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R E P O R T E R ' S R E C O R D

VOLUME 48 OF 53 VOLUMES

TRIAL COURT CAUSE NO. 380-80047-01

THE STATE OF TEXAS)	IN THE DISTRICT COURT
)	
VS.)	COLLIN COUNTY, TEXAS
)	
IVAN ABNER CANTU)	380TH JUDICIAL DISTRICT

VERDICT

COPY

On the 26th day of October, 2001, the following proceedings came on to be heard in the above-entitled and -numbered cause before the Honorable Charles F. Sandoval, Judge Presiding, held in McKinney, Collin County, Texas:

Proceedings reported by Computerized Machine Shorthand.

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REPORTER'S RECORD

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PROCEEDINGS:

THE COURT: Are both sides ready to bring in the jury? All right. Let's bring them in.
THE BAILIFF: All rise.
(Open court, defendant and jury present.)
THE COURT: Please be seated. I'd ask the presiding juror: Have you reached a verdict in the case?
PRESIDING JUROR: We have, Your Honor.
THE COURT: Would you hand the form to the bailiff to deliver to me, please?
I would ask the presiding juror: Is this the unanimous verdict of the jury?
PRESIDING JUROR: Yes, it is, Your Honor.
THE COURT: All right. I would ask Mr. Cantu to please rise.
Mr. Cantu, having been found guilty by a jury of your peers of capital murder and the same jury having answered the special issues, I will read the special issues and the answers into the record at this time.
Special Issue No. 1: Do you find from the evidence beyond a reasonable doubt that there is a probability that the defendant Ivan Abner Cantu would commit criminal acts of violence that would constitute a

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APPEARANCES

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continuing threat to society? The answer -- the jury has answered the question "yes."
With regard to Special Issue No. 2: Taking into consideration all the evidence including the circumstances of the offense, the defendant's character and background and the personal moral culpability of the defendant, do you find that there is a sufficient mitigating circumstance or circumstances to warrant a sentence of life imprisonment rather than the death sentence be imposed? The jury has answered "no."
Please be seated. All right. The Court will accept the verdict of the jury. And I want to ask both sides: Is there anything else to take up with this jury?
MS. FALCO: No, Your Honor.
MR. GOELLER: Poll, please, Judge.
THE COURT: All right. I'm going to poll the jury just like I did a few days ago. And I'll begin with the presiding juror. If this is your verdict, as I point to you just answer, "This is my verdict."
I would ask Mr. Calhoun, is this your verdict, sir?
PRESIDING JUROR: This is my verdict.
THE COURT: Ma'am?
JUROR: This is my verdict.

10:09 1 THE COURT: Ma'am?
 10:09 2 JUROR: This is my verdict.
 10:09 3 THE COURT: Sir?
 10:09 4 JUROR: This is my verdict.
 10:09 5 THE COURT: Sir?
 10:09 6 JUROR: This is my verdict.
 10:09 7 THE COURT: Ma'am, is this your verdict?
 10:09 8 JUROR: This is my verdict.
 10:09 9 THE COURT: Ma'am?
 10:09 10 JUROR: This is my verdict.
 10:09 11 THE COURT: Ma'am?
 10:09 12 JUROR: This is my verdict
 10:09 13 THE COURT: Ma'am?
 10:09 14 JUROR: This is my verdict.
 10:09 15 THE COURT: Sir?
 10:09 16 JUROR: This is my verdict.
 10:09 17 JUROR: This is my verdict.
 10:09 18 JUROR: This is my verdict.
 10:09 19 THE COURT: All right. This appears to be
 10:09 20 the unanimous verdict of the jury.
 10:09 21 Ladies and gentlemen, at this time your
 10:09 22 duty as jurors is complete. At the beginning of the
 10:09 23 trial I placed each of you under a number of
 10:09 24 instructions. At this time I release you from all the
 10:09 25 instructions I have previously given you.

10:05 1 However, I give you one final instruction:
 10:09 2 After you are discharged you are released from your oath
 10:09 3 of secrecy. You will be free to discuss the case and
 10:09 4 your deliberations with anyone.
 10:09 5 You are also free to refuse to discuss the
 10:09 6 case, and you have every right to maintain your silence
 10:10 7 unless otherwise ordered to do so by me. After you are
 10:10 8 discharged the attorneys in this case or others may wish
 10:10 9 to question you to determine whether any of the
 10:10 10 standards for jury conduct that I have given you in the
 10:10 11 course of this trial were violated and give an affidavit
 10:10 12 if such is the case. You are free to discuss or not to
 10:10 13 discuss these matters as you choose.
 10:10 14 At this time I want to thank you for your
 10:10 15 service, and I will tell you that if you would like to
 10:10 16 talk to me about the case, I will go into the jury room
 10:10 17 in a minute or two and talk to anybody that wants to
 10:10 18 discuss the case. If you don't desire to discuss the
 10:10 19 case, naturally you are free to leave.
 10:10 20 For those, and sometimes I'll have one
 10:10 21 juror talk to me. Sometimes we'll have 12. Sometimes
 10:10 22 I'll have none. And it doesn't matter to me one way or
 10:10 23 the other. If anybody would like to talk about the
 10:10 24 case, I'd be glad to talk to you, and I'll be in the
 10:10 25 jury room in just a minute.

10:10 1 I want to thank you sincerely for your
 10:10 2 service. It's been a -- it's been a long haul. And I
 10:11 3 know that you've had to look inside yourselves in this
 10:11 4 case as well as at the facts of the case and at the
 10:11 5 defendant. So I want to thank you for your service.
 10:11 6 You are hereby discharged, and you are free to leave.
 10:11 7 THE BAILIFF: All rise.
 10:11 8 (Jury dismissed.)
 10:11 9 THE COURT: Please be seated. I
 10:11 10 understand that I have some things that are required of
 10:11 11 me under the law. And I understand the district
 10:11 12 attorney is going to get me a copy of what I have to do.
 10:11 13 MS. FALCO: I did send my secretary down
 10:11 14 there. Do you want me to go find her?
 10:11 15 THE COURT: No. I tell you what we'll do.
 10:11 16 I think I'll talk to the jury for a few minutes, and
 10:12 17 then I'll come back in about five or ten minutes and
 10:12 18 I'll do everything else that needs to be done, including
 10:12 19 pronouncing the sentence.
 10:12 20 So let me see what the jury wants to do,
 10:12 21 and I'll be back. And -- well, it depends on how long
 10:12 22 the jury keeps me. If they keep me for half an hour, I
 10:12 23 will be back in half an hour. If they keep me for five
 10:12 24 minutes, I'll be back in five minutes. But I'll be back
 10:12 25 as soon as I can to finish this up. Is there anything

10:12 1 else from either side at this time?
 10:12 2 MS. FALCO: No, Your Honor.
 10:12 3 THE COURT: All right. I'll be back as
 10:12 4 soon as I can.
 10:12 5 THE BAILIFF: All rise.
 10:12 6 (Break.)
 10:12 7 (Open court, defendant present.)
 10:12 8 THE COURT: Just remain standing,
 11:31 9 Mr. Cantu. The jury having found you guilty, it's the
 11:31 10 Order of the Court that you, Ivan Cantu, the defendant
 11:31 11 herein, who has been adjudged to be guilty of the
 11:31 12 offense of capital murder and whose punishment has been
 11:31 13 assessed by the verdict of the jury of death, shall be
 11:31 14 delivered by the sheriff of Collin County, immediately
 11:31 15 to the director of the Institutional Division of the
 11:31 16 Texas Department of Criminal Justice, or any other
 11:31 17 person legally authorized to receive such convicts,
 11:31 18 there to be confined in said institutional division in
 11:31 19 accordance with the provisions of the law governing the
 11:31 20 Texas Department of Criminal Justice, Institutional
 11:31 21 Division, until a date for your execution is imposed by
 11:31 22 this Court after receipt in this Court of the Mandate of
 11:31 23 Affirmance from the Court of Criminal Appeals of the
 11:31 24 State of Texas. And after this proceeding, I will
 11:31 25 remand you to jail until a sheriff can obey the

11:31 1 directions of the sentence.
 11:31 2 I have a duty to advise you to certain
 11:32 3 rights that you have. First of all, you may seek a
 11:32 4 Post-Conviction Application for Writ of Habeas Corpus
 11:32 5 under Article 11.071 of the Code of Criminal Procedure.
 11:32 6 You may proceed pro se with retained counsel or with
 11:32 7 appointed counsel. Do you wish to proceed pro se? And
 11:32 8 this is the question: Do you wish to proceed pro se on
 11:32 9 any Application for Writ of Habeas Corpus?
 11:32 10 MR. GOELLER: Your Honor, my client wishes
 11:32 11 to proceed with appointed counsel. He is indigent.
 11:32 12 THE COURT: All right. I will find
 11:32 13 that -- have previously found that he is indigent and
 11:32 14 will find that his condition or his -- yeah, his
 11:32 15 condition hasn't changed and continues to be indigent.
 11:32 16 And do you want me to appoint you counsel for the
 11:32 17 purpose of preparing an Application for Writ of Habeas
 11:32 18 Corpus?
 11:32 19 THE DEFENDANT: Yes, Your Honor.
 11:32 20 THE COURT: All right. I will do so.
 11:32 21 There is -- and I will do so promptly. I will do so
 11:33 22 within the next day or two. In fact, today is Friday.
 11:33 23 I will have appointed somebody for you by Monday at
 11:33 24 noon. All right.
 11:33 25 And just to inform you, sir, I will be

11:33 1 selecting your counsel from a list approved by the Court
 11:33 2 of Criminal Appeals. And I will be notifying the Court
 11:33 3 of Criminal Appeals of the appointment, listing the
 11:33 4 attorney's name, address and telephone number. And I
 11:33 5 will also be sending a copy of the Judgment to that
 11:33 6 attorney as soon as I can. All right.
 11:33 7 You may be seated. All right. Are both
 11:33 8 sides ready to proceed with the next phase?
 11:33 9 MS. FALCO: Yes, sir.
 11:33 10 MR. GOELLER: Yes, sir.
 11:33 11 (Off the record, victim impact panel.)
 11:37 12 THE COURT: Is that all from either side?
 11:51 13 If so, both sides are excused. This proceeding is at an
 11:51 14 end.
 15 (End of proceedings.)
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 2 THE STATE OF TEXAS
 3 COUNTY OF COLLIN
 4 I, Barbara L. Tokuz, CSR, RMR, CRR, Deputy Official
 5 Court Reporter in and for the 380th Judicial District
 6 Court of Collin County, State of Texas, do hereby
 7 certify that the above and foregoing contains a true and
 8 correct transcription of all portions of evidence and
 9 other proceedings requested in writing by counsel for
 10 the parties to be included in this volume of the
 11 Reporter's Record, in the above-styled and -numbered
 12 cause, all of which occurred in open court or in
 13 chambers and were reported by me.
 14 I further certify that this Reporter's Record of the
 15 proceedings truly and correctly reflects the exhibits,
 16 if any, offered by the respective parties.
 17 WITNESS MY OFFICIAL HAND this the 11th day of
 18 February, 2002.
 19
 20 *Barbara Tokuz*
 21 Barbara L. Tokuz, CSR #4615, RMR, CRR
 22 Deputy Official Court Reporter
 23 Expiration Date: 12/31/2002
 24 1855 Wind Hill Road
 25 Rockwall, Texas 75087
 Telephone: 972-771-2312