

FILED  
WEBB COUNTY TEXAS  
BY \_\_\_\_\_ DEPUTY  
AT 2:02 P.M. 11-4-16  
ESTHER DEGOLLADO  
C. ERK OF THE DIST COURTS  
& COUNTY COURTS AT LAW

CAUSE NO. 2012CRO000674D1

**THE STATE OF TEXAS                    §                    IN THE DISTRICT COURT**  
**VS.    §                    49<sup>TH</sup> JUDICIAL DISTRICT**  
**DEMOND DEPREE BLUNTSON §                    WEBB COUNTY, TEXAS**

**COURT'S CHARGE ON PUNISHMENT**

**MEMBERS OF THE JURY:**

The Defendant, DEMOND DEPREE BLUNTSON, has been found guilty by you for the offenses of Capital Murder, as alleged in Counts One (1) and Two (2) in the indictment, and you will no longer concern yourselves with the guilt of the Defendant. You are instructed that a sentence of imprisonment in the Texas Department of Criminal Justice for life without parole or a sentence of death is mandatory upon conviction of Capital Murder.

In addition, The Defendant, DEMOND DEPREE BLUNTSON, has been found guilty by you of the offenses of Aggravated Assault of a Public Servant, as alleged in Counts Three (3) and Four (4) in the indictment, it now becomes your duty to assess punishment in this case. Our law provides that the punishment for Aggravated Assault on a Public Servant shall be by confinement in the Institutional Division of the Texas Department of Criminal Justice, for not less than five (5) years nor more than Ninety-Nine (99) years or Life. In addition, thereto, a fine in not to exceed \$10,000.00 may be assessed. Therefore, you will assess the punishment of the defendant upon said finding of guilt at confinement in the Institutional Division of the Texas Department of Criminal Justice, for not less than five (5) years nor more than Ninety-Nine (99) years or Life, and the jury in its discretion may, if it chooses, assess a fine in any amount not to exceed \$10,000.00.

It is necessary now for you to determine, from all the evidence in the case, the answers to certain special issues. Before answering these special issues, if you can do so, you will consider the following instructions:

I.

In arriving at the answers to the special issues submitted, if you can do so, it will not be proper for you to fix the same by lot, chance, or any other method than by full, fair, and free exchange of the opinion of each individual juror. You are instructed that in considering the special issues, you may take into consideration all the facts shown by the evidence admitted before you in the full trial of the case and the law as submitted to in the charge.

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 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.

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.

II.

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."

In the event you have a reasonable doubt as to whether the answer to Special Issue Number 1 should be "Yes" after considering all the evidence before you, if any, and these instructions, you will answer Special Issue Number 1 "No".

The jury may not answer Special Issue Number 1 "No" unless ten or more jurors agree. The jurors need not agree on what particular evidence supports a "No" answer. If any juror has a reasonable doubt as to the answer to the above Special Issue, the juror shall vote "No" as to that issue. The jury may not discuss or consider the effect of failure of the jury to agree on the answer to an issue.

If the jury answers Special Issue Number 1 "Yes," then you shall answer Special Issue Number 2; otherwise, do not answer Special Issue Number 2.

In deliberating on the issues submitted, 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.

III.

**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.

ANSWER "YES" OR "NO" in the space provided on pages 7 and 9 of the Charge.

IV.

**SPECIAL ISSUE NUMBER 2:**

Taking into consideration all 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?

ANSWER "YES" OR "NO" in the space provided on pages 8 and 10 of the Charge.

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 of parole.

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. 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.

V.

Under the law applicable in this case as to counts Three (3) and Four (4), the Defendant, if sentenced to a term of imprisonment, may earn time off the period of incarceration imposed through the award of good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and

attempts at rehabilitation. If a prisoner engages in misconduct, prison authorities may also take away all or part of any good conduct time earned by the prisoner.

It is also possible that the length of time for which the Defendant will be imprisoned might be reduced by the award of parole.

Counts 3 & 4. JM

Under the law applicable in this case, if the Defendant is sentenced to a term of imprisonment, he will not become eligible for parole until the actual time served equals one-half of the sentence imposed or 30 years, whichever is less without consideration of any good conduct time he may earn. Eligibility for parole does not guarantee that parole will be granted.

It cannot accurately be predicted how the parole law and good conduct time might be applied to this Defendant if he is sentenced to a term of imprisonment, because the application of these laws will depend on decisions made by prison and parole authorities.

You may consider the existence of the parole law and good conduct time. However, you are not to consider the extent to which good time may be awarded to or forfeited by this particular Defendant. You are not to consider the manner in which the parole law may be applied to this particular Defendant.

#### VI.

It is your duty to consult with one another and to deliberate in an effort to answer the Special Issues based on these instructions if you can do so. Each of you must decide the case for yourself, but only after an impartial consideration of the evidence with your fellow jurors. During deliberations, do not hesitate to re-examine your own opinions and change your mind if convinced that you were wrong, and if doing so would not do violence to your own conscience. But do not give up your honest beliefs as to the weight or effect of the evidence solely because of the opinion of your fellow jurors, or for the mere purpose of answering the Special Issues.

#### VII.

You are the exclusive judges of the facts proven, of 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 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 nor 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 are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, or any witness therein, and no juror is permitted to communicate to any other juror anything he or she may have heard regarding the case or any witness therein, from any other source than the witness stand.

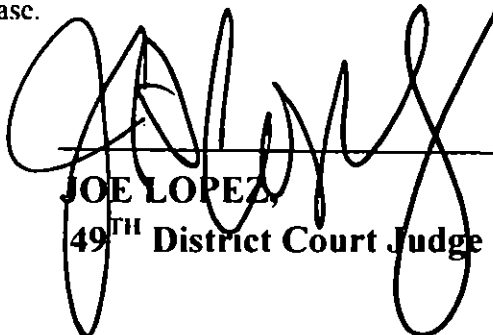
VIII.

When you have arrived at your answers to each of the Special Issues, if any, you shall use the attached forms provided at the end of these instructions.

Should the jury desire to have any or all of the admitted exhibits delivered to the jury for your deliberation your foreperson shall so notify the Court in writing, and the requested exhibits will be delivered.

Any further communication with the Court must be in writing signed by your foreperson through the bailiff. Do not attempt to talk to the bailiff, the attorneys, or the Court regarding any question you may have concerning the trial of this case.

5/4/12

  
JOE LOPEZ,  
49<sup>TH</sup> District Court Judge