a person or ordinary temper, sufficient to render the mind incapable of cool reflection.

7.

If you find and believe from the evidence beyond a reasonable doubt that on or about the 20th day of November, 1979, in Nueces County, Texas, the Defendant, Jesse Garza, did then and there intentionally and knowingly cause the death of Dalia Saucedo by striking her on and about her neck, chest and abdomen with his fists, with his knees, and with his feet, and that such act caused the death of Dalia Saucedo; but you further find and believe from all the facts and circumstances in evidence in the case, or you have a reasonable doubt thereof, that the Defendant, in killing the deceased, if he did, acted under the immediate influence of sudden passion arising from an adequate cause, then you will find the Defendant guilty of voluntary manslaughter.

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8.

If you find from the evidence beyond a reasonable doubt that the defendant is guilty of either murder or voluntary manslaughter, but you have a reasonable doubt as to which he is guilty, then you should resolve the doubt in defendant's favor and find him guilty of voluntary manslaughter.

9.

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.

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, or aids or attempts to aid the other person to commit the offense. The term "conduct" means any act or omission and its accompanying mental state.

You are further instructed that a conviction cannot be had upon the testimony of an accomplice unless the jury first believe that the

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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 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 Pedro Olivares was an accomplice, or you have a reasonable doubt whether he was or not, as that term is defined in the foregoing instructions, then you cannot convict the defendant upon the testimony of the said Pedro Olivares unless you first believe that the testimony of the said Pedro Olivares is true and that it shows the defendant is guilty as charged in the indictment; and even then you cannot convict the defendant unless you further believe that there is other evidence in the case, outside of the evidence of the said Pedro Olivares 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.

10.

A defense set up by the defendant in this case is what is known as an alibi, that is, that if the offense was committed, as alleged, the defendant was, at the time of the commission thereof, at another and different place from that at which such offense was committed, and therefore, was not and could not have been the person who committed the same. If you entertain a reasonable doubt as to whether defendant was present at the time and place, when and where said deceased was killed, then you will find the defendant not guilty.

11.

You are instructed that a witness may be impeached by showing that he or she has made other and different statements out of court from those made before you on the trial. Such impeachment evidence may be considered by you to aid you in determining (if it does so) the weight, if any, to be given to the testimony of the witness at trial and his or her credibility; but such impeaching evidence is not to be considered as tending to establish the alleged guilt of the defendant in such case. Therefore, you are further

instructed that the testimony of the witness, Roger Fuentes, regarding the prior statement of the witness, Roger Fuentes, was admitted for the purpose of impeaching the said Roger Fuentes, if you find that it does impeach him, and you cannot consider said impeachment testimony as any evidence whatever of the guilt of the defendant.

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12.

If you find from the evidence that the deceased, Dalie Saucedo, came to her death from a beating inflicted by Carlos Hernandez, or if you have a reasonable doubt thereof, you will acquit the defendant.

13.

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 Defendant.

14.

You are instructed that a Grand Jury indictment is the means whereby a Defendant is brought to trial in a felony prosecution. 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 and cannot be considered by you in passing upon the innocence or guilt of the Defendant, in this case.

15.

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 burden of proof in all criminal cases rests upon the State throughout the trial, and the presumption of Defendant's innocence continues until his guilt is established by legal evidence beyond a reasonable doubt, and in case you have a reasonable doubt as to Defendant's guilt after considering all the evidence before you, and these instructions, you will acquit him.

16.

You are further instructed that you will not arrive at any decision in this case in any manner except by deliberation among the jurors upon the facts and circumstances in evidence.

17.

You are the exclusive judges of the facts proved, of the credibility of the witnesses, and of the weight to be given to the testimony, but you are bound to receive the law from the Court, which is herein given you and be governed thereby.

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18.

You are further instructed that any verdict you reach must be a definite verdict and it must be a unanimous verdict, based upon your consideration and discussion of the facts and circumstances only as were admitted in evidence before you, and from the law as given you in charge by the Court.

19.

In arriving at your verdict, do not consider or discuss punishment, as that is a subject that does not concern you in the deliberations you will make under this charge.

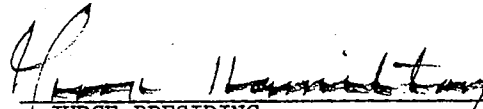
20.

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.

21.

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.


JUDGE PRESIDING

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CAUSE NO. 79-CR-881-C

STATE OF TEXAS § IN THE DISTRICT COURT
VS. § 94TH JUDICIAL DISTRICT
JESSE GARZA § NUECES COUNTY, TEXAS

DEFENDANT'S MOTION FOR AN INSTRUCTED VERDICT
AT THE CLOSE OF ALL EVIDENCE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Jesse Garza, Defendant in the above entitled and numbered cause, by and through his attorney of record, Albert A. Pena, III, and at the close of all the evidence in this cause, moves the Court for an instructed verdict of not guilty for the following reasons:

I.

There is insufficient evidence to support a conviction.

II.

The State has failed to prove facts sufficient to constitute the crime alleged in the Indictment.

III.

The evidence fails to adequately connect the Defendant with the crime alleged in the Indictment.

IV.

The evidence is insufficient to sustain a conviction because the testimony of the accomplice, Pete Olivares, is not corroborated by other evidence tending to connect the Defendant with the offense committed.

WHEREFORE, PREMISES CONSIDERED, the Defendant prays that the Court instruct the jury to acquit the Defendant of the charge of murder in this cause.

Respectfully submitted,

Albert A. Pena III

ALBERT A. PENA, III,
Attorney for Defendant

FILED

FEB 11 1980

OSCAR SOLIZ, CLERK
DISTRICT COURT, NUECES COUNTY, TEXAS

Victor M. Balderas
HUERTA, PENA, BECKMAN & RODRIGUEZ
ATTORNEYS AT LAW -- P.O. BOX 7219
3301 AYERS ST. -- 512/882-2977
CORPUS CHRISTI, TEXAS 78415

F. W. Hamilton
Henry J. ...
2-11-80

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DEPARTMENT OF PUBLIC SAFETY
CRIMINAL LAW ENFORCEMENT DIVISION

AUSTIN

- PROGRESS REPORT
 INVESTIGATION REPORT
 INTELLIGENCE REPORT
 LEAD SHEET REQUEST
 LEAD SHEET REPLY

File No. _____
CAS No. _____

AM963 - 19.02

Date of Report: November 30, 1979

Offense	<u>Murder</u>	County	<u>Nueces</u>	Date	<u>November 20, 1979</u>
			<u>Mexico & Mussett St.</u>		<u>Between 1:00 A.M.</u>
Victim	<u>DALIA SAUCEDO</u>	Place	<u>Corpus Christi, Texas</u>	Time	<u>and 3:00 A.M.</u>

Report in detail: Information developed through additional investigation.

On November ²⁰ 20, 1979, a crime scene search was conducted by Corpus Christi Police Department Officer O. Escobedo assisted by several other Corpus Christi Police Department officers and this officer. The scene consisted of a 1979 Dodge Van, bearing Texas license #TTR-556 and a vacant field near the intersection of Mexico and Mussett Streets, (Refer to Corpus Christi Police Department Supplementary Report dated November 20, 1979, Offense #91120-021, signed by Officer Escobedo, for complete details. A photocopy of this report is attached to and made a part of the file copy as Attachment #1.) Also, it should be noted that a pair of blue jeans were obtained by this officer from Sergeant Sidney Smith and marked as evidence for crime laboratory examination.

On November 20, 1979, at approximately 10:00 A.M., Dr. Joseph C. Rupp, Nueces County Medical Examiner, Corpus Christi, Texas, performed the autopsy of the deceased. It was Dr. Rupp's opinion that the death was caused by traumatic injuries of the neck, chest and abdomen. (A photocopy of the autopsy report is attached to and made a part of the file copy of this report as Attachment #2.)

On November 20, 1979, Joe Luis Duran, 1509 Caldwell St., Corpus Christi, Texas, home telephone #884-3849, was interviewed by Corpus Christi Police Department Sergeant Paul Rivera. Sergeant Rivera advised this officer that Joe Duran and Emilio Parker found the deceased and reported it to the police. (A photocopy of the statement of Joe Luis Duran is attached to and made a part of the file copy of this report as Attachment #3.)

On November 20, 1979, Emilio Parker, 1509 Caldwell St., Corpus Christi, Texas, home telephone #888-5864, was interviewed by Corpus Christi Police Department Sergeant Curtis Roberts. Sergeant Roberts advised this officer that Emilio Parker's and Joe Duran's statements about the findings of the deceased are essentially the same. (A photocopy of Emilio Parker's statement is attached to and made a part of the file copy of this report as Attachment #4.)

On November 20, 1979, Ms. Virginia Guerrero, the victim's stepmother, identifies the victim as Ms. Dalia Saucedo. The deceased was separated from her husband, Apoliano Saucedo, who worked as an air condition repairman somewhere in Houston, Texas. Ms. Guerrero further advised that her stepdaughter had been seeing other men during the separation. She advised that the last time she saw the deceased was Monday, November 19, 1979, about 3:00 A.M., at the house. The deceased had three men with her and told her that she was going to Kingsville to take Johnny Longoria to pick up his wife, Georgia Rand. Ms. Guerrero stated that she had no further contact with the deceased that day. (A photocopy of her statement is attached to and made a part of the file copy of this report as Attachment #5.)

(Continued, next page)

NOVEMBER 30, 1979
Murder - November 20, 1979

On November 20, 1979, Ms. Irma Ramirez, 440 W. Avenue G, Robstown, Texas, home telephone #397-2673, a close friend of the deceased, was interviewed by Officer O. Escobedo. Ms. Ramirez told Officer Escobedo that the deceased was dating a man named Freddie Schelling who recently threatened the deceased because she was seeing other men. Officer Escobedo contacted this officer reference Ms. Ramirez's statement and we scheduled a polygraph examination for Freddie Schelling. (A photocopy of Ms. Ramirez's statement is attached to and made a part of the file copy of this report as Attachment #6.)

On November 27, 1979, Ms. Irma Guyton, 2830 Martin Luther King, Corpus Christi, Texas, was interviewed by Corpus Christi Police Department Sergeant Curtis Roberts. Ms. Guyton is an employee of the Seven Eleven Store, 521 South Staples, Corpus Christi, Texas, and identified the deceased as having been in her store on November 20, 1979, at about 1:20 A.M. She further advised that the deceased was accompanied by two Mexican males. Two photographic lineups were shown to Ms. Guyton, and she identified the photographs of Jesus Z. Garza, DOB 11-5-60, and Pedro Olivarez, DOB 6-27-56, as the two men with the deceased. (A photocopy of her statement is attached to and made a part of the file copy of this report as Attachment #7.)

On November 28, 1979, Rogelio Sosa Fuentes, Jr., 2522 Dunbar St., Corpus Christi, Texas, and Jesus Z. Garza, Sr., 2225 Dunbar St., Corpus Christi, Texas, were administered polygraph examinations reference the above offense. The results of the polygraph examinations indicated that both subjects were untruthful in their answer to relevant questions and knowledge of the murder.

On November 28, 1979, John B. Longoria, 760 12th St., Corpus Christi, Texas, was administered a polygraph examination, and he was truthful in his answers to relevant questions concerning the above offense.

On November 29, 1979, Pedro Olivarez, Jr., 1314 Whitaker St., Corpus Christi, Texas, was administered a polygraph examination on the above offense. The results of the polygraph examination indicated that he was untruthful in his answers to relevant questions. A post test interrogation was conducted by this officer. Subject Olivarez admitted he was involved in the murder but denied committing the murder himself. He stated that Jesse Garza killed the deceased. (A photocopy of his statement is attached to and made a part of the file copy of this report as Attachment #8.)

On November 30, 1979, a laboratory report #L3C-2442610-61 was received from the Texas Department of Public Safety Laboratory, Corpus Christi, Texas. The report, signed by James F. Muller, Laboratory Supervisor, on November 30, 1979, reported that one hair found on the legs of the jeans in the looped area is similar to the head of hair of the deceased.

It is believed by this officer and substantiated by statement of Pedro Olivarez, Jr. that the jeans were used to strangle the deceased and her hair in the jeans leg loop tends to confirm this opinion.

Investigation continues.

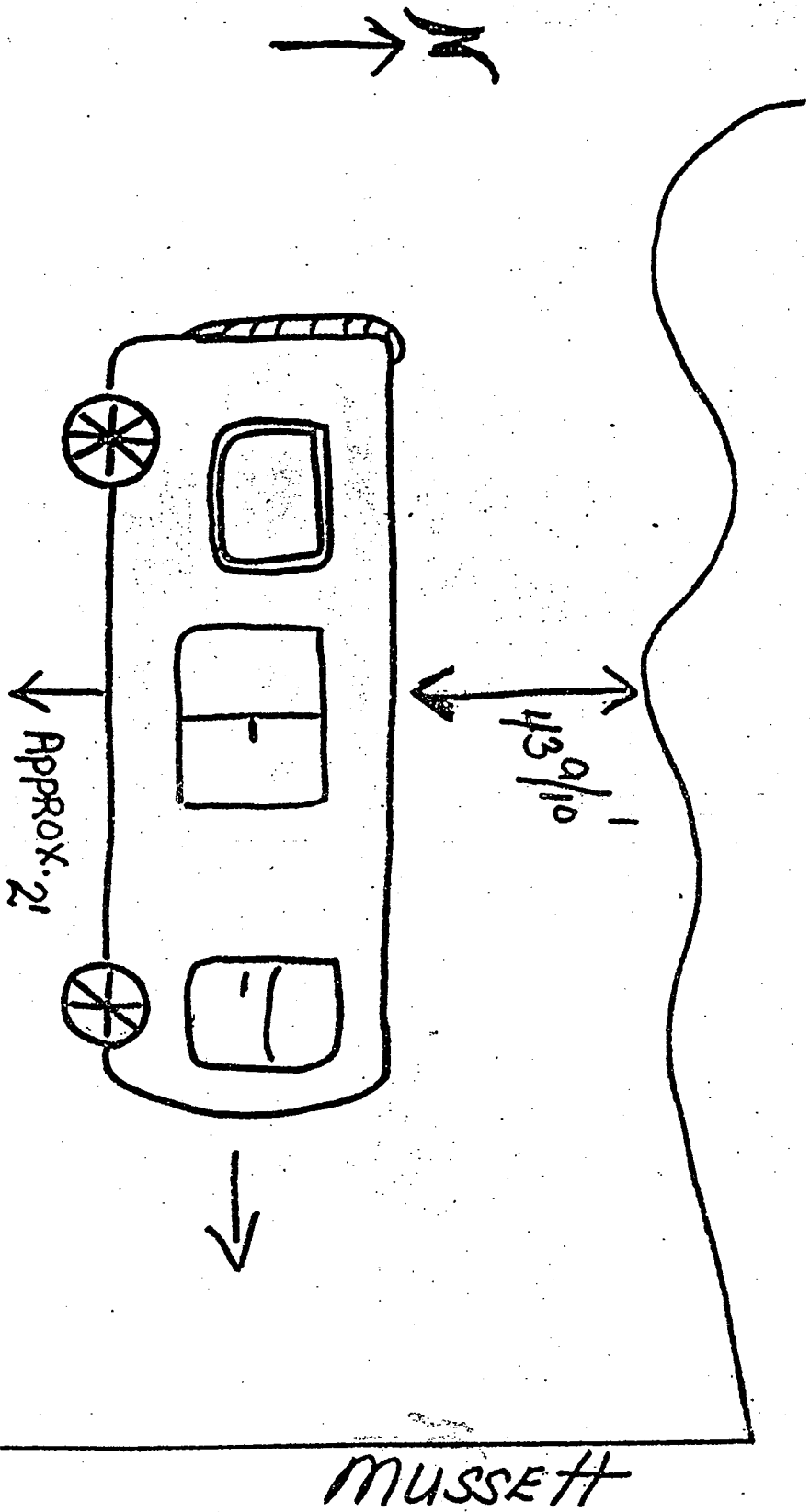
Robert C. Poynter
Robert C. Poynter, Ranger #848
Corpus Rangers, Company "D"
Corpus Christi, Texas

Enclao

Poynter interviewed Olivarez after polygraph test and received admission from him that Jesse Garza killed the deceased. No statement taken. Olivarez was referred to Sgt. Sid Smith, CCPD, who was present at the time, for further admission and statement.

91120-021
Homicide
Escobedo # 388

← Gravel Road →



Interior of VAN

