

COPY

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.....a.m. 8:45 pm o'clock

NO. 73250

THE STATE OF TEXAS
VS.
DAVID GENE RISNER

IN THE 27TH JUDICIAL DISTRICT COURT
BELL COUNTY, TEXAS

JUN 15 2016
JOANNA STATION
By: [Signature]
Deputy Clerk

CHARGE OF THE COURT ON PUNISHMENT

MEMBERS OF THE JURY:

You have found the Defendant guilty of the offense of capital murder. You are instructed that the Defendant shall be punished by confinement in the Texas Department of Criminal Justice for life without parole, or by death. It is necessary now for you to determine, from all the evidence in the case, the answers to Two (2) Special Issues. In deliberating these special issues 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 the circumstances of the offense that militates for or mitigates against the imposition of the death penalty.

SPECIAL 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 Special Issue Number 1 "Yes" or "No."

The prosecution has the burden of proving that the answer to Special Issue Number 1 should be "Yes," and it must do so by proving a "Yes" answer to Special Issue Number 1 beyond a reasonable doubt, and if it fails to do so, you must answer Special Issue Number 1 "No."

You may not answer Special Issue Number 1 "Yes" unless you agree unanimously.



You may not answer Special Issue Number 1 "No" unless ten (10) or more jurors agree.

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

If the jury answers Special Issue Number 1 "Yes," then you shall answer the following 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 shall answer Special Issue Number 2 "Yes" or "No."

You are instructed that you may not answer Special Issue Number 2 "No" unless you agree unanimously.

You may not answer Special Issue Number 2 "Yes" unless ten (10) or more jurors agree.

You are instructed that if a 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 Texas Department of Criminal Justice for life without parole.

Under the law applicable in this case, if the Defendant is sentenced to confinement for life without parole in the Texas Department of Criminal Justice, the Defendant will be ineligible for release from the department on parole.

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

In a criminal case, the law permits the Defendant to testify in his own behalf; but the same law provides that his failure to testify shall not be considered 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.

You are instructed that if there is evidence before you in this case regarding the Defendant having committed or participated in other acts or transactions other than the offense alleged against him 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 or participated in such acts or transactions, if any, but if you do not so believe, or if you have reasonable doubt thereof, you will not consider such evidence for any purpose.

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.

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.

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.

Any further communication must be in writing signed by your presiding juror through the bailiff to the Court, except as to your personal needs which may be communicated orally to the bailiff in charge. Do not attempt to talk to the bailiff, the attorneys or the Court regarding any questions you may have concerning the trial of the case.

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.

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

JUDGE PRESIDING

THE COURT HAS RECEIVED YOUR VERDICT AND IS NOW RECALLED TO THE COURTROOM. YOU WILL BE RECALLED TO THE COURTROOM AT A LATER DATE. YOU WILL BE RECALLED TO THE COURTROOM AT A LATER DATE. YOU WILL BE RECALLED TO THE COURTROOM AT A LATER DATE.

SEE YOU SOON

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THE STATE OF TEXAS

IN THE 27TH JUDICIAL

VS.

DISTRICT COURT OF

DAVID GENE RISNER

BELL COUNTY, TEXAS

VERDICT OF THE JURY

Now, bearing in mind the foregoing instructions, you will answer 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 would commit criminal acts of violence that would constitute a continuing threat to society?

In your verdict, you will answer "Yes" or "No."

Answer: We, the jury, unanimously find from the evidence beyond a reasonable doubt that the answer to Special Issue Number 1 is "Yes."

PRESIDING JUROR

- 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 Special Issue Number 1 is "No."

PRESIDING JUROR

If your answer to this special issue is "no" and is not unanimous then the 10 or more jurors who agree should sign individually below

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

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

SPECIAL ISSUE NUMBER 2

Do you find, 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 to warrant that a sentence of life imprisonment without parole rather than a death sentence be imposed?

Answer: We, the jury, unanimously find that the answer to Special Issue Number 2 is "No."

PRESIDING JUROR

OR

Answer: We, the jury, because at least ten (10) jurors find that there is sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment without parole rather than a death sentence be imposed, answer this Special Issue Number 2 "Yes."

PRESIDING JUROR

If your answer to this special issue is "yes" and is not unanimous then the 10 or more jurors who agree should sign individually below

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

We, the jury, return in open Court the above answers to the Special Issues submitted to us and the same is our verdict in this case.

PRESIDING JUROR