

CAUSE NO. 07-04601-CRF-361

THE STATE OF TEXAS

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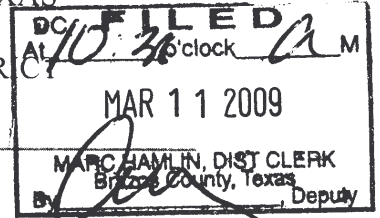
IN THE DISTRICT COURT

VS.

BRAZOS COUNTY, TEXAS

CHRISTIAN OLSEN

361ST JUDICIAL DISTRICT



COURT'S CHARGE ON PUNISHMENT

MEMBERS OF THE JURY:

By your verdict returned in this case, you have found the defendant, CHRISTIAN OLSEN, guilty of the offense of Capital Murder which was alleged to have been committed on or about the 3rd day of June, 2007, in Brazos County, Texas. In order for the Court to assess the proper punishment, it is now necessary for you to determine, from all of the evidence in the case, the answers to certain questions, called "Special Issues," in this charge. The Court instructs you in answering the Special Issues as follows:

I.

The mandatory punishment for the offense of Capital Murder of which you have found the defendant guilty is death or confinement in the Texas Department of Criminal Justice-Institutional Division for life without parole.

II.

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 the defendant, 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 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.

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.

Special Issue No. 1 asks: "Do you find from the evidence beyond a reasonable doubt that there is a probability that the defendant, CHRISTIAN OLSEN, would commit criminal acts of violence that would constitute a continuing threat to society?"

In deliberating on Special Issue No. 1, you shall consider all the evidence admitted at both the guilt or innocence phase of the trial and the punishment phase of the trial, including evidence of the defendant'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 their 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 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 the defendant.

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

IV.

You are instructed that in answering Special Issue No. 2, you shall answer the issue “YES” or “NO.”

Special Issue No. 2 asks: “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, CHRISTIAN OLSEN, 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.”

You may not answer Special Issue No. 2 “NO” unless you agree unanimously.

You may not answer Special Issue No. 2 “YES” unless ten (10) or more jurors agree.

Members of the jury need not agree on what particular evidence supports their answer to Special Issue No. 2.

You are instructed that neither the State nor the defense have any burden of proof regarding Special Issue No. 2.

A mitigating circumstance may include, but is not limited to, any aspect of the defendant’s character, background, record, emotional stability or instability, intelligence, or circumstances of the crime which you believe make a death sentence inappropriate.

In answering Special Issue No. 2, you shall consider mitigating evidence to be evidence that a juror might regard as reducing the defendant’s moral blameworthiness, including, but not limited to, 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.

V.

If the jury answers that there is not evidence to prove 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 (meaning “NO” to Special Issue No. 1), the Court will sentence the defendant to imprisonment in the Institutional Division of the Texas Department of Criminal Justice for life without parole.

If the jury unanimously answers Special Issue No. 1 “YES” but answers that a circumstance or circumstances warrant that a sentence of life imprisonment without parole rather than a death sentence be imposed (meaning “YES” to Special Issue No. 2), the Court will sentence the defendant to imprisonment in the Institutional Division of the Texas Department of Criminal Justice for life without parole.

Under the law applicable in this case, if the defendant is sentenced to imprisonment in the Institutional Division of the Texas Department of Criminal Justice for life without parole, the defendant will be ineligible for release on parole.

If the jury answers “YES” to Special Issue No. 1 and “NO” to Special Issue No. 2, the Court shall sentence the defendant to death.

VI.

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

the trial, and you are instructed that you cannot and must not refer to or allude to that fact during your deliberations or take it into consideration for any purpose whatsoever.

VII.

During your deliberations upon the “Special Issues” submitted to you, you must not consider, discuss, or 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 to you it will not be proper for you to fix the same by lot, chance, or any other method than a full, fair, and free exchange of the opinions of the individual jurors.

After the reading of this charge you shall not be permitted to separate from each other unless the parties agree for you to do so, nor shall you talk with anyone other than fellow jurors. 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 in these instructions.

You are the exclusive judges of the facts proved, of the credibility of the witnesses, and of the weight to be given to their testimony, but you are bound to follow the law in these instructions.

It is your duty as jurors to consult with one another and to deliberate with a view to reaching an agreement if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations do not hesitate to reexamine your own views and change your opinion if convinced it is erroneous, but do not surrender your honest convictions as to the weight or effect of evidence solely because of the opinions of your fellow jurors, or for the mere purpose of returning a verdict.

VIII.

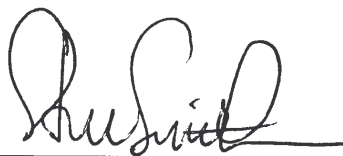
You have been permitted to take notes during the testimony in this case. In the event any of you took notes you may rely on your notes during your deliberations. However, you may not share your notes with the other jurors and you should not permit the other jurors to share their notes with you. You may, however, discuss the contents of your notes with the other jurors. In your deliberations, give no more and no less weight to the views of a fellow juror just because that juror did or did not take notes. Your notes are not official transcripts. They are personal memory aids, just like the notes of the judge and the notes of the attorneys. 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 conclusive authority to persuade fellow jurors of what the evidence was during the trial.

IX.

You may communicate with this court in writing through the bailiff. Do not attempt to talk to the bailiff, the attorneys, the court, or anyone else concerning any question you may have.

After you have completed your deliberations on the “Special Issues,” and the Presiding Juror has signed the appropriate forms, notify the bailiff in writing that you have reached a verdict.

Signed on March 3, 2009.

A handwritten signature in black ink, appearing to read "Hussein", written over a horizontal line.

Presiding Judge
361st Judicial District Court

THE STATE OF TEXAS

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IN THE DISTRICT COURT

VS.

BRAZOS COUNTY, TEXAS

CHRISTIAN OLSEN

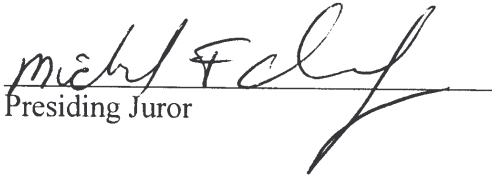
361ST JUDICIAL DISTRICT

SPECIAL ISSUE NO. 1

Do you find from the evidence beyond a reasonable doubt that there is a probability that the defendant, CHRISTIAN OLSEN, 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 Special Issue No. 1 is "YES."


Presiding Juror

-or-

We, the Jury, because at least ten (10) jurors have a reasonable doubt as to the probability that the defendant, CHRISTIAN OLSEN, 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, then, and only then, shall the jury consider Special Issue No. 2 to be found on the following page.

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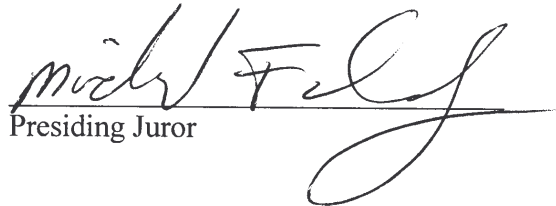
361ST JUDICIAL DISTRICT

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, CHRISTIAN OLSEN, 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 and determine that the answer to Special Issue No. 2 is “NO.”


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

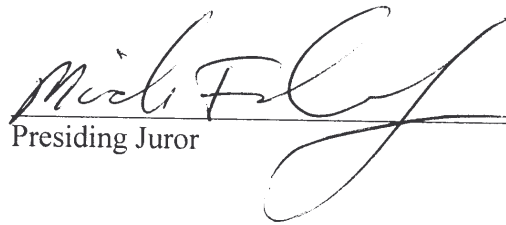
After the jury has answered each of the Special Issues under the conditions and instructions outlined above, the Presiding Juror should sign the verdict form to be found on the last page of this charge.

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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.


Presiding Juror