

FILED this 13 day of June
2013, 9:34 A.M.
CLERK DISTRICT COURT, HAYS CO. TX
By Debbie Nash Deputy

CAUSE NO. CR-10-1063

TRUE AND
CORRECT COPY

THE STATE OF TEXAS § IN THE DISTRICT COURT OF
VS. § HAYS COUNTY, TEXAS
WILLIE ROY JENKINS § 274TH JUDICIAL DISTRICT

COURT'S CHARGE ON PUNISHMENT

LADIES AND GENTLEMEN OF THE JURY:

By your verdict returned in this case you have found the Defendant, Willie Roy Jenkins, guilty of the offense of capital murder, which was alleged to have been committed in Hays County, Texas on or about the 24th day of November, 1975. It is necessary, now, for you to determine from all the evidence in the case, answers to certain questions called "Special Issues" in this charge.

The Court instructs you in answering these Special Issues as follows:

I.

The mandatory punishment for capital murder of which you have found the Defendant guilty is either death or confinement in the Institutional Division of the Texas Department of Criminal Justice for life.

II.

You are instructed that in answering Special Issue Number One, you shall answer "Yes" or "No."

The State has the burden of proving beyond a reasonable doubt that Special Issue Number One should be answered "Yes," and the burden of proof on this issue never shifts to the Defendant.

In deliberating on Special Issue Number One, you shall consider all the evidence at the guilt or innocence stage and the punishment stage, including but not limited to evidence of the Defendant's background and character or the circumstances of the offense that militates for or

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mitigates against the imposition of the death penalty.

You may not answer Special Issue Number One "Yes" unless you agree unanimously.

You may not answer Special Issue Number One "No" unless ten (10) or more jurors agree.

Members of the jury need not agree on what particular evidence supports a negative or affirmative answer to Special Issue Number One.

You are further instructed that you are not to be swayed by mere sentiment, conjecture, passion, sympathy, prejudice, public opinion, or public feeling in considering all of the evidence before you and in answering Special Issue Number One .

It is not required that the State prove Special Issue Number One beyond all possible doubt; it is only required that the State's proof excludes all reasonable doubt concerning the Defendant.

You are instructed that if you return an affirmative finding, that is a "Yes" answer, to Special Issue Number One, then and only then are you to answer Special Issue Number Two.

III.

You are instructed that in answering Special Issue Number Two, you shall answer "Yes" or "No."

The State has the burden of proving beyond a reasonable doubt that Special Issue Number Two should be answered "Yes," and the burden of proof on this issue never shifts to the Defendant.

In deliberating on Special Issue Number Two you shall consider all the evidence at the guilt or innocence stage and the punishment stage, including but not limited to evidence of the Defendant's background and character or the circumstances of the offense that militates for or mitigates against the imposition of the death penalty.

You may not answer Special Issue Number Two "Yes" unless you agree unanimously.

You may not answer Special Issue Number Two "No" unless ten (10) or more jurors agree.

Members of the jury need not agree on what particular evidence supports a negative or affirmative answer to Special Issue Number Two.

You are further instructed that you are not to be swayed by mere sentiment, conjecture, passion, sympathy, prejudice, public opinion, or public feeling in considering all of the evidence before you and in answering Special Issue Number Two.

It is not required that the State prove Special Issue Number Two beyond all possible doubt; it is only required that the State's proof excludes all reasonable doubt concerning the Defendant.

You are instructed that if you return an affirmative finding, that is a "Yes" answer, to Special Issue Number Two, then and only then are you to answer Special Issue Number Three.

IV.

You are instructed that in answering Special Issue Number Three, you shall answer "Yes" or "No."

You may not answer Special Issue Number Three "No" unless you agree unanimously.

You may not answer Special Issue Number Three "Yes" unless ten (10) or more jurors agree.

Members of the jury need not agree on what particular evidence supports an affirmative or negative answer to Special Issue Number Three.

In answering Special Issue Number Three you shall consider mitigating evidence to be evidence that a juror might regard as reducing the defendant's moral blameworthiness.

You are again instructed that you are not to be swayed by mere sentiment, conjecture, passion, sympathy, prejudice, public opinion or public feeling in considering all of the evidence before you in answering Special Issue Number Three.

V.

You are instructed that if the jury returns an affirmative answer to Special Issue Number One, an affirmative answer to Special Issue Number Two, and a negative answer to Special Issue Number Three, the Court will sentence the Defendant to death. Should you return a negative answer to Special Issue Number One, or a negative answer to Special Issue Number Two, or an affirmative answer to Special Issue Number Three, the Court will sentence the Defendant to confinement in the Institutional Division of the Texas Department of Criminal Justice for life.

VI.

During your deliberations, you are not to consider or discuss any possible action of the Board of Pardons and Paroles Division of the Texas Department of Criminal Justice or the Governor, or how long the Defendant would be required to serve to satisfy a sentence of life imprisonment.

VII.

You are further instructed that if there is any testimony before you in this case regarding the Defendant's having committed offenses other than the offense alleged against him in this indictment, you cannot consider said testimony for any purpose unless you find and believe beyond a reasonable doubt that the Defendant committed such other offenses, if any were committed, and even then you may only consider the same in determining the answers to the Special Issues.

VIII.

You are further instructed that any evidence that any witness has been convicted in any case or cases was admitted before you for the purpose of aiding you, if it does aid you, in passing upon the credibility of the witness and the weight to be given his or her testimony, and you will not consider the same for any other purpose.

IX.

You are instructed that the Defendant may testify in his own behalf if he chooses to do so, but if he elects not to do so, that fact cannot be taken by you as a circumstance against him nor prejudice him in any way. The Defendant has elected not to testify in this trial, and you are instructed that you cannot and must not refer to or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever.

X.

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 the other jurors and you should not permit the other jurors to share their notes with you. You may, however, discuss 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 that 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 notes of 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.

XI.

After argument of Counsel, you will retire to begin your deliberations. It is the duty of your presiding juror to preside at your deliberations and to vote with you in arriving at a verdict. During your deliberations upon the following special issues, 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 to consider your verdict, no one has any authority to communicate with you except the officer who has you in charge. You may communicate with the Court in writing, signed by your presiding juror, through the officer who has you in charge. Do not attempt to talk with the officer, the attorneys, or the Court concerning any questions you may have.

You are instructed that your answers to the Special Issues shall be arrived at by due deliberation and not by drawing lots or by any other method of chance.

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

SIGNED this 13th day of June, 2013.



JUDGE PRESIDING
274TH JUDICIAL DISTRICT COURT
HAYS COUNTY, TEXAS

FILED this 13 day of June
20 13, 4:10 p. M.
CLERK DISTRICT COURT, HAYS CO. TX
By Debbie Nash Deputy

CAUSE NO. CR-10-1063

THE STATE OF TEXAS

§

IN THE DISTRICT COURT OF TRUE AND

VS.

§

HAYS COUNTY, TEXAS CORRECT COPY

WILLIE ROY JENKINS

§

274TH JUDICIAL DISTRICT

SPECIAL ISSUE NUMBER ONE

Do you find from the evidence beyond a reasonable doubt that the conduct of the Defendant, Willie Roy Jenkins, that caused the death of the deceased was committed deliberately and with the reasonable expectation that the death of the deceased, Sheryl Ann Norris, would result?

ANSWER

We, the jury, unanimously find and determine beyond a reasonable doubt that the answer to this Special Issue is "Yes."



PRESIDING JUROR

OR

We, the jury, because at least ten (10) jurors have a reasonable doubt as to whether the conduct of the Defendant that caused the death of the deceased was committed deliberately and with the reasonable expectation that the death of the deceased would result, determine that the answer to this Special Issue Number One is "No."

PRESIDING JUROR

IF YOUR ANSWER TO SPECIAL ISSUE NUMBER ONE IS "YES," YOU SHALL PROCEED TO SPECIAL ISSUE NUMBER TWO.

IF YOUR ANSWER TO SPECIAL ISSUE NUMBER ONE IS "NO," YOU SHALL CEASE YOUR DELIBERATIONS, HAVE YOUR PRESIDING JUROR SIGN THE ATTACHED "VERDICT" FORM AND NOTIFY THE COURT THAT YOU HAVE REACHED A VERDICT.

FILED this 13 day of June
2013, 4:10 PM.
CLERK DISTRICT COURT, HAYS CO. TX
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WILLIE ROY JENKINS § 274TH JUDICIAL DISTRICT

SPECIAL ISSUE NUMBER TWO

Do you find from the evidence beyond a reasonable doubt that there is a probability that the Defendant, Willie Roy Jenkins, would commit criminal acts of violence that would constitute a continuing threat to society?

ANSWER

We, the jury, unanimously find and determine beyond a reasonable doubt that the answer to this Special Issue is "Yes."



PRESIDING JUROR

OR

We, the jury, because at least ten (10) jurors have a reasonable doubt as to the probability that the Defendant would commit criminal acts of violence that would constitute a continuing threat to society, determine that the answer to this Special Issue Number Two is "No."

PRESIDING JUROR

IF YOUR ANSWER TO SPECIAL ISSUE NUMBER TWO IS "YES," YOU SHALL PROCEED TO SPECIAL ISSUE NUMBER THREE.

IF YOUR ANSWER TO SPECIAL ISSUE NUMBER TWO IS "NO," YOU SHALL CEASE YOUR DELIBERATIONS, HAVE YOUR PRESIDING JUROR SIGN THE ATTACHED "VERDICT" FORM AND NOTIFY THE COURT THAT YOU HAVE REACHED A VERDICT.

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2013 4:10p.M.
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SPECIAL ISSUE NUMBER THREE

Do you find from the evidence, taking into consideration all of the evidence, including the circumstances of the offense, the Defendant's character and background, and the personal moral culpability of the defendant, Willie Roy Jenkins, that there is a sufficient mitigating circumstance or circumstances to warrant a sentence of life imprisonment rather than a death sentence be imposed?

ANSWER

We, the jury, unanimously find and determine that the answer to this Special Issue Number Three is "No."



PRESIDING JUROR

OR

We, the jury, because at least ten (10) jurors find that there is sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed, answer this Special Issue Number Three "Yes."

PRESIDING JUROR

REGARDLESS OF YOUR ANSWER TO SPECIAL ISSUE NUMBER THREE, HAVE YOUR PRESIDING JUROR SIGN THE ATTACHED "VERDICT" FORM AND NOTIFY THE COURT THAT YOU HAVE REACHED A VERDICT.

