

Court's Original Charge

CAUSE NO. D1DC06904119

THE STATE OF TEXAS) IN THE 390TH
)
V.) DISTRICT COURT OF
)
SELWYN PRESTON DAVIS) TRAVIS COUNTY, TEXAS

CHARGE ON PUNISHMENT

Ladies and Gentlemen of the Jury:

You have found the defendant guilty of the offense of capital murder. You are instructed that a sentence of life without parole or death is mandatory upon conviction for capital murder. In order for the court to assess the proper punishment, certain questions or issues are submitted to you. Before answering these questions you will consider the following instructions:

1.

In arriving at the answers to the issues submitted, it will not be proper for you to fix the same by lot, chance or any other method than by a full, fair and free exchange of the opinion of each individual juror.

2.

You are instructed that a defendant sentenced to confinement for life without parole is ineligible for release from the department of paroles.

3.

You are instructed that if there is testimony before you in this case regarding the defendant having committed other acts or participated in other transactions other than

Filed in The District Court of Travis County, Texas

SCANNED

OCT 15 2007
At 11:15 A.M.
Amalia Rodriguez-Mendoza, Clerk (GW)

the offense alleged against the defendant in the indictment in this case, that you cannot consider such other acts or transactions, if any, unless you first find and believe beyond a reasonable doubt that the defendant committed such acts or participated in such transactions, if any, but if you do not so believe, or if you have a reasonable doubt thereof, you will not consider such testimony for any purpose.

4.

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.

5. Instructions Regarding Issue No. 1

In deliberating on Issue No. 1, the jury 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 circumstances of the offense that militates for or mitigates against the imposition of the death penalty.

You are instructed that in answering Issue No. 1 the State has the burden to prove beyond a reasonable doubt that the answer should be "Yes." The jury may not answer Issue No. 1 "Yes" unless the jury agrees unanimously on the answer.

You are instructed that in answering Issue No. 1 that the jury may not answer "No" unless ten or more jurors agree. The jurors need not agree on what particular evidence supports a negative answer. If any juror has a reasonable doubt as to his or her answer to this issue, the juror shall vote "No."

6. (Issue No. 1)**ISSUE NO. 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?

Answer: Yes.

If the jury answered Issue No. 1 "Yes", the jury will proceed to answer the following question/issue No. 2, below. If the jury answered Issue No. 1 "No", you are instructed not to answer or consider question/issue No. 2, but to proceed to the verdict form.

7. (Instructions Regarding Issue No. 2)

You are instructed that in answering Issue No. 2, you shall answer the issue "Yes" or "No." You may not answer the issue "No" unless the jury unanimously agrees, and you may not answer the issue "Yes" unless ten or more jurors agree. The jury need not agree on what particular evidence supports an affirmative finding on this issue. The jury shall consider mitigating evidence to be evidence that a juror might regard as reducing the defendant's moral blameworthiness.

You are instructed that if the jury answers that a circumstance or circumstances warrant that a sentence of life without parole rather than a death sentence be imposed, the court will sentence the defendant to imprisonment for life in the institutional division of the Texas Department of Criminal Justice without parole.

8. (Issue No. 2)**ISSUE NO. 2**

Do you find from the evidence, 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, that there is a sufficient mitigating circumstance or circumstances that a sentence of life imprisonment without parole rather than a death sentence be imposed?

Answer: NO.

9.

After the reading of this charge, you shall not be permitted to separate from each other, nor shall you talk with anyone not of your jury. After argument of counsel, you will retire and consider your answers to the issues submitted to you. It is the duty of your foreperson to preside in the jury room and vote with you on the answers to the issues submitted.

Respectfully submitted,



JULIE KOCUREK,
Presiding Judge

CAUSE NO. D1DC06904119

THE STATE OF TEXAS	⊗	IN THE 390TH
	⊗	
V.	⊗	DISTRICT COURT OF
	⊗	
SELWYN PRESTON DAVIS	⊗	TRAVIS COUNTY, TEXAS

VERDICT OF THE JURY

We, the jury, having answered the foregoing issue/issues, return the same into this Court as our verdict.

Lydia Wolf

 Foreperson of the Jury

Filed In The District Court
of Travis County, Texas

OCT 15 2007

At 5:45 P.M.
Amalia Rodriguez-Mendoza, Clerk (cc)