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THE STATE OF TEXAS

VS

CRIMINAL JURY TRIAL

A. INTRODUCTION

Ladies and Gentlemen of the Jury Panel:

Thank you for being here. We are here to select a jury in a criminal case. Six of you will be chosen for the jury.

Before we begin: Turn off all phones and other electronic devices. While you are in the courtroom, do not communicate with anyone through any electronic device. For example, do not communicate by phone, text message, email message, chat room, blog, or social networking websites or apps.

If you are selected as a juror, I will give you a number where others may contact you in case of an emergency. Do not record or photograph any part of these court proceedings, because it is prohibited by law.

If you are chosen for the jury, your role as jurors will be to decide the disputed facts in this case. My role will be to ensure that this case is tried in accordance with the rules of law.

Opening statements and testimony will begin on _____.

The trial should conclude by _____.

Courtroom hours vary, but are normally from 9:00 a.m. to 5:00 p.m.

At this time let me introduce my staff:

My court coordinator is *Amenda Henderson*.

My court clerk is *Jessica Pierce*.

My court reporter is *Tina Young*.

My bailiff is *Brandon Bobbit*. If you are selected to be on this jury, he will be the person you report to each morning and after every break. He will be the one who you relay any requests to the court during your deliberation—No one else may talk with you except him during the trial if you are chosen.

Now I will introduce the parties to this case:

The prosecutor is _____.

The defendant is represented by _____.

The defendant is _____.

B. OATH

Now, at this time, I will administer the first oath:

Do you and each of you solemnly swear or affirm that you will make true and correct answers to such questions as may be propounded to you by the Court, under its directions, and by the attorneys, touching on your service and qualifications as a juror?"

C. QUALIFICATIONS

The law requires that each of you must possess certain **qualifications** before you can sit on a jury. These qualifications are set out in statute, and you must meet each one. Please, listen carefully to the qualifications that I am going to read to you. After I have read them to you, I will ask you to raise your placard if you believe you do not meet all the qualifications. Ladies and gentlemen, it is very important that if you are not qualified you let the court know. If you do not, and I or the attorneys discover that you are not qualified after you are seated as a juror in this case, the case will have to be retried, and you may be held in contempt of court and placed in jail for up to 180 days and fined up to \$500.

Now please listen carefully to the following 8 qualifications that a juror must possess:

1. You must be 18 years of age or older;
2. You must be a citizen of the State of Texas and of this county;
3. You are qualified to vote in Hunt County;
4. You must be of sound mind and of good moral character;
5. You must be able to read and write the English language;

6. You must not have served as a juror for six days in the preceding three months in a county court, or six days in the preceding six months in a district court;
7. You must not have ever been convicted of theft or any felony; and
8. You must not currently be under indictment or legal accusation, or on deferred adjudication for theft or any felony;

At this time, anyone who does not believe that they meet all of the qualifications, please raise your placard and keep your placard raised until I identify you and instruct you to lower your placard. After I have identified each of you, I will call you up individually to discuss the issues concerning your qualifications in private here at the bench.

[Bench conference on qualifications: _____.]

D. EXEMPTIONS

In addition to the qualifications, there are certain **exemptions** that you may claim which will excuse you from jury service if you wish to claim the exemption. After I have gone over all the exemptions, I will ask you to raise your placard if you wish to claim one of the exemptions and be excused from jury service. Only raise your placard after I have gone over all the exemptions, and only if you: (1) qualify for an exemption and (2) wish to be excused for jury service. There are 7 exemptions. You may claim an exemption from jury service if:

1. You are 75 years of age or older;
2. You have legal custody of a child or children under the age of 12 years **and** jury service would require you to leave the child or children without adequate supervision;
3. You are a student in a public or private secondary school;
4. You are enrolled and in actual attendance at an institution of higher education;
5. You are an officer or employee of the senate, the House of Representatives, or any department, commission, board, office or other agency in the legislative branch of state government;

6. You are primary caretaker of a person who is an invalid unable to care for himself or herself; or
7. You are a member of the United States military forces serving on active duty and deployed to a location away from your home station and out of your county of residence.

At this time, please raise your placard if you wish to claim an exemption and be excused from jury service. Please keep your placard raised until I identify you and instruct you to lower your placard. After I have identified each of you, I will call you up individually to discuss your exemption in private here at the bench.

[Bench conference on exemptions: _____.]

E. OTHER REASONS NOT TO SERVE

At this time, I will hear from anyone who has **any other reason** why you believe that you cannot or should not serve. Some good examples are premade travel plans, medical issues, or medical appointments. There is no disqualification or exemption that permits you to be excused because you are just: (1) too busy or (2) not interested in serving.

Those that wish to state reason or issue why they believe they cannot serve, please raise your placard and keep your placard raised until I identify you and instruct you to lower your placard. After I have identified each of you, I will call you up individually to discuss your reason in private here at the bench.

[Bench conference on “any other reason”: _____.]

F. CHALLENGE ARRAY, SHUFFLE, CERTIFY

[Challenge to array]: Is there a challenge to the array? ☐ Yes ☐ No

[Shuffle]: Does either party wish to shuffle? ☐ Yes ☐ No

[Certify jury]: At this time the court certifies that the jury has been duly qualified.

G. EXPLANATION OF CRIMINAL TRIAL PROCESS & IMPORTANT CONCEPTS

A criminal case proceeds in two phases. In the first phase, the jury is called upon to hear the evidence and to decide only whether the defendant is “guilty” or “not guilty.” Only if the jury finds the defendant guilty does the trial proceed to the second step. In the second phase, the defendant is entitled to choose whether punishment will be assessed by the judge or by the jury.

In this trial, the defendant has chosen to have the ☐ **JUDGE** ☐ **JURY** assess punishment, if and only if, a verdict of guilty is first returned by you, the jury.

It is the function of the jury in this trial to determine the facts. In doing so, you are the sole and exclusive judges of the credibility of the witnesses and the weight to be given to their testimony. Even I, as the Judge, am not permitted to influence your evaluation through words or actions during the trial. My job is to decide the law and to be certain that both sides receive a fair trial. When I rule on the admissibility of evidence or hear objections, I am not indicating my personal feeling toward one side or the other but simply applying the rule of law established by the legislature that governs this trial.

There are a few brief principles of law that I would like to review with you at this time:

First, the defendant in any criminal trial is NOT required to prove himself or herself innocent. If the defendant does not choose to testify, you MAY NOT consider that fact as evidence of guilt, nor may you in your deliberations comment on or in any way allude to that fact.

Second, the formal information filed by the County Attorney’s Office charging the defendant with this criminal offense is not an indication of guilt of the defendant. It is merely the legal means by which a person is brought to trial in the State of Texas.

Third, the burden of proof in this case rests solely on the State of Texas throughout this trial. NEVER, at any time, does it shift to the defendant. The State of Texas must prove every element of the offense beyond a reasonable doubt. The defendant is presumed to be innocent unless guilt is established by legal evidence, received before the jury in the trial of the case, beyond a reasonable doubt. If, after the jury retires to deliberate, each of the jurors believe beyond a reasonable doubt that the defendant is guilty of the offense charged, or of a lesser offense if permitted by the instructions I give you, then it will be

the duty of that jury to return a verdict of “guilty.” If the jury has a reasonable doubt as to the guilt of the defendant, it will be the duty of the jury to return a verdict of “not guilty.” However, the State is NOT required to prove its case beyond all doubt.

Finally, the defendant in this case, the prosecutor, the public, and our system of justice all require that a fair jury, one that is without bias or prejudice, and free of any opinion as to the guilt or innocence of the defendant, be chosen here today. A fair jury is one, not having heard any of the evidence, that is not committed to either side. A fair jury is one that is impartial to both sides and that can and will follow the law as given by the Court.

H. VOIR DIRE

At this time, we are going to begin voir dire.

Voir dire is a process where we ask questions to you the panel to make sure everyone chosen can be fair, honest, and open-minded. It’s not a test, and there are no right or wrong answers. We just want to learn more about you to help decide if this case is the right fit for you. If you have any personal experiences, strong opinions, or anything that might affect your ability to listen to the evidence fairly, please let us know. The goal is to ensure a fair trial for everyone involved. Thank you for your honesty.

[Set time limit]: Both sides will have ____ minutes.

[Begin Voir Dire]: You may begin when you are ready.

[Bench Conference]: Attorneys approach. Any challenges for cause? ☐ Yes ☐ No

[If challenges for cause]: [_____]

At this time, we will take a brief break to enable the attorneys to exercise their challenges in this case. During this break you are instructed not to discuss this case with anyone or to remain within hearing of anyone discussing this case.

Please return to the doors outside the courtroom at _____ and wait for the bailiff to allow you back inside the courtroom.

The following jurors please remain in the courtroom: _____.

I. JURY SELECTION AND RELEASE OF PANEL

Let the record reflect the panel is not in the courtroom. Attorneys have _____ minutes to submit their signed strike list to the court clerk.

The court will be in recess for _____ minutes.

[Review Strike & Jury List with attorneys]: Objections to the jury chosen? ☐ Yes ☐ No

[Bring the jury in]: Back on the record the jury chosen is in the box. At this time to the panel that did not make the jury thank you for your service, you are released. If you need a jury excuse you may obtain it from the bailiff on your way out.

Ladies and Gentlemen of the jury at this time I must give you some instructions. Please listen carefully:

To avoid looking like you are friendly with one side of the case, do not mingle or talk with the lawyers, witnesses, parties, or anyone else involved in the case. You may exchange casual greeting such as “hello” and “good morning.” Other than that, do not talk with them at all. They have to follow the same instructions too, so you should not be offended when they follow the instructions.

Do not accept any favors from the lawyers, witness(es), parties, or anyone else involved in the case, and do not do any favors for them. This includes favors such as giving rides and food.

Do not discuss this case with your spouse, significant other, your friend or anyone else until such time as you have been discharged from jury service. This includes discussion or communication by any means, including phone, text, email, chat, blog, or any social network sites. Do not allow anyone to discuss the case with you or in your hearing. If any one does try to discuss this case with you or in your hearing, tell me or the bailiff immediately. We do not want you to be influenced in any way by something other than the evidence admitted in court.

Do not talk about the case with anyone during the trial, not even with other jurors, until the end of the trial. You should not discuss the case with your fellow jurors until the end of the trial so that you do not form opinions about the case before you have heard everything. After you have heard all the evidence, received all of my instructions, and heard all of the attorneys' arguments, you will then go to the jury room to discuss the case with the other jurors and reach a verdict.

You are not permitted to read any newspaper articles about this trial, or watch any television or listen to any radio that discuss this trial.

Do not go to any of the locations referred to by the witnesses in this case or perform any type of individual investigation of the facts of this case. You will receive all of the evidence here in the courtroom.

Do not look in any books, encyclopedias or even dictionaries, or go to the library or review courthouse records in order to obtain information over and above what is presented to you at trial.

Please listen carefully to the testimony. No testimony will be read back to you unless you disagree about a specific statement made during trial.

You are not allowed to take notes during the trial.

The lawyers may give opening statements in this case. These statements are not evidence, but are made to help you understand the nature of the case and the evidence.

Your oath states that you will render a verdict only on the evidence submitted to you under my rulings. The evidence that you may consider will consist of the testimony of witnesses, and through physical objects or documents.

During the trial attorneys may make objections. This is a necessary and important procedure during the trial. When an objection is made, I must rule on it. There may be times when I send you to the jury room to allow the attorneys to argue these objections or matters before me here in the courtroom.

You must not concern yourself with any testimony or exhibits to which an objection was sustained, or that I instruct you to disregard.

Each of you must determine the facts as you see them. To do so, you must evaluate the credibility of each witness and decide the weight and value to be given to their testimony. In considering the weight and value to be given to the testimony of a witness, you may consider the person's attitude and behavior, the person's interest in the outcome of the case; his or her relationship to the defendant, or with the State of Texas; the inclination of the witness to tell the truth; the probability or improbability of the witness's statements; the reasonable inferences of those statements; and all other factors you feel will help you in determining credibility.

J. SWEAR IN JURY

Each of you stand and raise your right hand and take the following oath:

Do You and each of you, do solemnly swear or affirm that in all cases between parties which shall be to you submitted, you will a true verdict render, according to the law, as it may be given you in the charge by the court, and to the evidence submitted to you under the rulings of the court?

K. TRIAL

[Read Charge]: Will the defendant stand at this time. Will the state present the Information.

[Obtain plea]: To the information, how does the defendant plea?

[Opening Statements]: Both sides will have _____ minutes.

[States case]: State may begin.

[Defense case]: Defense may begin.

[Conclusion of evidence]: Does the State rest and close? Does the Defense rest and close?

[Prepare Charge]: Ladies and gentlemen of the jury, all the evidence is now before you. However, you have not yet been given the law in the court's charge and heard closing arguments from each side. We are going to take a brief recess at this time to allow me to prepare the charge and give the attorneys an opportunity to review it before it is read to you. All of the instructions that I give you at the beginning of the case still apply. You are not to discuss the case amongst yourselves or with anyone, or to remain within hearing of anyone discussing this case. Be back outside the courtroom doors at _____.

[Review Charge]: Let the record reflect that the attorneys are present in the courtroom at this time. The jury is not present. The Court has prepared and submitted its charge to the attorneys. Having had a reasonable time to review the charge, does either party have any objections or requested submissions?

[Read Charge]: Let the record reflect the attorneys, the defendant and the jury are present in the courtroom. At this time, ladies and gentleman, I will read you the charge of this court containing the law applicable to this case. In continuing to discharge your responsibility as jurors, you will continue to observe all instructions that I have previously given you. These instructions are given to you because your conduct is subject to review the same as the witnesses, parties, attorneys, and myself. If it should be found that you have disregarded any of these instructions, it will be jury misconduct, and it may require another trial by another jury.

If you observe any one or more members of the jury violating my instructions, you shall immediately warn the violator and instruct him or her not to do so again.

Please listen carefully as I read you the charge. The original will be placed on the table in the jury room when you are to begin your deliberations.

[Closing Argument]: Each side has _____ minutes for closing arguments.

[Deliberation]: Ladies and Gentlemen of the Jury, at this time all of the evidence, the Court's charge, and the closing arguments of the attorneys are before you. I am going to hand the bailiff the Charge together with a verdict form. They will be left with you in the jury room. Once all of the members of the jury are present and assembled in the jury room, the case is formally submitted to you, and you may begin your deliberations. Please step down from the jury box and accompany the bailiff to the jury room. All rise for the jury. We stand in recess until the jury has reached a verdict.

[Receive Verdict]: Let the record reflect that the attorneys, the defendant and the jury are present in the courtroom. At this time, I would ask the foreperson, has the jury reached a verdict in this case? The defendant please rise to receive the verdict.

[Read Verdict]: The verdict of the jury is as follows....

[Poll Jury]: Does the State request to poll the jury? Does the Defense?

[If poll is requested]: Juror No ____, the Court has received a verdict, which it has read out loud. Is this your individual verdict? **[Repeat for each juror]**

The Court finds that the verdict is the unanimous verdict of the jury. **OR** The court finds that this is not the unanimous verdict of the jury. Members of the jury, you are to return to your deliberations until you reach a unanimous verdict.

[If acquitted]: Defendant, please stand. You have been acquitted of the charge as alleged in the Information by verdict returned in open court by a properly constituted jury of your peers. You are hereby discharged, and free to leave at this time.

[Release of jury if acquitted or punishment by court]: At this time, ladies and gentlemen of the jury, your duty as jurors is complete. At the beginning of the trial, I placed you under a number of instructions. At this time, I hereby release you from the instructions I have previously given you.

However, I give you one final instruction. After you are discharged, you are released from your oath of secrecy. You will be free to discuss the case and your deliberations with anyone. You are also free to refuse to discuss the case, and you have every right to maintain your silence unless otherwise ordered to do so by me. After you are discharged, the attorneys in this case or others may wish to question you to determine whether any of the standards for jury conduct that I gave you were violated, or other matters related to this trial. You are free to discuss or not to discuss anything with them as you choose.

Thank you for your service. You are hereby discharged from service, and you are free to leave.

[If guilty and punishment assessed by jury]: Ladies and Gentlemen of the Jury, at this time I have received and accepted your verdict finding the defendant guilty of the offense as charged in the Information. That brings a close to the first phase of the trial. We will now proceed with the punishment phase of the trial. Once again, let me repeat, you are still under all the instructions I have previously given to you in this case.

L. PUNISHMENT STAGE WITH JURY

[if enhancements]: Will the defendant rise, and the state read any and all enhancement paragraphs. How does the defendant plead to the enhancements alleged by the state?

[Opening statements]: Each side will receive _____ minutes for opening statements.

[States case]: State may begin.

[Defense case]: Defense may begin.

[Conclusion of evidence]: Does the State rest and close? Does the Defense rest and close?

[Prepare Punishment Charge]: Ladies and gentlemen of the jury, all the evidence is now before you. However, you have not yet been given the law in the court's charge and heard closing arguments from each side. We are going to take a brief recess at this time to allow me to prepare the charge and give the attorneys an opportunity to review it before it is read to you. All of the instructions that I give you at the beginning of the case still apply. You are not to discuss the case amongst yourselves or with anyone, or to remain within hearing of anyone discussing this case. Be back outside the courtroom doors at _____.

[Review Punishment Charge]: Let the record reflect that the attorneys are present in the courtroom at this time. The jury is not present. The Court has prepared and submitted its charge to the attorneys. Having had a reasonable time to review the charge, does either party have any objections or requested submissions?

[Read Punishment Charge]: Let the record reflect the attorneys, the defendant and the jury are present in the courtroom. At this time, ladies and gentleman, I will read you the charge of this court containing the law applicable to this case. In continuing to discharge your responsibility as jurors, you will continue to observe all instructions that I have previously given you. These instructions are given to you because your conduct is subject to review the same as the witnesses, parties, attorneys, and myself. If it should be found that you have disregarded any of these instructions, it will be jury misconduct, and it may require another trial by another jury.

If you observe any one or more members of the jury violating my instructions, you shall immediately warn the violator and instruct him or her not to do so again.

Please listen carefully as I read you the charge. The original will be placed on the table in the jury room when you are to begin your deliberations.

[Closing Argument]: Each side has _____ minutes for closing arguments.

[Deliberation]: Ladies and Gentlemen of the Jury, at this time all of the evidence, the Court's charge, and the closing arguments of the attorneys are before you. I am going to hand the bailiff the Charge together with a verdict form. They will be left with you in the jury room. Once all of the members of the jury are present and assembled in the jury room, the case is formally submitted to you and you may begin your deliberations. Please step down from the jury box and accompany the bailiff to the jury room. All rise for the jury. We stand in recess until the jury has reached a verdict.

[Receive Verdict]: Let the record reflect that the attorneys, the defendant and the jury are present in the courtroom. At this time, I would ask the foreperson, has the jury reached a verdict in this case? The defendant please rise to receive the verdict.

[Read Verdict]: The verdict of the jury is as follows....

[Poll Jury]: Does the State request to poll the jury? Does the Defense?

[If poll is requested]: Juror No ____, the Court has received a verdict, which it has read out loud. Is this your individual verdict? ***[Repeat for each juror]***

The Court finds that the verdict is the unanimous verdict of the jury. ***OR*** The court finds that this is not the unanimous verdict of the jury. Members of the jury, you are to return to your deliberations until you reach a unanimous verdict.

[Release of Jury]: At this time, ladies and gentlemen of the jury, your duty as jurors is complete. At the beginning of the trial, I placed you under a number of instructions. At this time, I hereby release you from the instructions I have previously given you.

However, I give you one final instruction. After you are discharged, you are released from your oath of secrecy. You will be free to discuss the case and your deliberations with anyone. You are also free to refuse to discuss the case, and you have every right to maintain your silence unless otherwise ordered to do so by me. After you are discharged, the attorneys in this case or others may wish to question you to determine whether any of the standards for jury conduct that I gave you were violated, or other matters related to this trial. You are free to discuss or not to discuss anything with them as you choose.

Thank you for your service. You are hereby discharged from service, and you are free to leave

[Prepare Judgement]: At this time the State shall prepare the judgment and submit it to the court for review.

[Defenses Counsel Review Judgment and Notice of Right to Appeal]: Counsel review the judgment and the certificate of defendant's right to appeal with the defendant.

[Reason not to Assess Sentence]: Is there any legal reason why punishment should not be imposed?

[Formally Sentence Defendant]: After receiving the verdict of the jury the court sentences you as follows: *[Read judgement]*.

[Inform Defendant of Right to Appeal]: You have the right to appeal. You have received a statement of those rights in writing and your attorney has advised you of those rights. If you are unable to afford an attorney for an appeal, one will be appointed to represent you if you request. You must file your notice of appeal within 30 days. Do you understand?