

SCANNED

MAR 15 2019

ODYSSEY

NO. CR15001914-G

STATE OF TEXAS VS. ARTURO J GARZA

IN THE 319TH DISTRICT COURT
NUECES COUNTY, TEXAS

FILED

MAR 13 2019
11:35 AM

ANNE LOHENTZEN, CLERK
COUNTY DISTRICT COURT, NUECES COUNTY, TEXAS
BY Melinda Melinc DEPUTY

PUNISHMENT CHARGE

Ladies and Gentlemen of the Jury:

The defendant, Arturo J. Garza, stands charged by indictment with the offense of Capital Murder, alleged to have been committed in Nueces County, Texas, on or about May 29, 2015.

I.

To this charge, the defendant has pleaded "guilty", and he has persisted in entering such plea; notwithstanding, the court, as required by law, has admonished him of the consequences of the same; and it plainly appearing to the court that the defendant is sane, and he is not influenced to make this plea by any consideration of fear, nor by any persuasive or delusive hope of pardon prompting him to confess his guilt, said plea is by the court received. The jury is instructed to find the defendant guilty as charged in the indictment.

II.

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

III.

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.

IV.

You are instructed that 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. You are further instructed 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.

V.

You have been permitted to take notes during the testimony in this case. In the event any of any you took notes, you may rely on your notes during your deliberations. However, you may not share your notes with the other jurors, and you should not permit the other jurors to share their notes with you. You shall not use your notes as authority to persuade your fellow jurors. In your deliberations, give no more and no less weight to the views of a fellow juror just because he or she did or did not take notes. Your notes are not official transcripts. They are personal memory aides, just like the notes of the judge and the notes of the lawyers. Notes are

valuable as a stimulant to your memory. On the other hand, you might make an error in observing or you might make a mistake in recording what you have seen or heard. Therefore, you are not to use your notes as authority to persuade fellow jurors of what the evidence was during the trial.

Occasionally, during jury deliberations, a dispute arises as to the testimony presented. If this should occur in this case, you shall inform the court and request that the court read the portion of disputed testimony to you from the official transcript. You shall not rely on your notes to resolve the dispute because those notes, if any, are not official transcripts. The disputes must be settled by the official transcript; for it is the official transcript, rather than any juror's notes, upon which you must base your determination of the facts and, ultimately, your verdict in this case.

VI.

In a criminal case, the law permits a defendant to testify in his own behalf, but he is not compelled to do so; 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 deliberate, allude to, comment on, or in any manner refer to the fact that the defendant did not testify

VII.

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.

VIII.

In deliberating on Special Issue Number 1 and Special Issue Number 2, the jury shall consider all evidence admitted, 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.

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 are instructed that in answering Special Issue Number 1 the State has the burden to prove beyond a reasonable doubt that the answer should be "Yes", and if it fails to do so, you must answer Special Issue Number 1 "No". The jury may not answer Special Issue No. 1 "Yes" unless the jury agrees unanimously on the answer. The jurors need not agree on what particular evidence supports an affirmative answer.

You are instructed that in answering Special Issue No. 1, 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 answer to this issue, the juror shall vote "No."

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 are instructed that in answering this issue, 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 shall consider mitigating evidence to be evidence that a juror might regard as reducing the defendant's moral blameworthiness.

The jury need not agree on what particular evidence supports an affirmative finding on this issue.

You are instructed that if the 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.

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.

IX.

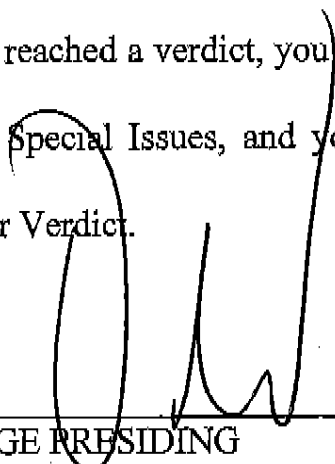
You are the exclusive judges of the facts proven, the credibility of the witnesses, and the weight to be given their testimony, but you are bound to receive the law from the Court which is herein given and be governed thereby.

In deliberating 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.

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 answer 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. When you have reached a verdict, you may use the attached forms to indicate your answers to the Special Issues, and your foreman should sign the appropriate form certifying to your Verdict.

Date: 3-13-2019



JUDGE PRESIDING

NO. CR15001914-G

STATE OF TEXAS VS. ARTURO J GARZA

IN THE 319TH DISTRICT COURT
NUECES COUNTY, TEXAS

VERDICT OF THE JURY

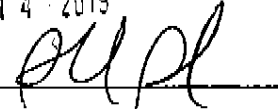
We the jury find the defendant, Arturo J. Garza, guilty of the offense of Capital Murder, in accordance with his plea of guilty.

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

MAR 14 2019



PRESIDING JUROR

- OR -

Answer: We, the jury, because at least ten (10) jurors agree, find that the answer to Special Issue Number 1 is "No."

PRESIDING JUROR

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.

ISSUE NO. 2.

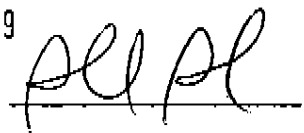
Do you find from the evidence, taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, that there is a sufficient mitigating circumstance or circumstances that a sentence of life imprisonment without parole rather than a death sentence be imposed?

You are instructed that in answering this issue, you shall answer the issue "Yes" or "No." You may not answer the issue "No" unless the jury unanimously agree, 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 in the institutional division of the Texas Department of Criminal Justice for life without parole.

Answer: We, the jury, because at least ten (10) jurors agree, find that the answer to Special Issue Number 2 is "Yes."

MAR 14 2019



PRESIDING JUROR

- OR -

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

PRESIDING JUROR

VERDICT OF THE JURY

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

MAR 14 2019


PRESIDING JUROR