

FEB 27 2018

CAUSE NO. : 21284

DANA HOGG, DISTRICT CLERK
HARDIN COUNTY, TEXAS

By Deputy

D Hogg

THE STATE OF TEXAS

* IN THE 356TH DISTRICT COURT

VS.

* OF

JASON DELACERDA

* HARDIN COUNTY, TEXAS

CHARGE OF THE COURT ON PUNISHMENT

LADIES AND GENTLEMEN OF THE JURY:

You have found the Defendant guilty of the offense of Capital Murder. You are instructed that the Defendant shall be punished by confinement in the Institutional Division of the Texas Department of Criminal Justice for life without parole, or by death. It is necessary now for you to determine, from all the evidence in the case, the answers to certain Special Issues which are as follows:

SPECIAL ISSUE NUMBER 1: Whether there is a probability that the Defendant would commit criminal acts of violence that would constitute a continuing threat to society.

SPECIAL ISSUE NUMBER 2: Whether the Defendant actually caused the death of the deceased or did not actually cause the death of the deceased but intended to kill the deceased or another or anticipated that a human life would be taken.

You are instructed that in answering Special Issue Number 2 only the conduct of the defendant can be considered, and that the instructions pertaining to the law of parties heretofore given you can not now be considered in answering this issue.

You shall answer Special Issues Number 1 and Number 2 "Yes" or "No."

The prosecution has the burden of proving that the answers to both Special Issue Number 1 and Number 2 should be "Yes," and it must do so by proving a "Yes" answer to each of the

Special Issues Number 1 and Number 2 beyond a reasonable doubt, and if it fails to do so, you must answer Special Issues Number 1 and Number 2 "No."

In deliberating on Special Issues Number 1 and Number 2, the jury shall consider all evidence admitted at the guilt or innocence stage and the punishment stage, including evidence of the defendant's background or character or the circumstances of the offense that militates for or mitigates against the imposition of the death penalty.

You may not answer Special Issues Number 1 or Number 2 "Yes" unless you agree unanimously.

You may not answer Special Issues Number 1 or Number 2 "No" unless ten (10) or more jurors agree.

Members of the jury need not agree on what particular evidence supports a negative answer to Special Issues Number 1 or Number 2.

If the jury answers Special Issues Number 1 and Number 2 "Yes," then you shall answer the following Special Issue Number 3; otherwise, do not answer Special Issue Number 3.

SPECIAL ISSUE NUMBER 3: Whether, 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, there is a sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment without parole rather than a death sentence be imposed.

You are instructed that if a jury answers that a circumstance or circumstances warrant that a sentence of life imprisonment without parole rather than a death sentence be imposed, the Court will sentence the defendant to imprisonment in the Institutional Division of the Texas Department of Criminal Justice for life without parole.

Under the law applicable in this case, if the defendant is sentenced to confinement for life without parole in the Institutional Division of the Texas Department of Criminal Justice, the defendant will be ineligible for release from the department on parole.

You shall answer Special Issue Number 3 "Yes" or "No."

You are instructed that you may not answer Special Issue Number 3 "No" unless you agree unanimously.

You may not answer Special Issue Number 3 "Yes" unless ten (10) or more jurors agree. Members of the jury need not agree on what particular evidence supports an affirmative finding on special Issue Number 3.

In deliberating on Special Issue Number 3, you shall consider mitigating evidence to be evidence that a juror might regard as reducing the defendant's moral blameworthiness.

If the jury returns an affirmative finding on Special issues Number 1 and Number 2, and a negative finding on Special Issue Number 3, the Court shall sentence the Defendant to death. If the jury returns a negative finding on Special Issue Number 1 or Number 2 or an affirmative finding to Special Issue Number 3, the court shall sentence the Defendant to confinement in the Institutional Division of the Texas Department of Criminal Justice for life without parole.

The State has introduced evidence of extraneous crimes or bad acts other than the one charged in the indictment in this case. This evidence was admitted only for the purpose of assisting you, if it does, in determining the proper punishment for the offense for which you have found the defendant guilty. You cannot consider the testimony for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other acts, if any were committed.

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 him, nor will you refer to or discuss any matter not before you in evidence.

You are the exclusive judges of the facts proven, 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 is herein given and be governed thereby.

In arriving at the answers to the above issues, it will not be proper for you to fix the same by lot, chance, or any other method than a full, fair and free exercise of the opinion of the individual jurors.

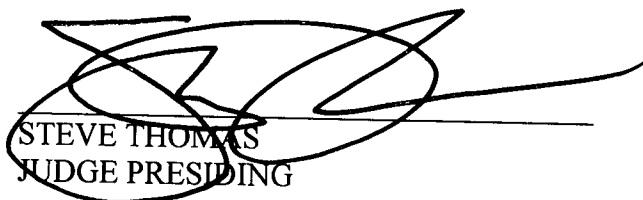
Do not tell other jurors your own personal experiences nor those of other persons, nor relate any special information. A juror may have special knowledge of matters as business, technical or professional matters or he/she may have expert knowledge or opinions, or he/she may know what happened in this or some other lawsuit. To tell the other jurors any of this information is a violation of these instructions.

In deliberating on this case, you shall consider the charge as a whole and you must not refer to or discuss any matters not in evidence before you.

You must not consider or mention any personal knowledge or information you may have about any facts or person connected with this case which is not shown by the evidence. You shall not consult law books or anything not in evidence in this case.

Any further communication must be in writing signed by your foreperson through the bailiff to the Court, except as to your personal needs which may be communicated orally to the bailiff in charge. Do not attempt to talk to the bailiff, the attorneys or the Court regarding any questions you may have concerning the trial of the case.

After argument of counsel, you will retire to the jury room to deliberate. When you have reached a verdict, you may use the attached forms to indicate your answers to the Special Issues, and your foreperson should sign the appropriate form certifying to your verdict.



STEVE THOMAS
JUDGE PRESIDING

Now, bearing in mind the foregoing instructions, you will answer the following Special Issues:

SPECIAL ISSUE NUMBER 1

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

In your verdict, you will answer "Yes" or "No."

Answer: We, the jury, unanimously find from the evidence beyond a reasonable doubt that the answer to Special Issue Number 1 is "Yes."

Brenda Sims
FOREPERSON

-OR-

Answer: We, the jury, because at least ten (10) jurors agree, find that the answer to Special Issue Number 1 is "No."

FOREPERSON

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2:38 P.M.
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DANA HOGG, DISTRICT CLERK
HARDIN COUNTY, TEXAS
By Deputy *D. Hogg*

SPECIAL ISSUE NUMBER 2

Do you find from the evidence beyond a reasonable doubt that the Defendant actually caused the death of the deceased or did not actually cause the death of the deceased but intended to kill the deceased or another or anticipated that a human life would be taken?

In your verdict, you will answer "Yes" or "No."

Answer: We, the jury, unanimously find from the evidence beyond a reasonable doubt that the answer to Special Issue Number 2 is "Yes."


FOREPERSON

-OR-

Answer: We, the jury, because at least ten (10) jurors agree, find that the answer to Special Issue Number 2 is "No."

FOREPERSON

If your answers to Special Issues Number 1 and Number 2 are both "Yes," then you will answer Special Issue Number 3; otherwise, you will not answer Special Issue Number 3.

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By Deputy D. Hogg

SPECIAL ISSUE NUMBER 3

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, do you find that there is a sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment without parole rather than a death sentence be imposed?

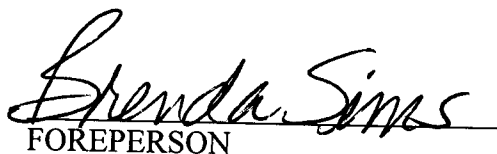
In your verdict, you will answer "Yes" or "No."

Answer: We, the jury, because at least ten (10) jurors agree, find that the answer to Special Issue Number 3 is "Yes."


FOREPERSON

-OR-

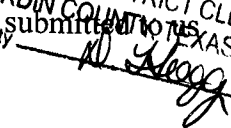
Answer: We, the jury, unanimously find that the answer to Special Issue Number 3 is "No."


FOREPERSON

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DANA HOGG, DISTRICT CLERK
HARDIN COUNTY, TEXAS

By: 
Deputy

We, the jury, return in open court the above answers to the Special Issues submitted to us, and the same is our verdict in this case.

FOREPERSON