

CAUSE NO. 1392161

THE STATE OF TEXAS	§	IN THE 184TH DISTRICT COURT
VS.	§	OF HARRIS COUNTY, TEXAS
ERICK EDUARDO HERNANDEZ	§	JANUARY TERM, A. D., 2015

Members of the Jury:

Having found the defendant, Erick Eduardo Hernandez, guilty of murder, it now becomes your duty to assess the punishment in this case.

Our statutes provide that the punishment for murder shall be by confinement in the institutional division of the Texas Department of Criminal Justice for not less than five years nor more than ninety-nine years or life. In addition thereto, a fine not to exceed \$10,000.00 may be assessed.

Therefore, you will assess the punishment of the defendant upon said finding of guilt at confinement in the institutional division of the Texas Department of Criminal Justice for any term of not less than five years nor more than ninety-nine years or life, and the jury in its discretion may, if it chooses, assess a fine in any amount not to exceed \$10,000.00.

Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn time off the period of incarceration imposed through the award of good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and attempts at rehabilitation. If a prisoner engages in misconduct, prison authorities may also take away all or part of any good conduct time earned by the prisoner.

It is also possible that the length of time for which the defendant will be imprisoned might be reduced by the award of parole.

Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, he will not become eligible for parole until the actual time served equals one-half of the sentence imposed or thirty years, whichever is less, without consideration of any good conduct time he may earn. Eligibility for parole does not guarantee that parole will be granted.

It cannot accurately be predicted how the parole law and good conduct time might be applied to this defendant if he is sentenced to a term of imprisonment, because the application of these laws will depend on decisions made by prison and parole authorities.

You may consider the existence of the parole law and good conduct time. However, you are not to consider the extent to which good conduct time may be awarded to or forfeited by this particular defendant. You are not to consider the manner in which the parole law may be applied to this particular defendant.

You may consider evidence of an extraneous crime or bad act in assessing punishment even if the defendant has not yet been charged with or finally convicted of the crime or act. However, you may consider such evidence only if the extraneous crime or bad act has been shown by the State beyond a reasonable doubt to have been committed by the defendant or is one for which the defendant could be held criminally responsible.

The prosecution does not have to prove an extraneous crime or bad act beyond all possible doubt. The prosecution's proof must exclude all reasonable doubt concerning the extraneous crime or bad act.

Therefore, if you find and believe beyond a reasonable doubt that the defendant committed an extraneous crime or bad act or could be held criminally responsible for an extraneous crime or bad act, then you may consider such evidence in assessing the defendant's punishment. However, if you have a reasonable doubt that the defendant committed an extraneous crime or bad act or could be held criminally responsible for an extraneous crime or bad act, then you may not consider such evidence in assessing punishment.

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 punishment phase of 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.

The burden of proof in all criminal cases rests upon the State throughout the trial and never shifts to the defendant.

You are further instructed that in fixing the defendant's punishment, which you will show in your verdict, you may take into consideration all the facts shown by the evidence admitted before you in the full trial of this case and the law as submitted to you in this charge.

You are not to discuss among yourselves how long the accused would be required to serve the sentence that you impose. Such matters come within the exclusive jurisdiction of the Board of Pardons and Paroles division of the Texas Department of Criminal Justice and the Governor of the State of Texas, and must not be considered by you.

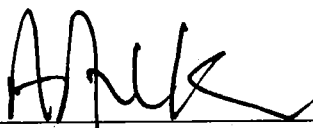
Your verdict must be by a unanimous vote of all members of the jury. In arriving at the amount of punishment to be assessed, it will not be proper for you to fix the same by lot, chance, any system of averages, or any other method than by a full, fair, and free exercise of the opinion of the individual jurors, and you must not refer to nor discuss any matter not in evidence before you.

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

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 reached a unanimous verdict, the Foreman will certify thereto by using the appropriate form attached to this charge and signing the same as Foreman.

Following the arguments of counsel, you will retire to deliberate your verdict.



A. Reagan Clark, Judge Presiding
184th District Court
Harris County, TEXAS

FILED

Chris Daniel
District Clerk

FEB 20 2015

Time: _____

By _____

Harris County, Texas

Quelan GJC
Deputy

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CHOOSE ONE

"We, the Jury, having found the defendant, Erick Eduardo Hernandez, guilty of murder, assess his punishment at confinement in the institutional division of the Texas Department of Criminal Justice for life."

FILED
Chris Daniel
District Clerk
FEB 20 2015
Time: 2:07 PM
By: sue
Deputy
Harris County, Texas

Anthony Milligan

Foreman of the Jury

"We, the Jury, having found the defendant, Erick Eduardo Hernandez, guilty of murder, assess his punishment at confinement in the institutional division of the Texas Department of Criminal Justice for life and assess a fine in the amount of \$ _____."

Foreman of the Jury

"We, the Jury, having found the defendant, Erick Eduardo Hernandez, guilty of murder, assess his punishment at confinement in the institutional division of the Texas Department of Criminal Justice for _____ years."

Foreman of the Jury

"We, the Jury, having found the defendant, Erick Eduardo Hernandez, guilty of murder, assess his punishment at confinement in the institutional division of the Texas Department of Criminal Justice for _____ years and assess a fine in the amount of \$ _____."

Foreman of the Jury



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.

Witness my official hand and seal of office this April 5, 2017

Certified Document Number: 64375463 Total Pages: 8

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

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