

NO. 2017-413,560

THE STATE OF TEXAS § IN THE DISTRICT COURT  
VS. § OF LUBBOCK COUNTY  
HOLLIS DANIELS III § 137TH JUDICIAL DISTRICT

2017 OCT 20 PM 12:03  
BY [Signature]  
CLERK OF DISTRICT COURT  
LUBBOCK COUNTY TEXAS

COURT'S CHARGE ON PUNISHMENT

MEMBERS OF THE JURY:

The Defendant, HOLLIS DANIELS III, stands charged by indictment with the offense of Capital Murder, alleged to have been committed on or about the 9th day of October, 2017, in Lubbock County, Texas. The Defendant has entered a plea of guilty to the offense as alleged in the indictment, to-wit:

In Lubbock County, Texas, HOLLIS DANIELS III, hereafter styled the Defendant, heretofore on or about the 9th day of October, 2017, did then and there intentionally or knowingly cause the death of an individual, namely, FLOYD EAST JR., by shooting him, and the said FLOYD EAST JR. was then and there a peace officer who was acting in the lawful discharge of an official duty, to-wit: conducting an investigation, and the Defendant knew FLOYD EAST JR. was a peace officer.

The Court, as required by law, has admonished the Defendant of the consequences of his guilty plea. It plainly appearing to the Court that the Defendant is mentally competent, and that he makes this plea freely and voluntarily, said plea is received by the Court. You are instructed to find the Defendant guilty of the offense of Capital Murder on the Guilty Verdict form found on page ten (10) and as

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Court Charge To The Jury  
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charged in the indictment, and then to determine the answers to certain “Special Issues” submitted to you by the Court.

Having found the Defendant guilty, you are instructed that the mandatory punishment for the offense of Capital Murder is confinement in the Institutional Division of the Texas Department of Criminal Justice for life without parole, or death. It is necessary now for you to determine, from all the evidence in this case, the answers to 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, Hollis Daniels III, would commit criminal acts of violence that would constitute a continuing threat to society?**

You shall answer Special Issue Number 1 “NO” or “YES.”

The prosecution has the burden of proving to you beyond a reasonable doubt that the answer to Special Issue Number 1 should be “YES.” If it fails to do so, you must answer Special Issue Number 1 “NO.”

In deliberating on Special Issue Number 1, you are asked to consider all of the evidence admitted during the Defendant’s trial including evidence of the Defendant’s background or character, and the circumstances of the offense that militates for or mitigates against the imposition of the death penalty.

You may not answer Special Issue Number 1 “NO” unless ten (10) or more jurors agree.

You may not answer Special Issue Number 1 “YES” unless you agree unanimously.

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

If the jury’s answer to Special Issue Number 1 is “YES,” only then will the jury proceed to Special Issue Number 2; otherwise, do not answer Special Issue Number 2.

**SPECIAL ISSUE NUMBER 2: 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 the 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 to this case, if the Defendant is sentenced to imprisonment in the Institutional Division of the Texas Department of Criminal Justice for life without parole, the Defendant will be ineligible for release from the Department on parole for the remainder of his natural life.

You shall answer Special Issue Number 2 “YES” or “NO.”

You may not answer Special Issue Number 2 “YES” unless ten (10) or more jurors agree there is a sufficient mitigating circumstance or circumstances.

You may not answer Special Issue Number 2 “NO” unless you agree unanimously.

Members of the jury need not agree on what particular evidence supports an affirmative finding on Special Issue Number 2.

In deliberating on Special Issue Number 2, you shall consider mitigating evidence to be evidence that a juror might regard as reducing the Defendant’s moral blameworthiness.

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

Nothing the Court has said or done shall be considered by you to be evidence, or as a comment or opinion on the weight of the 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.

The evidence consists of the testimony and exhibits admitted in the trial. You must consider only evidence to reach your decision. You must not consider, discuss, or mention anything that is not evidence in the trial. You must not consider or mention any personal knowledge or information you may have about any fact or person connected with this case that is not evidence in the trial.

Statements made by the lawyers are not evidence. The questions asked by the lawyers are not evidence. Evidence consists of the testimony of the witnesses and exhibits admitted into evidence.

While you should consider only the evidence, you are permitted to draw reasonable inferences from the testimony and exhibits that are justified in the light of common experience. In other words, you may make deductions and reach conclusions that reason and common sense lead you to draw from the facts that have been established by the evidence.

You are to render a fair and impartial verdict based on the evidence admitted in the case under the law that is in these instructions. Do not allow your verdict to be determined by bias or prejudice.

You may, if you wish, examine exhibits. If you wish to examine an exhibit, the foreperson will inform the court and specifically identify the exhibit you wish to

examine. Only exhibits that were admitted into evidence may be given to you for examination.

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.

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

The prosecution does not have to prove extraneous crimes or bad acts beyond all possible doubt. The prosecution's proof must exclude all "reasonable doubt" concerning the extraneous crimes or bad acts.

Therefore, if you find and believe beyond a reasonable doubt that the Defendant committed extraneous crimes or bad acts or could be held criminally responsible for extraneous crimes or bad acts, then you may consider such evidence in assessing the Defendant's punishment. However, if you have a reasonable doubt that the Defendant committed extraneous crimes or bad acts or could be held

criminally responsible for extraneous crimes or bad acts, then you may not consider such evidence in assessing punishment.

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.

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

### **Rules That Control Jury Deliberations**

You must follow these rules while you are in deliberation and until you reach a verdict. After the closing arguments by the attorneys, you will go into the jury room.

Your first task will be to pick your foreperson. The foreperson should conduct the deliberations in an orderly way. Each juror has one vote, including the foreperson. The foreperson must supervise the voting, vote with other members on the verdict, and sign the verdict form.

While deliberating and until excused by the trial court, all jurors must follow these rules:

1. You must not discuss this case with any court officer, or the attorneys, or anyone not on the jury;
2. You must not discuss this case unless all of you are present in the jury room;
3. You must communicate with the judge only in writing, signed by the foreperson and given to the judge through the bailiff, except as to your personal needs which may be communicated orally to the bailiff in charge.
4. You must not conduct any independent investigations, research, or experiment;
5. You must tell the judge if anyone attempts to contact you about the case before you reach your verdict; and
6. You must not use your cell phones for any purpose.

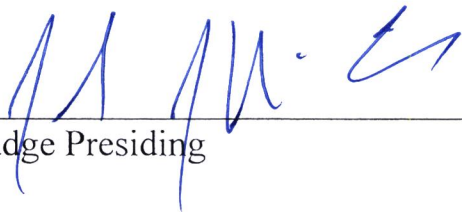
Your sole duty is to determine the punishment to be assessed. You must restrict your deliberations to this matter.

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 presiding juror should sign the appropriate form certifying to your verdict.

The above and foregoing is the Court's Charge on Punishment in this case, and the same is hereby signed and certified by the Court this the 22<sup>nd</sup> day of February, 2023.

  
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Judge Presiding