

THE STATE OF TEXAS

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IN THE 19<sup>th</sup> JUDICIAL

V.

DISTRICT COURT OF

U.S. CARNELL PETETAN, JR.  
AKA CARNELL PETETAN, JR.

McLENNAN COUNTY, TEXAS

**CHARGE OF THE COURT**  
**(PUNISHMENT)**

**LADIES AND GENTLEMEN OF THE JURY:**

By the verdict returned in this case you have found the Defendant, U.S. Carnell Petetan, Jr., guilty of the offense of Capital Murder as charged in the indictment. It is now your duty to determine, from all the evidence in this 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 the Defendant guilty is either death or confinement in the Institutional Division of the Texas Department of Criminal Justice for life without parole.

You are further instructed that you are not to be swayed by mere conjecture, passion, prejudice, public opinion, or public feeling in considering all of the evidence before you and in answering any of the Special Issues.

You are instructed that in answering Special Issue No. 1, you shall answer "Yes" or "No".

The State has the burden of proving beyond a reasonable doubt that Special Issue No. 1 should be answered "Yes".

*Charge*  
FILED  
*29* Day of *Apr*, *2014*  
at *8:08* o'clock *A*M  
KAREN C. MATKIN  
DISTRICT CLERK  
McLennan County, Texas  
By *Geneva Schladu*  
Deputy

*Verdict*  
FILED  
*29* Day of *Apr*, *2014*  
at *2:00* o'clock *P*M  
KAREN C. MATKIN  
DISTRICT CLERK  
McLennan County, Texas  
By *Crystal Towne*  
Deputy

In deliberating on Special Issue No. 1 you shall consider all the evidence at the guilt or innocence stage and the punishment stage, including evidence of the Defendant's background and 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.

It is not required that the State prove Special Issue No. 1 beyond all possible doubt; it is only 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.

You are instructed that in answering Special Issue No. 2, you shall answer "Yes" or "No".

The State has the burden of proving beyond a reasonable doubt that Special Issue No. 2 should be answered "Yes".

You may not answer Special Issue No. 2 "Yes" unless you agree unanimously.

You may not answer Special Issue No. 2 "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. 2.

It is not required that the State prove Special Issue No. 2 beyond all possible doubt; it is only 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. 2, then and only then, are you to answer Special Issue No. 3.

You are instructed that in answering Special Issue No. 3, you shall answer “Yes” or “No”.

The Defendant has the burden of proving by a preponderance of the evidence that Special Issue No. 3 should be answered “Yes”.

By the term “preponderance of the evidence” is meant the greater weight of the credible evidence.

You may not answer Special Issue No. 3 “Yes” unless you agree unanimously. You may not answer Special Issue No. 3 “No” unless you agree unanimously.

In deliberating on Special Issue No. 3, you shall consider all evidence admitted at the guilt innocence stage and the punishment stage of this trial.

“Mental retardation” is a disability characterized by:

1. Significant sub-average general intellectual functioning;
2. Accompanied by related limitations in adaptive functioning;
3. The onset of which occurs prior to the age of 18.

You are instructed that if you return a negative finding, that is a “No” answer, to Special Issue No. 3 then and only then, are you to answer Special Issue No. 4.

You are instructed that in answering Special Issue No. 4, you shall answer “Yes” or “No”.

You may not answer Special Issue No. 4 “No” unless you agree unanimously.

You may not answer Special Issue No. 4 “Yes” unless ten (10) or more jurors agree. Members of the jury need not agree on what particular evidence supports an affirmative answer to Special Issue No. 4.

In answering Special Issue No. 4 you 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 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. A Defendant sentenced to confinement for life without parole is ineligible for release from the department on parole.

You are instructed that if the jury returns a "Yes" answer to Special Issue No. 1, a "Yes" answer to Special Issue No. 2, a "No" answer to Special Issue No. 3, and a "No" answer to Special Issue No. 4, the Court will sentence the Defendant to death. Should you return a "No" answer to Special Issue No. 1, or a "No" answer to Special Issue No. 2, or a "Yes" answer to Special Issue No. 3, or a "Yes" answer to Special Issue No. 4, the Court will sentence the Defendant to confinement in the Institutional Division of the Texas Department of Criminal Justice for life without the possibility of parole.

There is testimony before you in this case regarding the Defendant having committed offenses other than the one for Capital Murder for which you have found him guilty. You cannot consider said testimony for any purpose unless you find and believe beyond a reasonable doubt that the Defendant committed such other offenses, if any were committed, and even then you may only consider the same in determining the answers to the Special Issues.

A Defendant may testify in his own behalf if he elects to do so. This, however, is a right afforded to a Defendant, and in the event he elects not to testify, that fact cannot be taken as a circumstance against him. In this case, the Defendant has elected not to testify, in the punishment

phase, and you are instructed that you cannot and must not refer or allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against the Defendant.

You are charged that it is only from the witness stand that the jury is permitted to receive evidence regarding the case, and no juror is permitted to communicate to any other juror anything he might have heard regarding the case from any source other than the witness stand.

In deliberating on this case you are not to refer to any matter or issue not in evidence before you; nor talk about this case to anyone not of your jury.

After you have retired to consider your verdict, no one has any authority to communicate with you except the officer who has you in charge. You may communicate with the Court in writing, signed by your presiding juror, through the officer who has you in charge. Do not attempt to talk with the officer, the attorneys, or the Court concerning any questions you may have.

You are instructed that your answers to the Special Issues shall be arrived at by due deliberation and not by drawing lots or by any other method of chance.

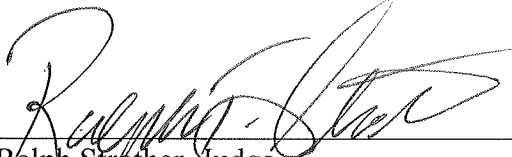
During the trial it was permissible for you to take notes. You may carry those notes to the jury room for your personal use during deliberation on the court's charge. You may not share your notes with other jurors; however, you may discuss the contents of your notes. Your personal recollection of the evidence takes precedence over any notes you have taken. A juror may not rely on the notes of another juror.

The law does not permit the general re-reading of testimony. However, if you as jurors disagree as to the testimony of any witnesses, you may, upon applying to the Court through your presiding juror, request to have read the Court Reporter's notes on that portion of the witness's

testimony in dispute. If the jury requests the reading of certain testimony, the Court will allow the testimony to be read back to the jury only if the jury, in a writing signed by the presiding juror: (1) states that it is requesting that testimony be read back; (2) states that it has a disagreement about a specific statement of a witness or a particular point in dispute; and (3) identifies the name of the witness who made the statement. The Court will then have the Court Reporter read back only that part of the testimony that is in disagreement.

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

You shall have this written charge with you when you go the jury room.



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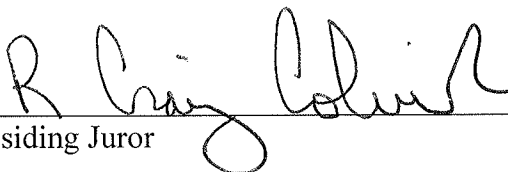
Ralph Strother, Judge  
19<sup>th</sup> Judicial District Court  
McLennan County, Texas

READ TO THE JURY ON  
APRIL 29, 2014 AT  
9:50 A. .M.

SPECIAL ISSUE NO. 1

Do you find from the evidence beyond a reasonable doubt that that there is a probability that the Defendant, U.S. Carnell Petetan, Jr., would commit criminal acts of violence that would constitute a continuing threat to society?

ANSWER: yes

  
\_\_\_\_\_  
Presiding Juror

If your answer to this Special Issue is "No", and is not unanimous, then the 10 or more jurors who agree should sign individually below.

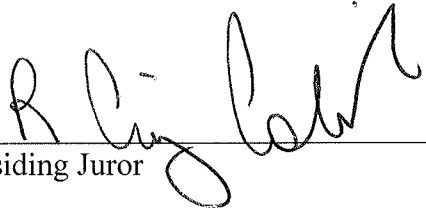
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IF YOUR ANSWER TO SPECIAL ISSUE NO. 1 IS "YES", YOU SHALL PROCEED TO SPECIAL ISSUE NO. 2. IF YOUR ANSWER TO SPECIAL ISSUE NO. 1 IS "NO"; YOU SHALL CEASE YOUR DELIBERATIONS.

SPECIAL ISSUE NO. 2

Do you find from the evidence beyond a reasonable doubt that the Defendant, U.S. Carnell Petetan, Jr., actually caused the death of Kimberly Petetan or did not actually cause the death of Kimberly Petetan but intended to kill Kimberly Petetan or another or anticipated that a human life would be taken?

ANSWER: yes

  
\_\_\_\_\_  
Presiding Juror

If your answer to this Special Issue is “No”, and is not unanimous, then the 10 or more jurors who agree should sign individually below.

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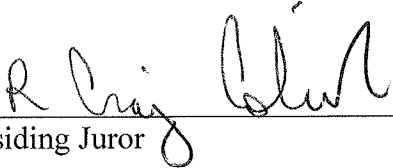
IF YOUR ANSWER TO SPECIAL ISSUE NO. 2 IS “YES”, YOU SHALL PROCEED TO SPECIAL ISSUE NO. 3. IF YOUR ANSWER TO SPECIAL ISSUE NO. 2 IS “NO”; YOU SHALL CEASE YOUR DELIBERATIONS.



**SPECIAL ISSUE NO. 3**

"Do you find, taking into consideration all of the evidence, that the Defendant is a person with mental retardation?"

ANSWER: NO

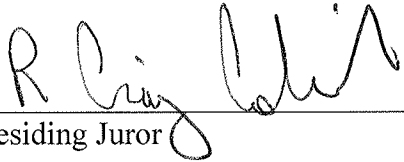
  
\_\_\_\_\_  
Presiding Juror

IF YOUR ANSWER TO SPECIAL ISSUE NO. 3 IS "NO", YOU SHALL PROCEED TO SPECIAL ISSUE NO. 4. IF YOUR ANSWER TO SPECIAL ISSUE NO. 3 IS "YES" YOU SHALL CEASE YOUR DELIBERATIONS.

**SPECIAL ISSUE NO. 4**

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, U.S. Carnell Petetan, Jr., that there is a sufficient mitigating circumstance or circumstances to warrant a sentence of life imprisonment rather than a death sentence be imposed?

ANSWER: NO

  
\_\_\_\_\_  
Presiding Juror

If your answer to this Special Issue is "Yes", and is not unanimous, then the 10 or more jurors who agree should sign individually below.

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