

CAUSE NUMBER 00

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|--------------------|---|-------------------------|
| THE STATE OF TEXAS | § | IN THE COUNTY CRIMINAL |
| V. | § | COURT AT LAW NUMBER 00 |
| DEFENDANT | § | OF HARRIS COUNTY, TEXAS |

MEMBERS OF THE JURY:

You have found the Defendant, **name**, guilty of the offense of driving while intoxicated. It now becomes your duty to assess punishment.

In addition, the information alleges the Defendant has been at least once before convicted of the offense of driving while intoxicated. To this allegation, the Defendant pleaded "Not True." You now must determine whether this allegation is true beyond a reasonable doubt and assess punishment.

The prosecution has the burden of proving the allegations in the penalty paragraphs beyond a reasonable doubt. The prosecution does not have to prove the allegations in the penalty paragraphs beyond all possible doubt. The prosecution's proof must exclude all "reasonable doubt" concerning the penalty paragraphs.

A "conviction" means there are no pending appeals.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that the Defendant, **name**, was convicted on **date** in Cause Number **00**, in the **name of court** of **name of county** County, Texas, for the offense of driving while intoxicated, and that said conviction was a final conviction prior to the commission of the offense for which you have found the Defendant guilty, then you must so find and assess the Defendant's punishment at confinement in county jail for any term of not less than 30 days or more than one year. In addition to confinement, you may assess a fine not to exceed four thousand (\$4,000.00) dollars.

However, if you do not find from the evidence beyond a reasonable doubt that the Defendant is a repeat offender, you must assess his punishment at confinement in county jail for any term of not less than 72 hours or more than 180 days. In addition to confinement, you may assess a fine not to exceed two thousand (\$2,000.00) dollars.

You are further instructed that in fixing the Defendant's punishment, which you will show in your verdict, you may consider all of the facts shown by the evidence admitted before you in the full trial of this case, all of the evidence admitted before you in the punishment phase of this case, and the law

submitted to you in this charge.

As required by law, the Defendant has filed, before trial, an affidavit stating the Defendant has never been convicted of a felony in this or any other state.

The term "community supervision" 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 sentence is suspended in whole or in part.

If you impose confinement, or confinement and a fine, as punishment and find the Defendant has never been convicted of a felony in this or any other state, you may recommend the jail time may be suspended, and the Defendant be placed on community supervision.

The judge must suspend the sentence and place the Defendant on community supervision if the jury recommends it in their verdict. If you do not desire to suspend the sentence and place the Defendant on community supervision, you will say nothing in your verdict concerning the same.

If the jury recommends community supervision, the judge must determine the conditions of community supervision and the length of time the Defendant shall spend on community supervision. This period may not exceed two years. The judge may, at any time during the period of supervision, alter or modify the conditions. 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.

Therefore, if this jury shall find that the Defendant, prior to the trial beginning, filed a sworn motion for community supervision and that the Defendant has never before been convicted of a felony offense in this or any other State, you may in your verdict recommend community supervision.

If you recommend the defendant be placed on community supervision you must also recommend whether or not the defendant's driver's license should be suspended.

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

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given the testimony, but you are bound to receive the law from the court, which is herein

given to you, and be governed thereby. In arriving at the amount of punishment, you are not 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.

After the court reads this charge, you may not separate from each other without the court's permission, nor may you talk with anyone who is not a member of your jury regarding this case. After argument of counsel, you must retire and select one of your members as a foreperson. The foreperson's duty is to preside at your deliberations and to vote with you in arriving at a unanimous verdict. After you have arrived at your verdict, you must have your foreperson indicate the jury's verdict by signing the particular form or forms that coincide with your verdict.

After you have retired to consider your verdict, no one has any authority to communicate with you except the officer who has you in charge. You may communicate with the court in writing, signed by your foreperson, through the officer who has you in charge. Do not attempt to talk to the officer, the attorney's, or the court concerning questions you may have.

NAME, JUDGE PRESIDING,
COUNTY CRIMINAL COURT AT LAW NO. **00**
HARRIS COUNTY, TEXAS

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VERDICT

CHOOSE ONE OF THE FOLLOWING

We the Jury, having found the Defendant, **name**, guilty of the misdemeanor offense of driving while intoxicated, do further find the Defendant has once before been convicted of driving while intoxicated, and we assess Defendant's punishment at confinement in jail for _____ days.

FOREPERSON

We the Jury, having found the Defendant, **name**, guilty of the misdemeanor offense of driving while intoxicated, do further find the Defendant has once before been convicted of driving while intoxicated, and we assess Defendant's punishment at confinement in jail for _____ days, and a fine of \$ _____ dollars.

FOREPERSON

IF YOU DESIRE THAT THE DEFENDANT RECEIVE COMMUNITY SUPERVISION ANSWER THE FOLLOWING

We, the Jury, further find that prior to the beginning of this trial, the Defendant filed a written sworn motion stating that the Defendant had not previously been convicted of a felony in this or any other state, and that such statement is true. We recommend to the Court that the confinement portion of

the punishment be suspended, and the Defendant placed on community supervision.

FOREPERSON

IF YOU RECOMMENDED THAT DEFENDANT BE PLACED ON COMMUNITY SUPERVISION, ANSWER THE FOLLOWING:

We the jury, having recommended that the defendant receive community supervision, further recommend that any driver's license issued to the defendant not be suspended.

FOREPERSON
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MEMBERS OF THE JURY:

You have found the Defendant, **name**, guilty of the offense of driving while intoxicated. It now becomes your duty to assess punishment.

In addition, the information alleges the Defendant has been at least once before convicted of the offense of driving while intoxicated. To this allegation, the Defendant pleaded "Not True." You now must determine whether this allegation is true beyond a reasonable doubt and assess punishment.

The prosecution has the burden of proving the allegations in the penalty paragraphs beyond a reasonable doubt. The prosecution does not have to prove the allegations in the penalty paragraphs beyond all possible doubt. The prosecution's proof must exclude all "reasonable doubt" concerning the penalty paragraphs.

A "conviction" means there are no pending appeals.

Now bearing in mind the foregoing instructions, if you find from the evidence beyond a reasonable doubt that the Defendant, **name**, was convicted on **date** in Cause Number **00**, in the **name of court** of **name of county** County, Texas, for the offense of driving while intoxicated, and that said conviction was a final conviction prior to the commission of the offense for which you have found the Defendant guilty, then you must so find and assess the Defendant's punishment at confinement in county jail for any term of not less than 30 days or more than one year. In addition to confinement, you may assess a fine not to exceed four thousand (\$4,000.00) dollars.

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

As required by law, the Defendant has filed, before trial, an affidavit stating the Defendant has never been convicted of a felony in this or any other state.

The term "community supervision" 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 sentence is suspended in whole or in part.

If you impose confinement, or confinement and a fine, as punishment and find the Defendant has never been convicted of a felony in this or any other state, you may recommend the jail time may be suspended, and the Defendant be placed on community supervision.

The judge must suspend the sentence and place the Defendant on community supervision if the jury recommends it in their verdict. If you do not desire to suspend the sentence and place the Defendant on community supervision, you will say nothing in your verdict concerning the same.

If the jury recommends community supervision, the judge must determine the conditions of community supervision and the length of time the Defendant shall spend on community supervision. This period may not exceed two years. The judge may, at any time during the period of supervision, alter or modify the conditions. 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.

Therefore, if this jury shall find that the Defendant, prior to the trial beginning, filed a sworn motion for community supervision and that the Defendant has never before been convicted of a felony offense in this or any other State, you may in your verdict recommend community supervision.

If you recommend the defendant be placed on community supervision you must also recommend whether or not the defendant's driver's license should be suspended.

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

You are the exclusive judges of the facts proved, of the credibility of the witnesses and of the weight to be given the testimony, but you are bound to receive the law from the court, which is herein given to you, and be governed thereby. In arriving at the amount of punishment, you are not 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.

After the court reads this charge, you may not separate from each other without the court's permission, nor may you talk with anyone who is not a member of your jury regarding this case. After argument of counsel, you must retire and select one of your members as a foreperson. The foreperson's duty is to preside at your deliberations and to vote with you in arriving at a unanimous verdict. After you have arrived at your verdict, you must have your foreperson indicate the jury's verdict by signing the particular form or forms that coincide with your verdict.

After you have retired to consider your verdict, no one has any authority to communicate with you except the officer who has you in charge. You may communicate with the court in writing, signed by your foreperson, through the officer who has you in charge. Do not attempt to talk to the officer, the attorney's, or the court concerning questions you may have.

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COUNTY CRIMINAL COURT AT LAW NO. **00**
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VERDICT

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FOREPERSON

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We, the Jury, further find that prior to the beginning of this trial, the Defendant filed a written sworn motion stating that the Defendant had not previously been convicted of a felony in this or any other state, and that such statement is true. We recommend to the Court that the confinement portion of

the punishment be suspended, and the Defendant placed on community supervision.

FOREPERSON

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FOREPERSON