

NO. B-16-0305-CR

FILED FOR RECORD
ECTOR COUNTY, TEXAS

THE STATE OF TEXAS
VS.
ROY DANIEL GARZA

2017 DEC -4 AM 10: 50
IN THE DISTRICT COURT
CLARISSA WEBSTER
DISTRICT CLERK
OF ECTOR COUNTY, TEXAS
BY DEPUTY *[Signature]*
161ST JUDICIAL DISTRICT

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, ROY DANIEL GARZA, has been found guilty by you of the offenses of Count 1: Attempted Capital Murder of Pedro Gonzalez and Count 2: Attempted Capital Murder of Cory Wester, as alleged in the Indictment. The State's Notice of Enhancement alleges in the first and second paragraphs thereof that the defendant has heretofore been convicted of two felonies, to-wit: Aggravated Robbery and thereafter convicted of Possession of a Controlled Substance. To these allegations in the State's Notice of Enhancement the defendant has pleaded "True."

You are instructed that the defendant, ROY DANIEL GARZA, has pled "True" to the Enhancement Paragraphs contained in the State's Notice of Enhancement herein that before the commission of the offense for which you have found him guilty herein that he was, on February 26, 2007, in Cause No. 2006CR2488, in the 186th District Court of Bexar County, Texas, convicted of the offense of Aggravated Robbery, and that he is one and the same person convicted on March 26, 2014, in Cause No. 12-1471-K368, in the 277th Judicial District Court of Williamson County, Texas, of the offense of Possession of a Controlled Substance, a felony. You are instructed to assess the punishment of the

defendant at confinement in the Institutional Division of the Texas Department of Criminal Justice for Life, or for any term not more than ninety-nine (99) years or Life, or less than twenty-five (25) years.

You are further instructed that in determining the Defendant's punishment, you may take into consideration all of the facts shown by the evidence submitted before you in the full trial of this case and the law as submitted to you in this charge.

Extraneous Acts

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.

T.C.C.P. § 37.07 Instruction

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 30 years, whichever is less, without consideration of any good conduct time he may earn. If the defendant is sentenced to a term of less than four years, he must serve at least two years before he is eligible for parole. Eligibility for parole does not guarantee that parole will be granted.

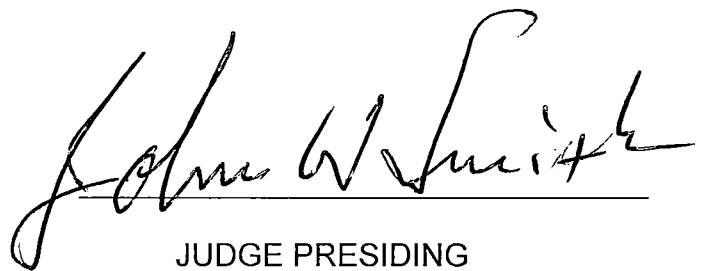
It cannot accurately be predicted how the parole law and good conduct time might be applied to this defendant if he is sentenced to a term of imprisonment, because the application of these laws will depend on decisions made by prison and parole authorities.

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. Such matters come within the exclusive jurisdiction of the Pardon and Parole Division of the Texas Department of Criminal Justice and the Governor of Texas.

General Instructions

Any verdict you render must be unanimous.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given to their testimony, but you are bound to receive the law from the court as herein given and be governed thereby.


JUDGE PRESIDING

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161ST JUDICIAL DISTRICT

VERDICT K

We, the Jury, having previously found the defendant, ROY DANIEL GARZA, guilty of the offense of Attempted Capital Murder of Pedro Gonzalez, as charged in the Indictment, find the allegations with respect to the two prior convictions, as alleged in the State's Notice of Enhancement, to be "True", and we assess his punishment at _____ years (select a term not less than 25 years or more than 99 years) the Institutional Division of the Texas Department of Criminal Justice. In addition thereto, WE DO / WE DO NOT (circle one) assess a fine in the amount of \$ _____ (select an amount not less than \$0 or more than \$10,000).

FOREPERSON

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161ST JUDICIAL DISTRICT

VERDICT M

We, the Jury, having previously found the defendant, ROY DANIEL GARZA, guilty of the offense of Attempted Capital Murder of Cory Wester, as charged in the Indictment, find the allegations with respect to the two prior convictions, as alleged in the State's Notice of Enhancement, to be "True", and we assess his punishment at

_____ years (select a term not less than 25 years or more than 99 years) in the Institutional Division of the Texas Department of Criminal Justice.

In addition thereto, WE DO / WE DO NOT (circle one) assess a fine in the amount of \$ _____ (select an amount not less than \$0 or more than \$10,000).

FOREPERSON