

THE STATE OF TEXAS

IN THE 346TH DISTRICT COURT

V.

FABIAN HERNANDEZ

EL PASO COUNTY, TEXAS

STATE ID No.: TX06483972

§
§
§
§
§
§
§

JUDGMENT OF CONVICTION AND SENTENCING BY JURY

Judge Presiding:	HON. Angie Juarez Barill	Date Judgment Entered:	11-11-2009
Attorney for State:	John Briggs Denise Butterworth	Attorney for Defendant:	Jaime Gandara Edythe Payan
Offense for which Defendant Convicted:	CAPITAL MURDER		

Charging Instrument:	INDICTMENT	Statute for Offense:	Texas Penal Code § 19.03 (a) (7)
----------------------	-------------------	----------------------	---

Date of Offense:	11-3-2006
------------------	------------------

Degree of Offense:	CAPITAL FELONY	Plea to Offense:	NOT GUILTY
--------------------	-----------------------	------------------	-------------------

Verdict of Jury:	GUILTY	Findings on Deadly Weapon:	AFFIRMATIVE, TO WIT: A FIREARM
------------------	---------------	----------------------------	---------------------------------------

Punished Assessed by:	JURY	Date Sentence Imposed:	11-25-09	Date Sentence to Commence:	11-25-09
-----------------------	-------------	------------------------	-----------------	----------------------------	-----------------

Punishment and Place of Confinement:	DEATH PENALTY / TEXAS DEPARTMENT OF CRIMINAL JUSTICE				
--------------------------------------	---	--	--	--	--

Court Costs: \$223.00

On JULY 31, 2009, this cause was initially called for trial, and the State appeared by her Assistant District Attorneys, and the defendant, FABIAN HERNANDEZ, appeared in person in open court with his counsel. It appeared to the Court that the defendant was mentally competent. The defendant entered a plea of NOT GUILTY to the charge of CAPITAL MURDER contained in the indictment, both parties announced ready for trial, and a jury was selected and seated consisting of JOSE FRAGOSO and eleven others who were duly sworn. The indictment was read and the defendant entered his plea of NOT GUILTY to the charge of CAPITAL MURDER contained in the indictment and read to the jury by the State.

All of the evidence was presented by both the State and the defendant and the charge was read to the jury by the Court. The jury heard the arguments of both sides and retired in charge of the proper officer to consider their verdict. Afterward, the jury was brought into open court by the proper officer, the defendant and his counsel being present, and returned the following verdict which was received by the Court and entered upon the minutes of the Court, to wit:

RECEIVED

JAN 20 2010

OFFICE OF
COURT ADMINISTRATION

NOVEMBER 11, 2009

VERDICT FORM A

We, the jury, find the Defendant, FABIAN HERNANDEZ, guilty of the offense of Capital Murder of RENEE URBINA HERNANDEZ and ARTURO FONSECA as charged in the indictment.

**Signed: JOSE FRAGOSO
PRESIDING JUROR**

And on November 12, 2009, this cause being again called, the State appeared by her Assistant District Attorneys and the defendant, FABIAN HERNANDEZ, appeared in person in open court with his counsel and the same jury being called to assess the punishment, evidence was presented to the same jury in the matter of assessing punishment. It appeared to the Court that the defendant was mentally competent. All of the evidence was presented by both the State and the defendant and the charge was read to the jury by the Court. The jury heard the arguments of both sides and again retired in charge of the proper officer to consider the verdict. Afterward, the jury was again brought into open court by the proper officer, the defendant and his counsel being present, and returned the following verdict, which was received by the Court and is here now entered upon the minutes of the Court, to wit:

NOVEMBER 25, 2009

SPECIAL ISSUE NO. 1

Do you find from the evidence beyond a reasonable doubt that there is a probability that the Defendant, FABIAN HERNANDEZ, will commit criminal acts of violence that will constitute a continuing threat to society?

ANSWER

We, the Jury, unanimously find beyond a reasonable doubt that the answer to this Special Issue is "YES".

**Signed: JOSE FRAGOSO
PRESIDING JUROR**

SPECIAL ISSUE NO. 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?

ANSWER

We, the Jury, unanimously find that the answer to this Special Issue is "NO".

**Signed: JOSE FRAGOSO
PRESIDING JUROR**


It is therefore considered and adjudged by the Court that the defendant, FABIAN HERNANDEZ, is guilty of the offense of Capital Murder as found by the jury, and the same jury having further answered that beyond a reasonable doubt there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society and that there was not a sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment rather than a death sentence be imposed, the Court, as required by law, shall sentence the defendant to the DEATH PENALTY.

Thereupon on November 25, 2009, the Defendant, FABIAN HERNANDEZ, was asked by the Court whether he had anything to say why said sentence should not be pronounced against him and the Defendant answered nothing in bar thereof, whereupon the Court proceeded, in the presence of said Defendant, FABIAN HERNANDEZ, to pronounce sentence against him as follows:

It is the ORDER of the Court that the Defendant is sentenced to DEATH; but the law further providing for an automatic appeal to the Court of Criminal Appeals of the State of Texas, no execution date shall be set until the decision of the Court of Criminal Appeals has been received by this Court.


The Defendant is now remanded to the custody of the Sheriff of El Paso County, Texas, to be transported to the Institutional Division of the Texas Department of Criminal Justice at Huntsville, Texas, there to await the action of the Court of Criminal Appeals and the further Orders of this Court.

Signed and entered on December 14, 2009



ATTORNEY FOR THE STATE

ATTORNEY FOR THE DEFENDANT



ANGIE JUAREZ BARILL
JUDGE 346TH DISTRICT COURT

Right Thumbprint of FABIAN HERNANDEZ:

