



NO. 6997-A

THE STATE OF TEXAS

§

IN THE 47TH DISTRICT COURT

VS.

§

FILED IN OPEN COURT
Judge Presiding
4/2/09
ALLIST

BRENT RAY BREWER

§

IN AND FOR
RANDALL COUNTY, TEXAS

CHARGE OF THE COURT

MEMBERS OF THE JURY:

The defendant, BRENT RAY BREWER, has previously been found guilty of the offense of Capital Murder, which was alleged to have been committed on or about the 26th day of April, 1990, in Randall 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 for which the defendant has been found guilty is death or confinement in the Texas Department of Criminal Justice, Institutional Division, for life.

In determining your answers to the questions, or special issues, submitted to you, you shall consider all the evidence submitted to you in this trial. You shall consider all evidence submitted to you during the 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.

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, whether presented by the State or the defendant.

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 Issues.

I.

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 trial, including but not limited to 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 a negative or affirmative answer to 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 a "YES" answer to Special Issue No. 1. If any juror has a reasonable doubt as to the answer to Special Issue No. 1, the juror shall vote "NO" to that issue.

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.

II.

The State must prove Special Issue No. 2 submitted to you beyond a reasonable doubt, and you shall return a Special Verdict of "YES" or "NO" on Special Issue No. 2.

In deliberating on Special Issue No. 2 you shall consider all the evidence admitted at the trial, including but not limited to 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. 2 "Yes" unless you agree unanimously.

You may not answer Special Issue No. 2 "NO" unless ten (10) or more jurors agree.

You need not agree on what particular evidence supports a negative or affirmative answer to Special Issue No. 2.

It is not required that the State prove Special Issue No. 2 beyond all possible doubt; it is required that the State's proof excludes all reasonable doubt concerning a "YES" answer to Special Issue No. 2. If any juror has a reasonable doubt as to the answer to Special Issue No. 2, the juror shall vote "NO" to that issue.

~~You~~ You are instructed that if you return an affirmative finding, that is a "YES" answer, to Special Issue No. 2, and only then, are you to answer Special Issue No. 3.

III.

You are instructed that in answering Special Issue No. 3, you shall answer the issue "YES" or "NO."

You may not answer Special Issue No. 3 "NO" unless you agree unanimously, and you may not answer Special Issue No. 3 "YES" unless ten (10) or more of you agree to do so.

You need not agree on what particular evidence supports an affirmative or negative answer to Special Issue No. 3.

In answering Special Issue No. 3 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.

IV.

You are instructed that if you answer Special Issue No. 1 and Special Issue No. 2 "YES", and you answer Special Issue No. 3 "NO", the court shall sentence the Defendant to death. You are further instructed that if you answer Special Issue No. 1 or Special Issue No. 2 "NO", or you answer Special Issue No. 3 "YES", the court shall sentence the Defendant to the Texas Department of Criminal Justice Institutional Division for life.

V.

You may consider evidence of an extraneous crime or bad act in answering the special issues even if the defendant has not yet been charged with or finally convicted of the crime or act. However, you may consider such evidence only if the extraneous crime or bad act has been shown by the State beyond a reasonable doubt to have been committed by the defendant.

The law does not require a defendant to prove his innocence of any extraneous offense or bad act or produce any evidence at all. The presumption of innocence alone is sufficient for you to find that the defendant did not engage in the extraneous offense or act of misconduct that has been placed in evidence unless the jurors are satisfied beyond a reasonable doubt of the defendant's guilt or responsibility therefore after careful and impartial consideration of all the evidence in the case.

It is not required that the State prove an extraneous offense or bad act beyond all possible doubt; it is required that the State's proof excludes all reasonable doubt concerning the commission of the extraneous offense or bad act by the defendant.

Therefore, if you find and believe beyond a reasonable doubt that the defendant committed an extraneous crime or bad act, then you may consider such evidence in answering the special issues. However, if you have a reasonable doubt that the

defendant committed an extraneous crime or bad act then you may not consider such evidence in answering the special issues.

VI.

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.

VII.

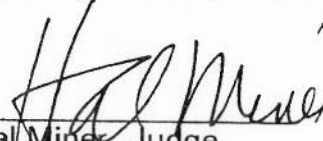
In arriving at the answers to the "Special Issues" submitted, it will not be proper for you to fix the same by lot, chance, or any other method than by a full, fair, and free exchange of the opinion of each individual juror.

VIII.

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. After you have retired to the jury room, you should select one of your members as your Foreperson. It is the duty of your Foreperson to preside in the jury room and vote with you on the answers to the "Special Issues" submitted.

After you have retired to the jury room, no one has any authority to communicate with you except the officer who has you in charge. You may communicate with this Court in writing through the officer who has you in charge. Do not attempt to talk to the officer who has you in charge, or the attorneys or the Court, or anyone else concerning any question you may have.

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.



Hal Miner, Judge
47th District Court
Randall County, Texas

Submitted Aug 18, 2009

1:45 PM

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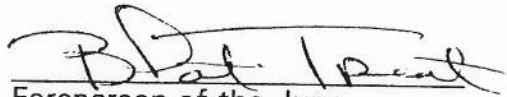
RANDALL COUNTY, TEXAS

SPECIAL ISSUE NO. 2

Do you find from the evidence beyond a reasonable doubt that there is a probability that the defendant, BRENT RAY BREWER, 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.


Foreperson of the Jury

OR

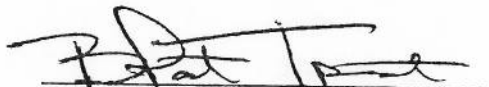
We, the jury, because at least ten (10) jurors have a reasonable doubt as to the matter inquired about in this Special Issue, find and determine that the answer to this Special Issue is "No."

Foreperson of the Jury

After the jury has answered each of the Special Issues under the conditions and instructions outlined above, the Foreperson should sign the verdict form below.

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.



Foreperson of the Jury