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THOMAS A WILDER, DIST. CLERK
TARRANT COUNTY, TEXAS

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RW DEPUTY

NO. 1184294D

THE STATE OF TEXAS)
)
VS.)
)
JOHN WILLIAM HUMMEL) IN THE 432nd JUDICIAL
) DISTRICT COURT OF
) TARRANT COUNTY, TEXAS

COURT'S CHARGE

MEMBERS OF THE JURY:

You have found the defendant, John William Hummel, guilty of the offense of capital murder. You are instructed that the defendant shall be punished by imprisonment in the institutional division of the Texas Department of Criminal Justice for life without parole or by death. In order for the Court to assess the proper punishment, the Court submits two issues to you.

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.

You shall answer Issue Number 1 either "yes" or "no". The prosecution has the burden of proving that the answer to Issue Number 1 should be "yes" beyond a reasonable doubt, and if it fails to do so you must answer Issue Number 1 "no".

In deliberating on Issue Number 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.

You may not answer Issue Number 1 "yes" unless you agree unanimously. You may not answer Issue Number 1 "no" unless 10 or more jurors agree. The members of the jury need not agree on what particular evidence supports a negative answer to Issue Number 1.

If the jury answers Issue Number 1 "yes", then you shall answer Issue Number 2, otherwise, do not answer Issue Number 2.

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 sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed.

You shall answer Issue Number 2 either "yes" or "no". You are instructed that you may not answer Issue Number 2 "no" unless you agree unanimously. You may not answer Issue Number 2 "yes" unless ten or more jurors agree. The members of the jury need not agree on what particular evidence supports an affirmative finding on 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 defendant is sentenced to confinement for life without parole, he is ineligible for release from the

institutional division of the Texas Department of Criminal Justice on parole.

Under our law, a statement of a defendant made while under arrest or in custody may not be used in evidence against the defendant unless it appears that the statement was freely and voluntarily made without compulsion or persuasion. The Court has admitted into evidence before you the alleged oral and written statement of the defendant given in the San Diego County Jail on the evening of December 20, 2009 and morning of December 21, 2009; you are instructed that before you may consider the same for any purpose you must first believe from the evidence beyond a reasonable doubt that the same was freely and voluntarily made by the defendant without compulsion or persuasion.

In this case, if you find from the evidence, or have a reasonable doubt thereof that John William Hummel at the time the oral and or written confession was made, was under the influence of cocaine, if he was under the influence of cocaine, which rendered his oral and or written statement involuntary due to being impaired mentally; and thereby was the product of the law enforcement's unlawful persuasion; then such statement would not be freely and voluntarily made, and in such case you will disregard the alleged oral and or written statement or confession and not consider either for any purpose nor evidence

obtained as a result thereof.

Therefore, unless you believe from the evidence beyond a reasonable doubt that the alleged confession or statement introduced into evidence was freely and voluntarily made by the Defendant without compulsion or persuasion, or if you have a reasonable doubt thereof, you shall not consider such alleged statement or confession for any purpose, nor any evidence obtained as a result thereof.

You are instructed that our law provides that a defendant may testify in his own behalf if he chooses to do so. This, however, is a privilege accorded to a defendant, and in the event he chooses not to testify, that fact cannot be taken as a circumstance against him. John William Hummel has chosen 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.

After argument of counsel, you will retire to the jury room to deliberate. Any further communication must be in writing signed by your foreman through the bailiff to the Court. When you have reached a decision, you will use the attached forms to indicate your answers to the Issues. Your foreman should sign the Certification attesting to your special verdicts reflected in your answers to the Issues.

You are instructed that a request to have portions of the trial transcript to be released to the jury cannot be complied with unless the jury disagrees as to a specific statement of a witness. Therefore, it will be necessary, if you desire any part of the testimony of any witness, for you to certify that you are in disagreement as to the statement of a witness, and you should request that specific part of the witness's testimony on the point in dispute, and only on that point which is in dispute.

You are further instructed that the Court Reporter will be required to prepare the testimony of the witness involved in order to pick out the point or points upon which you state you are in disagreement, and it will take the Court Reporter more time to prepare the relevant portions of the transcript than it did for the attorneys to put the testimony on. In the event you ask for any testimony, please be patient and give the Court Reporter sufficient time to prepare the transcript on the point or points in dispute.

Exhibits that were not offered and admitted into evidence by the Court do not exist as evidence. Therefore, the Court will not and cannot supply any items that have not been admitted into evidence during the trial.

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.

During your deliberations, you must not communicate with or provide any information to anyone by any means about this case. You may not use any electronic device or media, such as a telephone, cell phone, smart phone, iPhone, Blackberry, or computer; the internet, any internet service, or any text or instant messaging service; or any internet chat room, blog, or website such as Facebook, My Space, LinkedIn, You Tube or Twitter, to communicate to anyone any information about this case or to conduct any research about this case until I accept your verdict, if any.

After you retire to consider your verdict, no one has any authority to communicate with you, except the officer who has you in charge. During your deliberations in this case, you must neither consider nor mention any personal knowledge or information you may have about any fact or person connected with this case which is not shown by the evidence.

After you have retired, you may communicate with this Court in writing through the bailiff who has you in charge. Your written communication must be signed by the foreman. Do not attempt to talk to the bailiff, the attorneys or the Court regarding any question you may have concerning the trial of the

case. Do not disclose to the Court or the bailiff your votes pertaining to your punishment verdict in your communications.

After you have reached a verdict or if you desire to communicate with the Court, please press the button, and the bailiff will respond.



RUBEN GONZALEZ, JR.
JUDGE, 432nd District Court

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

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TIME BY [Signature]

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?

You will answer "yes" or "no".

Answer: YES

If your answer to Issue Number 1 is "yes" then you will answer Issue Number 2; otherwise, you will not answer Issue Number 2.

ISSUE NUMBER 2

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 rather than a death sentence be imposed?

You will answer "yes" or "no".

Answer: NO

CERTIFICATION

We, the jury, having agreed upon the answers to the foregoing issues, return the same into court as our verdict.

A handwritten signature in cursive script, appearing to read "A. J. Bane", is written over a horizontal line.

Foreman