

NO. 2007-CR-4563A

THE STATE OF TEXAS                   §           IN THE DISTRICT COURT  
VS.                                       §           187TH JUDICIAL DISTRICT  
ARMANDO LEZA                         §           BEXAR COUNTY, TEXAS

CHARGE OF THE COURT ON PUNISHMENT

MEMBERS OF THE JURY:

By your verdict returned in this case, you have found the defendant, Armando Leza, guilty of capital murder, as alleged in the indictment.

You are instructed that a sentence of life imprisonment without parole in the Texas Department of Criminal Justice or death is mandatory upon conviction of a capital felony. If the defendant is sentenced to confinement for life without parole, he is ineligible for release from the department on parole.

You are further instructed that if you answer 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.

It now becomes your duty to consider all the evidence in this case and determine the answers to certain questions which will be set forth for your consideration. The questions will be termed "Issues" in this charge, and must be answered "Yes" or "No"; the punishment to be assessed the defendant will be assessed based on your answers to these issues.

You are further instructed that in answering the Issues submitted to you, the jury must not be swayed by mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feelings.

You are instructed that the State must prove Issue No. 1 beyond a reasonable doubt.

In deliberating upon Issue No. 1, you 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.

The jury may not answer Issue No. 1 "Yes" unless there is unanimous agreement of the individual jurors upon that answer.

The jury may not answer Issue No. 1 "No" unless ten (10) or more jurors agree upon that answer.

In determining the answer Issue No. 1 you are instructed that you need not agree on what particular evidence supports a negative answer to the issue.

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**Issue No. 1 is:**

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

**Answer:** We the jury unanimously find and determine beyond a reasonable doubt the answer to Issue No. 1 is "Yes."

**OR**

**Answer:** We the jury, because at least ten (10) jurors have a reasonable doubt as to the probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society, answer Issue No. 1 "No."

If the jury has answered Issue No. 1 "No", do not answer Issue No. 2 or Issue No. 3.

If the jury has answered Issue No. 1 "Yes", then you will answer Issue No. 2.

You are instructed that the State must prove Issue No. 2 beyond a reasonable doubt.

In deliberating upon Issue No. 2, you 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.

The jury may not answer Issue No. 2 "Yes" unless there is unanimous agreement of the individual jurors upon that answer.

The jury may not answer Issue No. 2 "No" unless ten (10) or more jurors agree upon that answer.

In determining the answer to Issue No. 2, you are instructed that the members of the jury need not agree on what particular evidence supports a negative answer to the issue.

**Issue No. 2 is:**

Do you find from the evidence beyond a reasonable doubt that the defendant, Armando Leza, actually caused the death of Caryl Jean Allen or did not actually cause the death of Caryl Jean Allen but intended to kill Caryl Jean Allen or anticipated that a human life would be taken?

**Answer:** We, the jury, unanimously find and determine beyond a reasonable doubt the answer to Issue No. 2 is "Yes."

**OR**

**Answer:** We, the jury, because at least ten (10) jurors have a reasonable doubt as to the probability that the defendant, Armando Leza, actually caused the death of Caryl Jean Allen or did not actually cause the death of Caryl Jean Allen but intended to kill Caryl Jean Allen or anticipated that a human life would be taken, answer Issue No. 2 "No."

If the jury returns an affirmative finding to each issue submitted above (Issue No. 1 and Issue No. 2), you shall answer Issue No. 3.

If the jury has answered Issue No. 2 "No", do not answer Issue No. 3.

In answering Issue No. 3, the jury shall answer Issue No. 3 "Yes" or "No".

The jury may not answer Issue No. 3 "No" unless there is unanimous agreement of the individual jurors upon that answer.

The jury may not answer Issue No. 3 "Yes" unless ten (10) or more jurors agree upon that answer.

In determining the answer to Issue No. 3 you are instructed that the jury need not agree on what particular evidence supports an affirmative finding on that issue and shall consider mitigating evidence to be evidence that a juror might regard as reducing Armando Leza's moral blameworthiness.

**Issue No. 3 is:**

State whether, taking into consideration all the evidence, including the circumstances of the offense, Armando Leza's character and background, and the personal moral culpability of Armando Leza, 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.

**Answer:** We, the jury, unanimously find and determine that the answer to Issue No. 3 is "No."

**OR**

**Answer:** We, the jury, because at least ten (10) jurors find that there is a sufficient mitigating circumstance or are sufficient mitigating circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed, answer Issue No. 3 "Yes."

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 or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever.

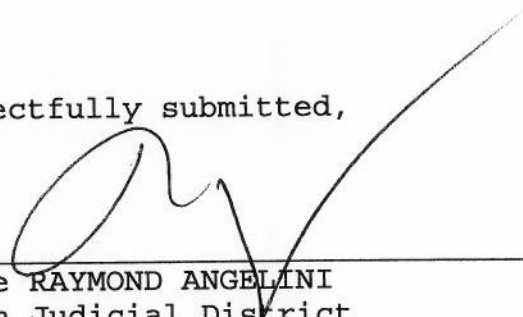
In this case evidence has been admitted to the effect that the defendant may have previously committed offenses or acts of misconduct other than that for which you have convicted him. The court instructs you that this evidence was admitted to assist you, if it does, in determining what sentence is appropriate in the case at hand. However, as to the evidence of the prior acts of misconduct, if any, for which the defendant was not convicted, you may consider that evidence in assessing punishment only if you first believe beyond a reasonable doubt that the defendant committed this other offense or offenses.



You are instructed that if you answer 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. If the defendant is sentenced to confinement for life without parole, he is ineligible for release from the department on parole.

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

Respectfully submitted,



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Judge RAYMOND ANGELINI  
187th Judicial District  
Bexar County, Texas

NO. 2007-CR-4563A

THE STATE OF TEXAS

§

IN THE DISTRICT COURT

VS.

§

187TH JUDICIAL DISTRICT

ARMANDO LEZA

§

BEXAR COUNTY, TEXAS

VERDICT FORM

ISSUE NO. 1:

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

Answer: We, the jury, unanimously find and determine beyond a reasonable doubt that the answer to Issue No. 1 is "Yes."

  
FOREMAN

OR

Answer: We, the jury, because at least ten (10) jurors have a reasonable doubt as to the probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society, determine that the answer to Issue No. 1 is "No."

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FOREMAN

If you have answered Issue No. 1 "Yes", then answer the following Issue No. 2. If you have answered Issue No. 1 "No", do not answer Issue No. 2 or Issue No. 3.

**ISSUE NO. 2:**

Do you find from the evidence beyond a reasonable doubt that the defendant, Armando Leza, actually caused the death of Caryl Jean Allen or did not actually cause the death of Caryl Jean Allen but intended to kill Caryl Jean Allen or anticipated that a human life would be taken?

Answer: We, the jury, unanimously find and determine beyond a reasonable doubt the answer to Issue No. 2 is "Yes."

  
FOREMAN

OR

Answer: We, the jury, because at least ten (10) jurors have a reasonable doubt as to the probability that the defendant, Armando Leza, actually caused the death of Caryl Jean Allen or did not actually cause the death of Caryl Jean Allen but intended to kill Caryl Jean Allen or anticipated that a human life would be taken, answer Issue No. 2 "No."

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FOREMAN


If the jury has answered Issue No. 1 "Yes" and Issue No. 2 "Yes", you will answer Issue No. 3.

If the jury has answered Issue No. 2 "No", do not answer Issue No. 3.

**ISSUE NO. 3:**

Taking into consideration all the evidence, including the circumstances of the offense, Armando Leza's character and background, and the personal moral culpability of Armando Leza, is there a sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment without parole rather than a death sentence be imposed?

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

  
FOREMAN

OR

Answer: We, the jury, because at least ten (10) jurors taking into consideration all the evidence, including the circumstances of the offense, Armando Leza's character and background, and the personal moral culpability of Armando Leza, find and determine 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, answer Issue No. 3 "Yes."

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FOREMAN

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

  
FOREMAN