

ORIGINAL

NO. 2005-000044C-CR

THE STATE OF TEXAS

FILED

At 9:55
O'Clock A

IN THE 97TH DISTRICT COURT

VS.

JUN 20 2008

OF

JASON KIRK PAVELA

ps

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CLAY COUNTY, TEXAS

Dan Slagle, District Clerk, Clay County, Texas

COURT'S CHARGE ON PUNISHMENT

MEMBERS OF THE JURY:

The Defendant, Jason Kirk Pavela, has been found guilty by you of the offense of Murder, as an included offense in the indictment.

The Court has received and accepted your verdict of guilty, and you will no longer concern yourselves with the innocence or guilt of the defendant, and shall now limit your deliberations, under all the law and evidence in this case, to the question of punishment, which is now your duty to assess.

The punishment authorized for the offense for which the defendant has been found guilty is by imprisonment in the institutional division of the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 5 years, and in addition, a fine of not more than \$10,000 may be imposed.

You are instructed that the defendant may testify in his own behalf if he elects to do so, but if he chooses not to do so, that fact cannot be taken 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 to nor allude to that fact throughout your deliberations or take it into consideration for any purpose whatsoever as a circumstance against the defendant.

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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.

"Community supervision" means the placement of a defendant by the judge under a continuum of programs and sanctions, with conditions imposed by the judge for a specified period during which a sentence of imprisonment or imprisonment and fine is

probated and the imposition of sentence is suspended as to the imprisonment only or as to imprisonment and fine.

The judge may impose any reasonable condition that is designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the Defendant.

Our law provides that when the punishment assessed by a jury shall not exceed ten years, the jury may recommend community supervision.

In this case the defendant has filed, before trial, a sworn written motion in which the defendant requests that in the event defendant is convicted that the sentence be suspended and the defendant be placed on community supervision. If the punishment assessed by you is not more than ten (10) years confinement in the Institutional Division of the Texas Department of Criminal Justice, and, if you further find that the defendant has never before been convicted of a felony in this or any other state, and if you in your discretion as a jury desire that imposition of sentence be suspended and defendant placed on community supervision, then let your verdict show the punishment which you assess and show that the defendant has never before been convicted of a felony in this or any other state and further, that you recommend imposition of sentence be suspended and that defendant be placed on community supervision.

You are further instructed that our law provides that when the jury recommends community supervision and the term of confinement is fixed at not more than ten years, the jury may also assess a fine, and shall state in its verdict whether the fine shall be probated or paid by the defendant.

In the event you recommend in your verdict that the defendant be placed on

community supervision, then the law requires the Court to suspend imposition of sentence and place the defendant on community supervision. This is a matter that is entirely in the hands of the jury and your decision in the matter will be final.

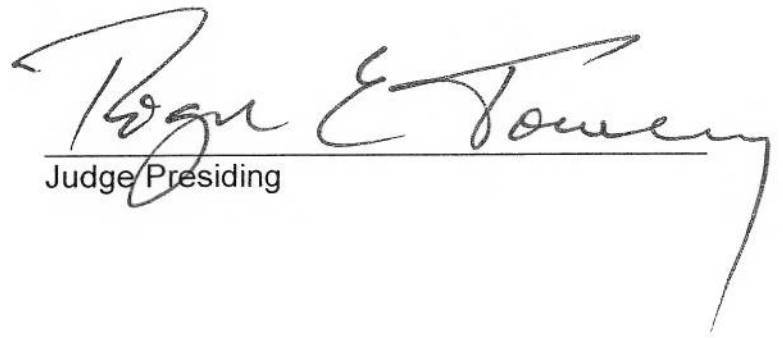
You may take into consideration all the evidence submitted before you under this charge and the previous charge, wherein you found the defendant guilty, in arriving at your verdict on the question of punishment. However, you are not to refer to or discuss any matter or issue not in evidence before you.

You are further instructed that your verdict must be unanimous and that you must not determine the defendant's punishment by drawing straws, or by adding the punishment each of you might think proper and dividing the result by twelve, or in any manner except by deliberation upon the law and evidence submitted to you.

You are the exclusive judges of the facts proved, of the credibility of the witnesses and 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.

No one has any authority to communicate with you except the officer who has you in charge. After you have retired you may communicate with the Court in writing through the officer who has you in charge. Your written communication must be signed by the Presiding Juror. 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.

After you have unanimously agreed upon a verdict, the presiding juror shall certify to your verdict by completing the appropriate form attached hereto and signing the same as your presiding juror, but in no event shall the presiding juror sign more than one of such forms.


Judge Presiding

VERDICT FORM 1 - NO COMMUNITY SUPERVISION

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We, the jury, having found the defendant, Jason Kirk Pavela, guilty of the offense of Murder, and we assess defendant's punishment at imprisonment in the Institutional Division of the Texas Department of Criminal Justice for a term of

7 YEARS
(Life or not more than 99 years or less than 5 years)

and a fine of \$ 10,000
(Answer "None" or in Dollars and cents, not to exceed \$10,000.)

Mickey D. Correll
Presiding Juror

VERDICT FORM 2 - COMMUNITY SUPERVISION

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We, the jury, having found the defendant, Jason Kirk Pavela, guilty of the offense of Murder, assess defendant's punishment at imprisonment in the Institutional Division of the Texas Department of Criminal Justice for a term of

_____,
*[Not more than 10 years
or less than 5 years]*

and in addition to such confinement assess a fine of

\$ _____,
*[Answer "None" or in Dollars and cents
not to exceed \$10,000.00]*

We further find that defendant has never before been convicted of a felony in this or any other state and we recommend to the Court that the portion of the punishment herein assessed relating to _____
["confinement and fine" or "confinement"]

be suspended and defendant be placed on community supervision.

Presiding Juror