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REPORTER'S RECORD

**VOLUME 27 OF 35 VOLUMES**

TRIAL COURT CAUSE NO. 1384794

COURT OF CRIMINAL APPEALS NO. AP-77,025

OBEL CRUZ-GARCIA	)	IN THE DISTRICT COURT
	)	
Appellant	)	
	)	
	)	
VS.	)	HARRIS COUNTY, TEXAS
	)	
	)	
THE STATE OF TEXAS	)	
	)	
Appellee	)	337TH JUDICIAL DISTRICT

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**PUNISHMENT PROCEEDINGS**

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On the 19th day of July, 2013, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Renee Magee, Judge presiding, held in Houston, Harris County, Texas;

Proceedings reported by computer-aided transcription/stenograph shorthand.

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**A P P E A R A N C E S**

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**I N D E X**  
**VOLUME 27**  
**(PUNISHMENT PROCEEDINGS)**

**JULY 19, 2013**

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1 (Jury continues deliberating)

2 (Open court, defendant present, no jury)

3 THE COURT: Mr. Cornelius, have you read  
4 the note? It says, "May I speak to the Judge? Angela  
5 Bowman," and then it's signed by the foreman.

6 MR. CORNELIUS: Yes, ma'am.

7 THE COURT: Do you have any objection to  
8 the Court speaking to the juror in private, in chambers  
9 with the reporter present?

10 MR. CORNELIUS: No, ma'am.

11 THE COURT: Does the State have any  
12 objection to that?

13 MR. WOOD: Judge, I don't have any  
14 objection to that. I don't believe Ms. Tise would  
15 either. I don't really know any other way to resolve  
16 that other than that means.

17 THE COURT: Because I have no idea what's  
18 going on back there and I don't know what she wants to  
19 ask me, so -- okay. Then I'm going to return this to  
20 the bailiff. And make sure I've got the cause number on  
21 here.

22 MR. CORNELIUS: She may just have a  
23 conflict.

24 THE COURT: You mean a conflict with  
25 staying the next night or so?

1 MR. CORNELIUS: Yeah. I mean, I don't  
2 know.

3 THE COURT: She may.

4 MR. CORNELIUS: We won't know unless you  
5 talk to her.

6 THE COURT: Exactly.

7 MR. WOOD: She does have a small child.

8 THE COURT: I'm going to have the clerk  
9 stamp this.

10 And then, JJ, please bring Ms. Angela  
11 Bowman from the jury room. Tell them they need to cease  
12 deliberations while I speak to her. And bring her to my  
13 chambers, please.

14 (The following proceedings were held in  
15 chambers)

16 THE COURT: We're putting it on the record,  
17 Ms. Bowman.

18 So, we're in chambers outside the presence  
19 of the jury, outside the presence of the defense  
20 attorneys and the prosecutors, with one of the jurors in  
21 this case who requested to speak with the Judge,  
22 Ms. Angela Bowman.

23 And, Ms. Bowman, what is that you needed to  
24 relay to the Court?

25 JUROR BOWMAN: I'm sorry. I don't mean to

1 waste your time. You are important, Judge, and  
2 everything like that. I just -- I am the only juror  
3 that's completely -- I can't agree. I can't agree with  
4 the questions. I can't answer the same questions with  
5 everyone else and I feel pressured. And I don't want to  
6 hold them up. So, I feel like maybe they can exchange  
7 me out with one of the alternates.

8 THE COURT: Well, there is a manner that we  
9 have to proceed with. And just because you can't  
10 deliberate with them or -- you are not saying you can't  
11 deliberate, but because your answers to the questions  
12 are different from them does not qualify that you can  
13 just sub out with an alternate. That's not what the  
14 alternate is for. There is a long list of things that I  
15 would have to go through. And I don't want to go  
16 through those with you because I don't want to try to  
17 figure out what you need to do to get off the jury. You  
18 shouldn't have to figure out what you want to do. Those  
19 things, unfortunately, that would have to happen to you,  
20 and I don't want it to happen to you, like falling  
21 gravely ill, or something like that. And that's the  
22 only way that the alternate would replace you, is for  
23 you to become completely disabled.

24 Just having a different opinion than the  
25 other jurors at this point, that doesn't exclude you

1 from being a juror. So, you are going to have to  
2 continue to deliberate with them.

3 JUROR BOWMAN: Here's my thing. I don't  
4 think I'll ever come to an agreement. We're never going  
5 to come to an agreement. They all have the same  
6 answers. The only question -- the only answer I'm in  
7 agreement with them is No. 2. No. 1 and 3, they're  
8 all -- you know, they are all different. I am the only  
9 one with the different opinion. And I am not changing  
10 my stance on that. I'm not. And they are not.

11 So, I mean, if we keep on going to  
12 deliberations, it could be years, I mean, because I'm  
13 not the type of person --

14 THE COURT: Well, all I can tell you is  
15 there are rules associated with that, too. And I'll  
16 instruct you on that, but you do need to continue to  
17 deliberate until, you know, the Court tells you to stop.  
18 And, generally, that can be a pretty long period of  
19 time, but it's not going to be for years, I can tell you  
20 that.

21 And so, what I am going to instruct you to  
22 do now is to go back. If you don't reach a verdict by  
23 this afternoon, we have made arrangements for y'all to  
24 stay again tonight. And we did the next night, too.  
25 The county picks up the expenses. So, I anticipated

1 that the trial would be over on Friday, and that's what  
2 we told y'all, but I believe that we also told you that  
3 might be how long y'all would be deliberating.

4 JUROR BOWMAN: I know it shouldn't be an  
5 easy thing. It shouldn't be an easy thing, but it's  
6 harder --

7 THE COURT: It shouldn't be an easy thing.  
8 This is what we talked about on voir dire. It should  
9 take -- some serious consideration should go into it,  
10 but I do want you to recall the voir dire and my  
11 instructions at voir dire, as well as you should answer  
12 the questions according to what the evidence is.

13 JUROR BOWMAN: Right.

14 THE COURT: Not what you know the result  
15 would be in terms of what that is. Right?

16 JUROR BOWMAN: Right.

17 THE COURT: If the evidence leads you to a  
18 certain way, that's the way you should answer it, even  
19 though it might result in something that bothers you.  
20 That's why we don't ask you to vote to give the death  
21 penalty or to not give the death penalty.

22 So, I'd like you to go back and continue  
23 your deliberations with the jury and continue trying to  
24 reach an agreement with the jury, if you can. Do not  
25 violate your conscious. And answer those questions



1 according to where the evidence leads you.

2 JUROR BOWMAN: Okay.

3 THE COURT: All right.

4 JUROR BOWMAN: Judge, I don't want to have  
5 to stay another night. I really don't know.

6 THE COURT: That's completely in the hands  
7 of the entire jury. You have to deliberate back there  
8 and try to find out whether you can reach a verdict or  
9 not. Okay?

10 JUROR BOWMAN: Thank you.

11 (Jury continues deliberating)

12 (Recess)

13 (Open court, defendant present, no jury)

14 THE COURT: Before the jury comes into the  
15 courtroom, I want to remind the audience: Please don't  
16 have an emotional response. I know it's an emotional  
17 time for you, but this is a court of law. So, I'm going  
18 to ask if you could please refrain from any emotional  
19 response. I would appreciate it. Thank you.

20 Both sides ready for the jury to come in?

21 MR. CORNELIUS: Yes, Your Honor.

22 MS. TISE: Yes, Your Honor.

23 THE BAILIFF: All rise.

24 (Open court, defendant and jury present)

25 THE COURT: Please be seated.



1 determine beyond a reasonable doubt that the answer to  
2 this special issue is "yes." Signed, Foreman of the  
3 jury.

4                   Special Issue No. 2: Do you find from the  
5 evidence beyond a reasonable doubt that Obel  
6 Cruz-Garcia, the defendant himself, actually caused the  
7 death of Angelo Garcia, Jr. on the occasion in question,  
8 or if he did not actually cause the death of Angelo  
9 Garcia, Jr., that he intended to kill Angelo Garcia,  
10 Jr., or that he anticipated that a human life would be  
11 taken?

12                   Answer: We, the jury, unanimously find and  
13 determine beyond a reasonable doubt that the answer to  
14 this special issue is "yes." Signed, Foreman of the  
15 jury.

16                   Special issue No. 3: Do you find from the  
17 evidence, taking into consideration all of the evidence,  
18 including the circumstances of the offense, the  
19 defendant's character and background and the personal  
20 moral culpability of the defendant, that there is a  
21 sufficient mitigating circumstance or circumstances to  
22 warrant that a sentence of life imprisonment rather than  
23 a death sentence be imposed? You are instructed that in  
24 answering the special issue, that you shall answer the  
25 issue "yes" or "no." You may not answer this issue "no"

1 unless you agree unanimously and you may not answer this  
2 issue "yes" unless ten or more of you agree to do so.

3           And the answer to that: We, the jury,  
4 unanimously find and determine that the answer to this  
5 special issue is "no." Signed, Foreman of the Grand  
6 Jury {sic}.

7           And the final page: We, the jury, return  
8 in open court the above answers to the special issues  
9 submitted to us and the same is our verdict in this  
10 case. Signed, Foreman of the Grand Jury.

11           Is that the unanimous verdict of all  
12 members of the jury -- I'm sorry -- of the jury.

13           Is that the unanimous verdict of all  
14 members of the jury?

15           FOREPERSON: It is, Your Honor.

16           THE COURT: Okay. Very good.

17           Would either side wish the jury to be  
18 polled?

19           MR. CORNELIUS: Yes, Your Honor.

20           THE COURT: Okay. At this time, I am going  
21 to call your name individually. If this is your  
22 verdict, please answer "yes."

23           Joshua Caluag.

24           JUROR: Yes.

25           THE COURT: Larry Jordan.

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JUROR: Yes.

THE COURT: Olga Sanchez.

JUROR: Yes.

THE COURT: Wayne Montgomery.

JUROR: Yes.

THE COURT: Nancee Pyper.

JUROR: Yes.

THE COURT: Angela Bowman.

JUROR: Yes.

THE COURT: Casey Guillotte.

JUROR: Yes.

THE COURT: Jennifer Sims.

JUROR: Yes.

THE COURT: Virginia Allman.

JUROR: Yes.

THE COURT: Matthew Clinger.

JUROR: Yes.

THE COURT: Leonard Torres.

JUROR: Yes.

THE COURT: Karen Sue Bridges.

JUROR: Yes.

THE COURT: Very good.

The verdict of the jury is received by the  
Court.

Members of the jury, this now concludes

1 your service as jurors in this case. I want to  
2 recognize the inconvenience that this has been to you,  
3 the amount of time and effort that you have taken out of  
4 your own lives. And I want to tell you that we all  
5 appreciate your time and service. Now it's probably  
6 more clear than ever how necessary your service is to  
7 the proper administration of justice. I understand that  
8 the job we asked you to do was very difficult and I  
9 appreciate the thoughtfulness and attention that you  
10 made to your decision.

11 At this time, I am going to release you  
12 from your admonitions. Everything that I've admonished  
13 you to, you may discuss it with whomever you like, your  
14 service, the evidence, whatever you would like. And all  
15 the admonitions, you are released from.

16 The lawyers may want to discuss the case  
17 with you. And you are free to discuss the case with the  
18 lawyers, if you would like, and actually this afternoon  
19 if you would like; but if you choose not to, that is  
20 your right as well.

21 So, at this time, I would like you to  
22 return to the jury room, place your badges on the table.  
23 And I'll be back in just a few moments to discharge you  
24 from the jury room.

25 THE BAILIFF: All rise.

1 (Open court, defendant present, no jury)

2 THE COURT: You may all have a seat.

3 At this time, the Court is going to defer  
4 sentencing until Monday morning, which will be the 22nd  
5 of July. And at that time, the Court will sentence  
6 Mr. Obel Cruz-Garcia having been convicted of the  
7 offense of capital murder.

8 At this time, the Court is in recess.

9 (Proceedings recessed)

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	<p><b>'</b></p> <p><b>'skip'</b> - 2:11</p> <p><b>/</b></p> <p><b>/s</b> - 15:19</p> <p><b>0</b></p> <p><b>00795683</b> - 2:4  <b>00797777</b> - 2:15  <b>04831500</b> - 2:12</p> <p><b>1</b></p> <p><b>1</b> - 6:7, 9:20  <b>11</b> - 1:6  <b>12/31/2013</b> - 15:20  <b>1201</b> - 2:6, 15:21  <b>1225</b> - 2:15  <b>1384794</b> - 1:3, 9:2, 9:16  <b>15</b> - 1:7  <b>16th</b> - 15:16  <b>19</b> - 1:2  <b>19th</b> - 1:20</p> <p><b>2</b></p> <p><b>2</b> - 6:7, 10:4  <b>2013</b> - 1:20, 1:2, 15:17  <b>2028</b> - 2:12  <b>22nd</b> - 14:4  <b>24039247</b> - 2:5  <b>27</b> - 1:2, 1:3, 1:4, 1:5, 1:6, 1:7</p> <p><b>3</b></p> <p><b>3</b> - 1:3, 6:7, 10:16  <b>3047</b> - 15:19  <b>337th</b> - 1:12, 15:5, 15:21  <b>35</b> - 1:2</p> <p><b>4</b></p> <p><b>4</b> - 1:4  <b>440</b> - 2:15</p> <p><b>7</b></p> <p><b>713.237.8547</b> - 2:13  <b>713.755.5800</b> - 2:7  <b>713.755.7746</b> - 15:22  <b>713.877.9400</b> - 2:16  <b>77002</b> - 2:6, 15:22  <b>77002-1659</b> - 2:16  <b>77019-2408</b> - 2:13</p> <p><b>9</b></p> <p><b>9</b> - 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