

NO. 86276-CR

THE STATE OF TEXAS	§	IN THE 149th DISTRICT COURT
VS.	§	OF
JOSEPH BEACH	§	BRAZORIA COUNTY, TEXAS

CHARGE OF THE COURT ON PUNISHMENT

MEMBERS OF THE JURY:

Having found the defendant, JOSEPH BEACH, herein guilty of the offense of Solicitation of Capital Murder, as alleged in the indictment, it now becomes your duty to assess the punishment in this case.

SPECIFIC INSTRUCTIONS

If it is shown on the trial of a felony of the first degree that the defendant has previously been finally convicted of a felony other than a state jail felony, on conviction the defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 15 years. In addition to imprisonment, an individual may be punished by a fine not to exceed \$10,000.

If it is shown on the trial of a felony offense other than a state jail felony that the defendant has previously been finally convicted of two felony offenses, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction the defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.

In Paragraph One of the enhancement allegation it is alleged that the defendant was convicted on or about the 31st day of July, 1988, in Cause Number 388287-5 in the Superior Court of California I.D. 10, County of Fresno, the defendant was convicted of the felony of Rape by Force and Fear, which said conviction became a final conviction prior to the commission of the offense for which you have just found him to be guilty.

In Paragraph Two of the enhancement allegation it is alleged that the defendant was convicted on or about the 11th day of July, 2017, in Cause No. 15-DCR-070682A Count I, in the 400th District Court of Fort Bend County, Texas; for the felony offense of Aggravated Assault Date/ Family/House/w/Weapon, which said conviction became a final conviction prior to the commission of the offense for which you have just found him to be guilty.

In Paragraph Three of the enhancement allegation it is alleged that the defendant was convicted on or about the 11th day of July, 2017, in Cause No. 15-DCR-070682A Count II, in the 400th District Court of Fort Bend County, Texas; for the felony offense of Assault Fam/House Mem Impede Breath/ Circulat, which said conviction became a final conviction prior to the commission of the offense for which you have just found him to be guilty.

To these enhancement allegations, the defendant, Joseph Beach, has pleaded "not true."

It now becomes your duty under the law to determine whether these allegations are "true" or "not true" and to set punishment which should be assessed against this defendant.

Now, if you believe from the evidence beyond a reasonable doubt, that the defendant was convicted of the felony offense alleged in Paragraph One of the enhancement allegations and that the enhancement allegation is true; and you further

believe from the evidence beyond a reasonable doubt that the defendant was convicted of the felony offense alleged in Paragraph Two of the enhancement allegations and the enhancement allegation is true, OR you further unanimously believe from the evidence beyond a reasonable doubt that the defendant was convicted of the felony offense alleged in Paragraph Three of the enhancement allegations and the enhancement allegation is true, OR you further unanimously believe from the evidence beyond a reasonable doubt that the defendant was convicted of the felony offenses alleged in both Paragraphs Two and Three of the enhancement allegations and that the enhancement allegations are true, with the defendant being convicted of at least one felony conviction that occurred subsequent to the other felony conviction as alleged in the enhancement allegations and you are unanimous as to the subsequent felony conviction or convictions, then you will assess the punishment of the defendant, Joseph Beach, at confinement in the penitentiary for any term of years not less than twenty-five (25) years or more than ninety-nine (99) years, or life.

But, if you do not so find from the evidence beyond a reasonable doubt, you will next proceed to consider whether the defendant has been convicted only once of any felony, or of two felonies, one of which did not occur subsequent to the first felony becoming final.

Now, if you believe from the evidence beyond a reasonable doubt that the defendant is the same person who was convicted on the 31st day of July, 1988, in Cause Number 388287-5 in the Superior Court of California I.D. 10, County of Fresno, the defendant was convicted of the felony of Rape by Force and Fear, as alleged and that the enhancement allegation is true; OR that the defendant is the same person who was convicted on the 11th day of July, 2017, in Cause No. 15-DCR-070682A Count I, in the 400th District Court of Fort

Bend County, Texas; for the felony offense of Aggravated Assault Date/
Family/House/w/Weapon, as alleged and that the enhancement allegation is true; OR that
the defendant is the same person who was convicted on the 11th day of July, 2017, in
Cause No. 15-DCR-070682A Count II, in the 400th District Court of Fort Bend County,
Texas; for the felony offense of Assault Fam/House Mem Impede Breath/ Circulat, you
will assess the punishment of the defendant, Joseph Beach, at confinement in the
penitentiary for any term of years not less than fifteen (15) years or more than ninety-nine
(99) years, or life. In addition you may assess a fine not to exceed \$10,000.00.

If the State has failed to prove to your satisfaction beyond a reasonable doubt that
the defendant, JOSEPH BEACH, is the same person as previously convicted as alleged in
any of the enhancement allegations, you will assess the defendant's punishment in the
penitentiary for any term of years not less than five (5) years or more than ninety-nine (99)
years, or life. In addition you may assess a fine not to exceed \$10,000.00.

GENERAL PRINCIPLES

Defendant's Right to Remain Silent

In a criminal case the law permits a defendant to testify in his own behalf but he is
not compelled to do so, and the same law provides that the fact that a defendant does not
testify shall not be considered as a circumstance against him. You will, therefore, not
consider the fact that the defendant did not testify as a circumstance against him and you
will not in your retirement to consider your verdict allude to, comment on, or in any manner
refer to the fact that the defendant has not testified.

Parole Law

The length of time for which a defendant is imprisoned may be reduced by the award

of parole.

Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, the defendant will not become eligible for parole until the actual time served equals one-half of the sentence imposed or 30 years, whichever is less. Eligibility for parole does not guarantee that parole will be granted.

It cannot accurately be predicted how the parole law might be applied to this defendant if sentenced to a term of imprisonment, because the application of that law will depend on decisions made by parole authorities.

You may consider the existence of the parole law. You are not to consider the manner in which the parole law may be applied to this particular defendant.

Evidence

The State has introduced evidence of extraneous crimes or bad acts other than the offenses charged in the indictment or in the enhancement paragraphs 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.

It is not required that the prosecution prove guilt of any extraneous offense beyond all possible doubt. It is required that the prosecution's proof excludes all reasonable doubt concerning the defendant's guilt.

You are further charged that in fixing the defendant's punishment, you may take into consideration all of the evidence submitted to you in the full trial of this case, that is, all of the evidence submitted to you in the trial of the first part of this case wherein you were called

upon to determine the guilt or innocence of the defendant, and all of the evidence admitted before you in the second part of this trial wherein you are called upon to fix the defendant's punishment; and you will be bound by the charges of the court covering the first and second parts of this trial in determining what punishment shall be given to the defendant.

You are admonished that in deliberating upon the punishment to be assessed against the defendant in this case, you must not refer to, nor discuss any matter not in evidence before you. You must not arrive at the punishment to be assessed in this case by any lot or chance, or by putting down any figures and doing any dividing or by any system of averages. Under the instructions herein given, it will not be proper for you in determining the penalty to be assessed to fix the same by any method other than a full, fair, and free exercise of the opinions of the individual jurors under the evidence admitted before you.

During your deliberations you are instructed that you should not consider the remarks, rulings or actions of the judge presiding during this trial as any indication of the Court's opinion as to the existence or nonexistence of any fact or as an indication of the Court's opinion as to the punishment to be assessed against the defendant.

You are the exclusive judges of the facts proved and 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 you and be governed thereby.

Juror Notes

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 your 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 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.

RULES THAT CONTROL DELIBERATIONS

After argument of counsel, you will retire to deliberate. Your verdict must be unanimous. After you have arrived at your verdict, you may use one of the forms attached hereto by having your presiding juror fill in the appropriate blanks and signing the verdict as presiding juror. You will fill in the one verdict form that conforms to your verdict.

After you have retired to consider your verdict, no one has the authority to communicate with you except the officer, bailiff of the Court, who has you in charge.

In the event you desire to communicate with the Court on any matter in connection with your deliberations, your presiding juror will notify the bailiff, who will inform the Court thereof. After you have retired, any communications to the Court must be in writing. If you have any questions or requests, you should reduce them to writing on a full and complete sheet of paper, noting the date and time, have the presiding juror sign them, and present them to the bailiff.

After you have reached a verdict, or if you desire to communicate with the Court at any time, please knock on the door and the bailiff will respond.

Temi Holden
JUDGE PRESIDING

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FILED
At 3:38 o'clock PM.
AUG 25 2022
Donna Skaskie
Clerk of District Court Brazoria Co., Texas
BY _____ DEPUTY

