

THE STATE OF TEXAS  
v. SANDY PEREZ HERNANDEZ,  
DEFENDANT

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IN THE 139TH JUDICIAL  
DISTRICT COURT OF  
HIDALGO COUNTY, TEXAS

CHARGE OF THE COURT ON PUNISHMENT

LADIES AND GENTLEMEN OF THE JURY:

By your verdict returned in this case, you have found the Defendant, SANDY PEREZ HERNANDEZ, guilty of the lesser included offense of Manslaughter, which was alleged to have been committed on or about October 17, 2014, in Hidalgo County, Texas. It is necessary now that you, the jury, assess and fix punishment for this offense.

You are instructed that the punishment for the offense of Manslaughter is imprisonment in the Institutional Division of the Texas Department of Criminal Justice for any term of not more than 20 years or less than 2 years. In addition to imprisonment, a fine not to exceed \$10,000.00 may be imposed.

It now becomes your duty to set the punishment at any term of years of not less than 2 years or more than 20 years, and if you choose to impose a fine in addition to imprisonment, you will impose a fine in an amount not to exceed \$10,000.00.

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.

In this case, the Defendant has filed, before trial, his sworn motion in which he prays that in the event he is convicted, he be granted Community Supervision.

The Defendant has filed his sworn motion for Community Supervision 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 Manslaughter and the jury finds him guilty and assesses punishment at imprisonment in the Institutional Division of the Texas Department of Criminal Justice for any term of

years not more than ten years and the jury further finds that the Defendant has never before been convicted of a felony in this State or in any other State, the jury may cause the imposition of the sentence to be suspended and the Defendant to be placed on Community Supervision under supervision of the Court by his good behavior.

By the term "community supervision" as used in this instructions, means the placement of a Defendant by a Court under a continuum of programs and sanctions, with conditions imposed by the court for a specified period during which a sentence of imprisonment or confinement, imprisonment and fine, or confinement and fine, is probated and the imposition of the sentence is suspended in whole or in part.

The terms and conditions of community supervision are determined by the Court according to law, and the terms and conditions of community supervision may include, but are not limited to the following:

1. That the Defendant commit no offense against the laws of this State or any other State or of the United States;
2. That the Defendant avoid injurious or vicious habits;
3. That the Defendant avoid persons or places of disreputable or harmful character;
4. That the Defendant report to the supervision officer as directed by the judge or supervision officer and obey all rules and regulations of the community supervision and corrections department;
5. That the Defendant permit the supervision officer to visit him at his home or elsewhere;
6. That the Defendant work faithfully at suitable employment as far as possible;
7. That the Defendant remain within a specified place;
8. That the Defendant pay his fine, if one be assessed, and all court costs whether a fine be assessed or not, in one or several sums;
9. That the Defendant support his dependents;
10. That the Defendant participate, for a time specified by the Judge, in any community-based program, including a community-service work program;
11. That the Defendant reimburse the county in which the prosecution was instituted for compensation paid to appointed counsel for defending him in the case, if counsel was appointed, or if he was represented by a county-paid public defender, in an amount that would have been paid to an appointed attorney had the county not had a public defender;
12. That the Defendant remain under custodial supervision in a community corrections facility, obey all rules and regulations of such facility, and pay a percentage of his income to the facility for room and board;
13. That the Defendant pay a percentage of his income to his dependents for their support while under custodial supervision in a community corrections facility;
14. That the Defendant submit to testing for alcohol or controlled substances;
15. That the Defendant attend counseling sessions for substance abusers or participate in substance abuse treatment services in a program or facility approved or licensed by the Texas Commission on Alcohol and Drug Abuse;

16. That the Defendant, with the consent of the victim of a misdemeanor offense or of any offense under Title 7, Penal Code, participate in victim-defendant mediation;
17. That the Defendant submit to electronic monitoring;
18. That the Defendant reimburse the general revenue fund for any amounts paid from that fund to a victim, as defined by Article 56.01 of the Code of Criminal Procedure, of the defendant's offense or if no reimbursement is required, make one payment to the fund in an amount not to exceed \$50 if the offense is a misdemeanor or not to exceed \$100 if the offense is a felony;
19. That the Defendant reimburse a law enforcement agency for the analysis, storage, or disposal of raw materials, controlled substances, chemical precursors, drug paraphernalia, or other materials seized in connection with the offense;
20. That the Defendant pay all or part of the reasonable and necessary costs incurred by the victim for psychological counseling made necessary by the offense or for counseling and education relating to acquired immune deficiency syndrome or human immunodeficiency virus made necessary by the offense;
21. That the Defendant make one payment in an amount not to exceed \$50 to a local crime stoppers program as defined by Section 414.001, Government Code, and as certified by the Crime Stoppers Advisory Council;
22. That the Defendant submit a blood sample or other specimen to the Department of Public Safety under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the Defendant.
23. That the Defendant, in any manner required by the judge, provide public notice of the offense for which the Defendant was placed on community supervision in the county in which the offense was committed.

If at any time after a probationer is placed on community supervision the Court determines the probationer has violated a condition of community supervision, the Court may revoke community supervision and order the probationer to the term of confinement or imprisonment specified in the probationer's sentence.

Now, if you believe from the evidence that Defendant has not ever been convicted of a felony in this State or any other State, and if the punishment assessed by you is not more than ten years confinement or imprisonment, you may recommend that the sentence be suspended and that Defendant be placed on community supervision. Whether you do or do not recommend community supervision is a matter that rests within your sound discretion. In any event, let your verdict show the punishment which you assess.

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, Defendant will not become eligible for parole until the actual time served equals one-fourth of the sentence imposed without consideration of any good conduct time Defendant 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 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 trial, 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.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and the weight to be given their testimony. You will be governed by the law you shall receive in these written instructions.

When you return to the jury room you must first select one of your members as your Presiding Juror. It is your Presiding Juror's duty to preside at your deliberations, vote with you, and when you have

unanimously agreed upon a verdict, to certify to your verdict by using the appropriate form attached hereto, and signing the same as Presiding Juror.

In order to return a verdict, each juror must agree thereto, but jurors have a duty to consult with one another and to deliberate with a view of reaching an agreement, if it can be done without violence to individual judgment.

Each juror must decide the case for himself, but only after an impartial consideration of the evidence with his fellow jurors.

In the course of deliberations, a juror should not hesitate to re-examine his or her own views and change his or her opinion if convinced it is erroneous. However, no juror should surrender his or her honest conviction as to the weight or effect of the evidence solely because of the opinion of his or her fellow jurors, or for the mere purpose of returning a verdict.

During your deliberation in this case, 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.

During your deliberation, you should not let bias, prejudice, or sympathy play any part in reaching a verdict.

During your deliberations, you are instructed that you should not consider the remarks, rulings or actions of the presiding judge during this trial as any indication of the Court's opinion as to the punishment of the Defendant. The remarks, rulings and actions of the presiding judge were upon matters of the law only and were not upon the facts which you and you alone, must determine.

While you are deliberating, no one has authority to communicate with you except the officer who has you in charge. However, after you have retired to the jury room, you may communicate with this Court in writing through the officer who has you in charge. Do not attempt to talk to that officer as to any question you may have, but communicate through that officer to this Court in writing.

Your verdict must be unanimous, and after you have reached a unanimous verdict, the Presiding Juror will certify thereto by signing the appropriate form attached to this Charge.

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.

Filed on September, 2016, at 11:16 o'clock A.m.

  
J.R. "BOBBY" FLORES  
JUDGE PRESIDING  
139TH DISTRICT COURT  
HIDALGO COUNTY, TEXAS

THE STATE OF TEXAS  
v. SANDY PEREZ HERNANDEZ,  
DEFENDANT

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IN THE 139TH JUDICIAL  
DISTRICT COURT OF  
HIDALGO COUNTY, TEXAS

VERDICT OF THE JURY

We, the jury, having found the Defendant, SANDY PEREZ HERNANDEZ, guilty of the offense of Manslaughter, assess punishment at imprisonment in the Institutional Division of the Texas Department of Criminal Justice for a term of 20 years.

  
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Presiding Juror

OR

We, the jury, having found the Defendant, SANDY PEREZ HERNANDEZ, guilty of the offense of Manslaughter, assess punishment at imprisonment in the Institutional Division of the Texas Department of Criminal Justice for a term of \_\_\_\_\_ years and assess a fine in the amount of \$ \_\_\_\_\_.

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

OR

We, the jury, having found the Defendant, SANDY PEREZ HERNANDEZ, guilty of the offense of Manslaughter, assess punishment at imprisonment in the Institutional Division of the Texas Department of Criminal Justice for a term of \_\_\_\_\_ years.

AND WE, THE JURY, having assessed the punishment of the Defendant at not more than ten (10) years and having further found that Defendant has never before been convicted of a felony in this or in any other State, do recommend that the imposition of the sentence of imprisonment in the Institutional Division of the Texas Department of Criminal Justice be suspended, and that the Defendant be placed on community supervision.

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

OR

We, the jury, having found the Defendant, SANDY PEREZ HERNANDEZ, guilty of the offense of Manslaughter, assess punishment at imprisonment in the Institutional Division of the Texas Department of Criminal Justice for a term of \_\_\_\_\_ years and assess a fine in the amount of \$ \_\_\_\_\_.

AND WE, THE JURY, having assessed the punishment of the Defendant at not more than ten (10) years and having further found that Defendant has never before been convicted of a felony in this or in any other State, do recommend that the imposition of the sentence of imprisonment in the Institutional Division of the Texas Department of Criminal Justice be suspended, that the fine be suspended, and that the Defendant be placed on community supervision.

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

OR

We, the jury, having found the Defendant, SANDY PEREZ HERNANDEZ, guilty of the offense of Manslaughter, assess punishment at imprisonment in the Institutional Division of the Texas Department of Criminal Justice for a term of \_\_\_\_\_ years and assess a fine in the amount of \$ \_\_\_\_\_.

AND WE, THE JURY, having assessed the punishment of the Defendant at not more than ten (10) years and having further found that Defendant has never before been convicted of a felony in this or in any other State, do recommend that the imposition of the sentence of imprisonment in the Institutional Division of the Texas Department of Criminal Justice be suspended, that the fine not be suspended, and that the Defendant be placed on community supervision.

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Presiding Juror