

P.12

A

CAUSE NO. 1412826

THE STATE OF TEXAS	§	IN THE 179TH DISTRICT COURT
VS.	§	
JUAN BALDERAS	§	OF HARRIS COUNTY, TEXAS
ALSO KNOWN AS	§	
APACHE	§	JANUARY TERM, A. D., 2014

Members of the Jury:

By your verdict returned in this case you have found the defendant, Juan Balderas also known as Apache, guilty of the offense of capital murder, which was alleged to have been committed on or about the 6th day of December, 2005, in Harris County, Texas. In order for the Court to assess the proper punishment, it is necessary now for you to determine, from all the evidence in the case, the answers to certain questions, called "Special Issues," in this charge. The Court instructs you in answering these "Special Issues" as follows:

The mandatory punishment for the offense of capital murder of which you have found Juan Balderas also known as Apache guilty is death or confinement in the Texas Department of Criminal Justice, Institutional Division, for life without parole.

In determining your answers to the questions, or special issues, submitted to you, you shall consider all the evidence submitted to you in this whole trial, which includes that phase of the trial wherein you were called upon to determine the guilt or innocence of Juan Balderas also known as Apache, and this

punishment phase of the trial wherein you are now called upon to determine the answers to Special Issues submitted to you by the Court.

You shall consider all evidence submitted to you during the whole trial as to Juan Balderas also known as Apache's background or character or the circumstances of the offense that militates for or mitigates against the imposition of the death penalty.

You are instructed that when you deliberate on the questions posed in the special issues, you are to consider all relevant mitigating circumstances, if any, supported by the evidence presented in both phases of the trial, whether presented by the State or Juan Balderas also known as Apache. A mitigating circumstance may include, but is not limited to, any aspect of Juan Balderas also known as Apache's character, background, the personal moral culpability of the defendant or circumstances of the crime which you believe could make a death sentence inappropriate in this case. If you find that there is a mitigating circumstance or circumstances in this case, you must decide how much weight it/they deserve, if any, and thereafter, give effect and consideration to it/them in assessing Juan Balderas also known as Apache's personal culpability at the time you answer the special issue.

You are instructed that mitigating evidence, if any, may be considered by you in answering any of the special issues under consideration. If you determine, when giving effect to the mitigating evidence, if any, that a life sentence without parole rather than a death sentence is an appropriate response, let your answers to the special issues reflect that.

You are further instructed that you are not to be swayed by mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feeling in considering all the evidence before you and in answering the special issues.

The State must prove Special Issue No. 1 submitted to you beyond a reasonable doubt, and you shall return a Special Verdict of "YES" or "NO" on Special Issue No. 1.

In deliberating on Special Issue No. 1 you shall consider all the evidence admitted at the guilt or innocence stage and the punishment stage of trial, including evidence of Juan Balderas also known as Apache's background, character, or the circumstances of the offense that militates for or mitigates against the imposition of the death penalty.

You may not answer Special Issue No. 1 "YES" unless you agree unanimously.

You may not answer Special Issue No. 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 No. 1.

You are further instructed that you are not to be swayed by mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feeling in considering all of the evidence before you and in answering the Special Issue No. 1.

It is not required that the State prove Special Issue No. 1 beyond all possible doubt; it is required that the State's proof excludes all reasonable doubt concerning Juan Balderas also known as Apache.

You are instructed that if you return an affirmative finding, that is a "YES" answer, to Special Issue No. 1, and only then, are you to answer Special Issue No. 2.

You are instructed that in answering special Issue No. 2, you shall answer the issue "YES" or "NO."

You may not answer Special issue No. 2 "NO" unless you agree unanimously, and you may not answer Special Issue No. 2 "YES" unless ten (10) or more of you agree to do so.

You need not agree on what particular evidence supports an affirmative finding on Special Issue No. 2.

In answering Special Issue No. 2 you shall consider mitigating evidence to be evidence that a juror might regard as reducing Juan Balderas also known as Apache's moral blameworthiness, including evidence of the defendant's background, character, or the circumstances of the offense that mitigates against the imposition of the death penalty.

You are again instructed that you are not to be swayed by mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feeling in considering all of the evidence before you in answering Special Issue No. 2.

Under the law applicable in this case, if Juan Balderas also known as Apache is sentenced to imprisonment in the institutional division of the Texas Department of Criminal Justice for life without parole, the defendant will not be eligible for release on parole.

You are instructed that the defendant may testify in his own behalf if he chooses to do so, but if he elects not to do so, that fact cannot be taken by you as a circumstance against him nor prejudice him in any way. The defendant has elected not to testify in this punishment phase of trial, and you are instructed that you cannot and must not refer to or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever.

During your deliberations upon the "Special Issues," you must not consider, discuss, nor relate any matters not in evidence before you. You should not 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.

In arriving at the answers to the "Special 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.

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 "Special Issues" submitted to you. It is the duty of your Presiding Juror to preside in the jury room and vote with you on the answers to the "Special Issues" submitted.

You are the exclusive judges of the facts proved and the credibility of the witnesses and the weight to be given to their testimony, but you are bound to receive the law from the Court which has been given you and you are bound thereby.

FILED
Chris Daniel
District Clerk
MAR 13 2014
Time: 12:32 PM
Harris County, Texas
By: [Signature] Deputy

[Signature]

Kristin M. Guiney, Judge
179th District Court
Harris County, TEXAS

SPECIAL ISSUE NO. 1

Do you find from the evidence beyond a reasonable doubt that there is a probability that the defendant, Juan Balderas also known as Apache, would commit criminal acts of violence that would constitute a continuing threat to society?

ANSWER

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

FILED
Chris Daniel
District Clerk

Time: MAR 14 2014
2:22 PM
Harris County, Texas
By: [Signature]
Deputy

Chris Nowood

Presiding Juror

OR

We, the jury, because at least ten (10) jurors have a reasonable doubt as to the probability that the defendant, Juan Balderas also known as Apache, would commit criminal acts of violence that would constitute a continuing threat to society, determine that the answer to this Special Issue is "NO."

Presiding Juror


In the event that the jury has answered Special Issue No. 1 in the affirmative, and only then, shall the jury answer Special Issue No. 2 to be found on the following page.


SPECIAL 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, Juan Balderas also known as Apache, 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 this Special Issue is "NO."

FILED
Chris Daniel
District Clerk
MAR 14 2014
Time: 2:22 PM
Harris County, Texas
By:  Deputy



Presiding Juror

OR

We, the jury, because at least ten (10) jurors find 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, find that the answer to this Special Issue is "YES."

Presiding Juror

After the jury has answered each of the Special Issues under the conditions and instructions outlined above, the Presiding Juror should sign the verdict form to be found on the last page of this charge.

VERDICT

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.

Chris Norwood

Presiding Juror

FILED

Chris Daniel
District Clerk

MAR 14 2014

Time: 2:22 PM

Harris County, Texas

By _____

Deputy



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this April 4, 2017

Certified Document Number: 60063090 Total Pages: 12

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com