

11-DCR-058694
CHCO
Charge of the Court
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No. 11-DCR-058694

THE STATE OF TEXAS § IN THE 400th DISTRICT COURT
V. § OF
RICHARD MENDOZA, JR. § FORT BEND COUNTY, TEXAS

CHARGE OF THE COURT**LADIES AND GENTLEMEN OF THE JURY:**

By your verdict returned in this case you have found the defendant guilty of the offense charged in the indictment to wit, Murder, alleged to have been committed on or about the November 7th, 2002, in Fort Bend County, Texas. It is necessary now that the jury assess and fix punishment for this offense.

You are instructed that the punishment for Murder is confinement in the Institutional Division of the Texas Department of Criminal Justice for a period of not less than five (5) years nor more than ninety-nine (99) years or Life imprisonment. In addition you may assess a fine not to exceed ten thousand dollars (\$10,000) in addition to said confinement.

Therefore, you will assess his punishment at confinement in the Institutional Division of the Texas Department of Criminal Justice for any term of not less than five (5) years or more than ninety-nine (99) years or Life; and in addition you may assess a fine not to exceed ten thousand dollars (\$10,000), if you so choose.

You are further instructed that in fixing the defendant's punishment, which you will show in your verdict, you may take into consideration all the facts shown by the evidence admitted before you in the full trial of this case and the law as submitted to you in this charge.

The defendant has filed his sworn motion for "community supervision", also known as "probation" herein, alleging that he has never before been convicted of a felony in this State or any other State. Our law provides that where a person is charged with the offense of Murder and the jury finds him guilty and assesses the punishment at confinement in the Institutional Division of the Texas Department of Criminal Justice for any term of not more than ten years, and the jury further finds that the defendant has never been convicted of a felony in this State or in any other state, the jury may cause the imposition of sentence to be suspended and the defendant to be placed on "probation" under supervision of the court during his good behavior.

By the term "community supervision" or "probation", as used in these instructions, is meant the supervised release of a convicted defendant by a court under a continuum of programs and sanctions with conditions imposed by the Court for a specified period during which the imposition of sentence is suspended. A "probationer" is a defendant who is on probation.

Community supervision shall be granted by the Court if the Jury recommends it in their verdict.

A defendant who has been placed on community supervision and who subsequently violates his conditions of community supervision shall be brought before the court, and the court, after a hearing without a jury may either continue or revoke community supervision, and if the community supervision is revoked, the court shall proceed to dispose of the case as if there had been no community supervision not to exceed the term of years assessed by the jury.

Now, if you believe from the evidence that the defendant has never been convicted of a felony in this State or any other State, and if you assess the punishment of defendant at confinement in the Institutional Division of the Texas Department of Criminal Justice for a term

of not more than ten years, or if you affix his punishment at a fine and confinement in the Institutional Division of the Texas Department of Criminal Justice for a term of not more than ten years, then you may recommend such "probation" for the defendant. Whether you do, or do not, recommend "probation" for the defendant is a matter that rests within the sound discretion of the jury. In any event, let your verdict show the punishment which you assess, and if you recommend "probation".

Under the law applicable in this case, 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.

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 conduct 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.

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 him 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.

Our law provides that a defendant may testify in his own behalf if he elects to do so. This, however, is a privilege accorded 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, 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.

If any juror starts to mention the defendant's election not to testify in this case, then it is the duty of the other jurors to stop him at once.

Your verdict must be by a unanimous vote of all members of the jury. In arriving at your verdict, it will not be proper to fix the same by lot, chance, or any other method than by a full, fair and free exercise of the opinion of the individual jurors under the evidence admitted before you. After you have arrived at your verdict you will use one of the forms attached hereto by having your presiding juror sign his or her name to the particular form that conforms to your verdict.

Following the arguments of counsel you will retire to consider your verdict.

Clifford J. Vaczk
 Clifford J. Vaczk
 Presiding Judge,
 400th Judicial District Court
 Fort Bend County, Texas

FILED
 FEB - 8 2013
 AT 1:19 PM
Clifford J. Vaczk PML
 Clerk District Court, Fort Bend Co., TX

No. 11-DCR-058694

THE STATE OF TEXAS	§	IN THE 400 th DISTRICT COURT
V.	§	OF
RICHARD MENDOZA, JR.	§	FORT BEND COUNTY, TEXAS

VERDICT

Life imprisonment and optional fine

We, the Jury, having found the defendant, RICHARD MENDOZA, JR., guilty of the offense of Murder as charged in the indictment, assess his punishment at confinement in the Institutional Division of the Texas Department of Criminal Justice for a period of Life imprisonment. In addition, we assess a fine of \$ _____ [Zero (0) - Ten Thousand Dollars \$10,000.00].

 Presiding Juror

No. 11-DCR-058694

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VERDICT

**Five - Ninety Nine (5 - 99) years
and optional fine**

We, the Jury, having found the defendant, RICHARD MENDOZA, JR., guilty of the offense of Murder as charged in the indictment, assess his punishment at confinement in the Institutional Division of the Texas Department of Criminal Justice for a period of 50 years [five (5) years to ninety nine (99) years]. In addition, we assess a fine of \$ 10,000⁰⁰ [Zero (0) to Ten Thousand Dollars (\$10,000.00)].

Airiel Rodriguez
Presiding Juror

FILED

FEB 11 2013
AT 10:28 A.M.
Cheryl Ann Eason RML
Clerk District Court, Fort Bend Co., TX

No. 11-DCR-058694

THE STATE OF TEXAS	§	IN THE 400 th DISTRICT COURT
V.	§	OF
RICHARD MENDOZA, JR.	§	FORT BEND COUNTY, TEXAS

VERDICT
Five to Ten (5 - 10) years Community Supervision (Probation)
and optional fine

We, the Jury, having found the defendant, RICHARD MENDOZA, JR., guilty of the offense of Murder as charged in the indictment, assess his punishment at confinement in the Institutional Division of the Texas Department of Criminal Justice for a period of _____ years [five (5) years to ten (10) years]. In addition, we assess a fine of \$ _____ [Zero (0) to Ten Thousand Dollars (\$10,000.00)].

And, we the jury having found the defendant has never before been convicted of a felony offense in this State or any other State, we do recommend that the imposition of his sentence be suspended and that he be granted community supervision.

And, we the jury having assessed a fine **DO \ DO NOT (circle one)** recommend that the imposition of his fine be suspended.

 Presiding Juror