

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

United States of America,)	Criminal No.: 4:17-cr-00866-RBH
)	
v.)	SPECIAL VERDICT FORM
)	
Brandon Michael Council,)	
)	
Defendant.)	
_____)	

COUNT 1 - BANK ROBBERY RESULTING IN DEATH

I. AGE OF DEFENDANT

Do you unanimously find that the government has established beyond a reasonable doubt that Brandon Michael Council was eighteen (18) years of age or older at the time of the offense?
(Mark your response with an "X" below)

 X YES _____ NO

Instructions: *If you answered "YES" to the question above, proceed below to Section II.*

If you answered "NO" to the question above, stop your deliberations, skip over Sections II, III, IV, V, and VI of this form, and proceed to Section VII. Each juror should carefully read the statement in Section VII, and sign in the appropriate place if the statement accurately reflects the manner in which each juror reached his or her decision. You should then advise the court that you have reached a decision.

II. THRESHOLD INTENT FACTORS

Instructions: *Select the Threshold Intent Factor, if any, you unanimously find that the government proved beyond a reasonable doubt. You may not select more than one. Mark your response with an "X" below.*

- 1. Brandon Michael Council intentionally killed Donna Major and Kathryn Skeen.
- 2. Brandon Michael Council intentionally inflicted serious bodily injury that resulted in the deaths of Donna Major and Kathryn Skeen.
- 3. Brandon Michael Council intentionally participated in an act, contemplating that the life of a person would be taken and intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Donna Major and Kathryn Skeen died as a direct result of such action.
- 4. Brandon Michael Council intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Donna Major and Kathryn Skeen died as a direct result of such action.
- 5. The government failed to prove a threshold intent factor beyond a reasonable doubt.

Instructions: *If you found one of the Threshold Intent Factors in this Section II, proceed to Section III.*

If you did not find any Threshold Intent Factor, then stop your deliberations, skip over Sections III, IV, V, and VI of this form, and proceed to Section VII. Each juror should carefully read the statement in Section VII, and sign in the appropriate place if the statement accurately reflects the manner in which each juror reached his or her decision. You should then advise the court that you have reached a decision.

III. STATUTORY AGGRAVATING FACTORS

- (a) Multiple Killings: Do you unanimously find that the government has established beyond a reasonable doubt that in committing the offense, the defendant intentionally killed more than one person in a single criminal episode? (*Mark your response with an "X" below*)

 X YES _____ NO

- (b) Pecuniary Gain: Do you unanimously find that the government has established beyond a reasonable doubt that in committing the offense, the defendant committed the offense in the expectation of the receipt of anything of pecuniary value? (*Mark your response with an "X" below*)

 X YES _____ NO

Instructions: *If you answered "YES" to any of the questions in Section III, proceed directly below to Section IV.*

If you answered "NO" to both of the questions in Section III, proceed directly to Section VII. Each juror should carefully read the statement in Section VII, and sign in the appropriate place if the statement accurately reflects the manner in which he or she reached his or her decision. You should then advise the court that you have reached a decision.

IV. NON-STATUTORY AGGRAVATING FACTORS

- (a) **Victim Impact:** Do you unanimously find that the government has established beyond a reasonable doubt that the defendant caused injury, harm, and loss to the victims, as well as to the family, friends, and co-workers of the victims, and the injury, harm, and loss caused by the defendant with respect to each victim is evidenced by the victim's personal characteristics and by the impact of the victim's death upon their family, friends, and coworkers? *(Mark your response with an "X" below)*

YES NO

- (b) **Continuing and Escalating Pattern of Criminal Activity:** Do you unanimously find that the government has established beyond a reasonable doubt that the defendant engaged in a continuing and escalating pattern of criminal activity – including a robbery of a Food Lion grocery store in Raleigh, North Carolina on or about August 8, 2017, and a robbery of a Branch Bank and Trust (BB&T) bank located in Wilson, North Carolina on or about August 11, 2017 – culminating with the armed robbery of the CresCom bank located in Conway, South Carolina on August 21, 2017? *(Mark your response with an "X" below)*

YES NO

- (c) **Targeting Innocent Victims:** Do you unanimously find that the government has established beyond a reasonable doubt that the defendant displayed particular cruelty and callous disregard for human life by shooting both victims, who were unknown to him, multiple times at close range without warning and without provocation or resistance from the victims, in spite of the fact that such violence was not necessary to successfully complete the robbery of the CresCom bank? *(Mark your response with an "X" below)*

YES NO

- (d) **Lack of Remorse:** Do you unanimously find that the government has established beyond a reasonable doubt that the defendant's actions from the commission of the offenses on August 21, 2017, until his arrest on August 23 2017, demonstrated a lack of remorse?*(Mark your response with an "X" below)*

YES NO

Instructions: *Proceed to Section V below regardless of your answers to all the questions in Section IV.*

V. MITIGATING FACTORS

Instructions: For each of the following Mitigating Factors, indicate in the space provided the number of jurors, if any, who have found it proved by a preponderance of the evidence and that it is mitigating.

A finding with respect to a Mitigating Factor may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a Mitigating Factor must consider such factor in considering whether to impose a sentence of life in prison without the possibility of release or a sentence of death, regardless of the number of jurors who agree. Further, any juror may also weigh a Mitigating Factor found by another juror, even if he or she did not also find that factor to be mitigating.

1. Brandon's father rejected him before he was born, denied paternity, and had no role in his life.
Number of jurors who so find 0
2. Brandon's father's side of the family never accepted him as a child.
Number of jurors who so find 0
3. Brandon's father's side of the family has mental health and substance abuse impairments.
Number of jurors who so find 5
4. Brandon was the product of an unplanned pregnancy. His mother had to apologize to the church for becoming pregnant out-of-wedlock, and resigned her church responsibilities as a result.
Number of jurors who so find 0
5. Brandon was parented primarily by his grandmother, who overrode his mother's authority.
Number of jurors who so find 0
6. Brandon's mother did not have a loving and nurturing relationship with him. His primary attachment was observed to be with his grandmother.
Number of jurors who so find 8

7. Brandon's mother placed her work and her relationships with men over Brandon.
Number of jurors who so find 7
8. Brandon's childhood environment was marred by his mother's and aunt's affairs with the family's pastor, and his mother's secret marriage to the pastor.
Number of jurors who so find 0
9. As a young child, Brandon was made to lie to his grandmother about his mother's marriage.
Number of jurors who so find 2
10. After the pastor became Brandon's stepfather, he abused Brandon.
Number of jurors who so find 9
11. Brandon was viewed in the church as a well-behaved and compliant child.
Number of jurors who so find 0
12. As a child, Brandon had a strong connection to the church. He attended church regularly and regularly participated while his grandmother was alive.
Number of jurors who so find 0
13. Brandon's stepfather's womanizing caused scandal and disruption in the church to the point that Brandon stopped attending. His step-father was ex-communicated, and Brandon lost his church family.
Number of jurors who so find 14
14. Brandon's family had a communication style that appeared to manage conflict by distancing and freezing out discussion, while attempting to keep up the family members' appearance in the community.
Number of jurors who so find 0
15. Brandon's maternal grandmother was his mother-figure and protector, but she died when he was only 12.
Number of jurors who so find 8

16. Brandon threatened to kill himself around the time of his grandmother's death.
Number of jurors who so find 0
17. Brandon did well in school until after his grandmother's sudden illness and death.
Number of jurors who so find 0
18. Brandon's grandmother's death left him devastated, grief-stricken and alone at the age of 12.
Number of jurors who so find 9
19. All 12-year-olds need care, love, structure and guidance. Brandon lost these things when his grandmother died.
Number of jurors who so find 7
20. After Brandon's grandmother died, he moved frequently and was homeless at times.
Number of jurors who so find 4
21. Brandon's grandmother's death removed his only effective protection against the dangerous neighborhood that surrounded the family's home.
Number of jurors who so find 8
22. Once Brandon began to have behavioral difficulties as a teenager, his family provided limited support to him.
Number of jurors who so find 4
23. Brandon was exposed at a young age to drug use and drug dealing at his middle-school bus stop.
Number of jurors who so find 0
24. Once his grandmother died, Brandon lacked loving role models as part of his daily life.
Number of jurors who so find 7

25. In middle school, Brandon had a girlfriend who was being abused at home. Brandon was kind to her and made a difference in her life.

Number of jurors who so find 0

26. Brandon was like a big brother to his cousin.

Number of jurors who so find 0

27. Brandon attended Toisnot Middle, Edwards Jr. High, then Toisnot Middle again, and then Forest Hills in the 8th grade, creating academic and social instability for him.

Number of jurors who so find 1

28. Brandon was sent to Dobbs Youth Development Center when he was only 13 years old, and still grieving for his grandmother.

Number of jurors who so find 8

29. Brandon did not receive any drug counseling or help for his problems while at Dobbs, even though counselors recommended that Brandon receive grief counseling.

Number of jurors who so find 3

30. Dobbs was a violent and corrupting place for young teenaged boys like Brandon. Brandon lacked support while at Dobbs, and had few family visits or contacts while there.

Number of jurors who so find 7

31. Numerous students were sexually exploited by staff members while at Dobbs. Staff members who were charged with Brandon's care and custody instead sexually exploited Brandon at Dobbs.

Number of jurors who so find 5

32. After leaving Dobbs, Brandon was ill-equipped to handle life issues.

Number of jurors who so find 0

33. Brandon, along with his peers, frequently witnessed violence while living at Dobbs.

Number of jurors who so find 9

34. Brandon earned his GED while at Dobbs, and was not known to be violent or a fighter while there.

Number of jurors who so find 0

35. Brandon quickly confessed to all of his crimes when the FBI agents entered the room.

Number of jurors who so find 0

36. Brandon voluntarily waived extradition from North Carolina to South Carolina to be tried for his crimes.

Number of jurors who so find 1

37. Brandon wanted to confess his crimes to the police, and he did confess his crimes to the police. Brandon did not ask for the help of a lawyer.

Number of jurors who so find 2

38. Brandon expressed remorse and self-loathing while confessing to the murders of Ms. Major and Ms. Skeen.

Number of jurors who so find 1

39. Brandon told the agents that Ms. Major and Ms. Skeen did not deserve to die.

Number of jurors who so find 0

40. Brandon recognizes the absolutely terrible nature of the crimes and told the agents he was a "piece of shit" for committing this crime.

Number of jurors who so find 1

41. Brandon cried when he learned that Ms. Major and Ms. Skeen had died.

Number of jurors who so find 0

42. Brandon told the agents he expected to be killed by the police during the robbery.

Number of jurors who so find 0

43. Shortly after his arrest, and before the government authorized the death penalty against him, Brandon offered to plead guilty as charged, and accept two consecutive life sentences without any possibility of release.

Number of jurors who so find 1

44. Brandon has continued to offer to plead guilty as charged and accept two consecutive life sentences without any possibility of release.

Number of jurors who so find 0

45. Brandon has a son.

Number of jurors who so find 1

46. Brandon's mother has not attended his trial.

Number of jurors who so find 0

47. Brandon has had extremely limited family support in his adult life.

Number of jurors who so find 0

48. Brandon has behaved respectfully during the trial of this case.

Number of jurors who so find 0

49. The penalty of life without the possibility of release is a severe sentence.

Number of jurors who so find 2

50. All life has value.

Number of jurors who so find 10

Instructions: *In addition to the mitigating factors outlined above, you may add any other mitigating factor in Brandon Council's background, record, or character or any other circumstance of the crime, that any member of the jury finds mitigates against the imposition of the death penalty. There is no difference in the way these factors are weighed compared to the mitigating factors outlined above. The following extra spaces are provided to write in additional mitigating factors, if any, found by any one or more jurors. You need not note which juror(s) find these factors. It is sufficient that any one juror finds such an additional factor.*

If more space is needed, write "CONTINUED" and use the reverse side of this page.

1. Additional mitigating factor: _____

Number of jurors who so find: _____

2. Additional mitigating factor: _____

Number of jurors who so find: _____

3. Additional mitigating factor: _____

Number of jurors who so find: _____

VI. DETERMINATION OF SENTENCE

Instructions: Complete either part 1 below or part 2 on the following page but not both. Then go directly to Section VII to certify your decision.

1. DEATH SENTENCE

Based upon consideration of whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of any mitigating factors, whether the aggravating factor or factors are themselves sufficient to justify a sentence of death, we the jury, by unanimous vote, determine that a sentence of death shall be imposed as to Count One.

[Redacted] 564
 (Signature & Juror Number)

[Redacted] 350
 (Signature & Juror Number)

[Redacted] 441
 (Signature & Juror Number)

[Redacted] 188
 (Signature & Juror Number)

[Redacted] 481
 (Signature & Juror Number)

[Redacted] 204
 (Signature & Juror Number)

[Redacted] 26
 (Signature & Juror Number)

[Redacted] 500
 (Signature & Juror Number)

[Redacted] 320
 (Signature & Juror Number)

[Redacted] 596
 (Signature & Juror Number)

[Redacted] 459
 (Signature & Juror Number)

[Redacted] 399
 (Signature & Juror Number)

Date: 10/3/19

2. SENTENCE OF LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF RELEASE

A. Unanimous Decision for Life Imprisonment

We, the jury, unanimously conclude that a sentence of life imprisonment without the possibility of release shall be imposed as to Count One.

FOREPERSON(Signature & Juror Number)

Date: _____

B. Unable to Reach Any Unanimous Decision

We, the jury, are unable to come to a unanimous decision in favor of a life sentence without the possibility of release or in favor of a death sentence as to Count One. We understand that the Court will impose a sentence of life imprisonment without the possibility of release as to Count One.

FOREPERSON(Signature & Juror Number)

Date: _____

VII. CERTIFICATION

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or the victims was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime or crimes in question regardless of the race, color, religious beliefs, national origin, or sex of the defendant, or either of the victims.

[Redacted]	<u>564</u>	[Redacted]	<u>350</u>
[Redacted]	<u>596</u>	[Redacted]	<u>26</u>
[Redacted]	<u>441</u>	[Redacted]	<u>500</u>
		(Signature & Juror Number)	
[Redacted]	<u>188</u>	[Redacted]	<u>320</u>
[Redacted]	<u>281</u>	[Redacted]	<u>459</u>
[Redacted]	<u>204</u>	[Redacted]	<u>399</u>
		FOREPERSON(Signature & Juror Number)	

Date: 10/3/19