

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

20 OCT 10 AM 7:43  
CLERK  
OF HIGH

UNITED STATES OF AMERICA,

Plaintiff,

File No. 1:01-CR-218

v.

HON. ROBERT HOLMES BELL

MICHAEL PAUL OSTRANDER

Defendant.

**PENALTY PHASE  
SPECIAL VERDICT FORM**

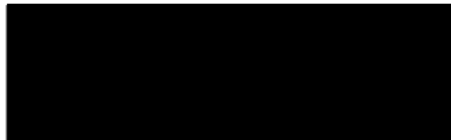
**I. GATEWAY INTENT FACTOR**

Instructions: Answer "YES" or "NO."

1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally killed Hansle Andrews as explained in Instruction No. 8?

Yes

No



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2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and that Hansle Andrews died as a result of the act as explained in Instruction No. 8?

Yes

No



Instructions: If you answered "NO" with respect to both determinations in this section, then stop your deliberations, cross out Sections II, III, IV and V of this form, and proceed to Section VI. Each juror should carefully read the statement in Section VI, 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.

If you answered "YES" with respect to either or both of the determinations in this Section I, proceed to Section II which follows.

## II. STATUTORY AGGRAVATING FACTORS

Instructions: For each of the following, answer "YES" or "NO."

1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant committed the murder of Hansle Andrews in an especially heinous, cruel and depraved manner, as set out in Instructions No. 9 and 10?

Yes

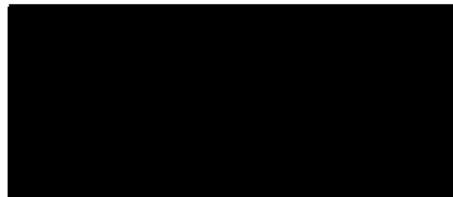
No



2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant committed the offense of murder after substantial planning and premeditation to cause the death of a person, as set out in Instructions No. 9 and 11?

Yes

No



3. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant committed the offense of murder as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value, as set out in Instructions 9 and 12?

Yes

No



Instructions: If you answered "NO" with respect to all three of the Statutory Aggravating Factors in this Section II, then stop your deliberations, cross out Sections III, IV and V of this form, and proceed to Section VI of this form.

If you found the requisite mental state in Section I and answered "YES" with respect to one or more of the statutory aggravating factors in this Section II, proceed to Section III which follows.

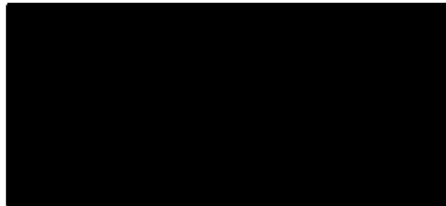
### III. NON-STATUTORY AGGRAVATING FACTORS

Instructions: For each of the following, answer "YES" or "NO."

1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the personal characteristics of Hansle Andrews as an individual human being were such that his death has caused injury and loss to Hansle Andrews, his family and his friends, and that such victim impact evidence is an aggravating factor, as set out in Instruction 15?

Yes

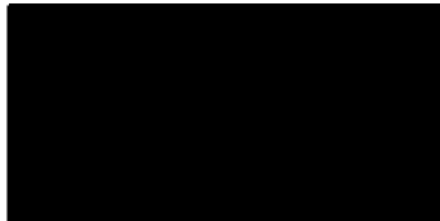
No



2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant lacked remorse for the murder of Hansle Andrews as set out in Instruction 14?

Yes

No



Instructions: Regardless of whether you answered "YES" or "NO" with respect to the Non-Statutory Aggravating Factor[s] in this Section III, proceed to Section IV, which follows.

**IV. MITIGATING FACTORS**

Instructions: For each of the following mitigating factors, indicate, in the space provided, the number of jurors who have found the existence of that mitigating factor to be proven by a preponderance of the evidence.

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 may consider such a factor established in considering whether or not a sentence of death shall be imposed, regardless of the number of other jurors who agree that the factor has been established:

1. Defendant was under unusual and substantial duress because he feared that his brother Robert would kill him if he did not assist in the murder.

Number of jurors who so find 2

2. Defendant is punishable as an aider and abettor in the offense, but his participation was minor compared to Robert's.

Number of jurors who so find 8

3. Jon Mercer was equally culpable in the murder based upon his foreknowledge and actual participation in the planning of the murder, but he will not be punished by death.

Number of jurors who so find ~~12~~ 1

4. Defendant has no significant prior history of other criminal conduct.

Number of jurors who so find 0

5. Hansle Andrews knowingly and willingly participated in the drug conspiracy that ultimately led to his robbery and death.

Number of jurors who so find 0

6. Defendant grew up in a chaotic, unstable, violent and dysfunctional single parent environment. His mother was an extremely dependent, self-centered, and substance-abusing person who dated numerous men, most of whom were alcoholics, drug addicts, or both. Defendant's father was an alcoholic who failed to parent him.

Number of jurors who so find 5

7. Defendant's mother permitted substance use, abuse and sales in her household and defendant became involved in drug trafficking, because of his older brothers' involvement.

Number of jurors who so find 7

8. The environment in which defendant grew up failed to meet his developmental needs, thereby delaying his moral development, and leaving him vulnerable as he approached adolescence.

Number of jurors who so find 5

9. During his early adolescence, defendant recognized the need for change, and sought refuge outside his family. When he was unable to escape his dysfunctional environment, he underwent significant negative changes. He withdrew from mainstream society and looked only to his family for support, guidance, and "role modeling."

Number of jurors who so find 5

10. Defendant's brother Robert was a negative, coercive "father figure" whom defendant eventually came to fear.

Number of jurors who so find 0

11. Defendant is a supportive brother who has provided encouragement to his sister and his younger twin brothers.

Number of jurors who so find 1



12. Defendant has accepted responsibility for his role in the offense, as evidenced by his willingness to plead guilty, testify, cooperate with the government, and to provide substantial assistance in the investigation and prosecution of others, including his older brother, Robert.

Number of jurors who so find

9

13. Defendant is remorseful, regrets his role in the offense, and has written a letter of apology to the Andrews family.

Number of jurors who so find

0

14. Defendant has grown and matured and has evidenced positive correctional adjustment during his incarceration at Newaygo County Jail by participating in educational opportunities, earning his high school diploma, participating in Forgotten Man Ministries, developing good relationships with guards and staff, and providing support for marginal, needy, and/or vulnerable inmates.

Number of jurors who so find

10

Please identify any other factors about the commission of the crime or about the defendant's background or character, that mitigate against imposition of the death penalty:

1. \_\_\_\_\_

Number of jurors who so find \_\_\_\_\_

2. \_\_\_\_\_

Number of jurors who so find \_\_\_\_\_

3. \_\_\_\_\_

Number of jurors who so find \_\_\_\_\_

4. \_\_\_\_\_

Number of jurors who so find \_\_\_\_\_

(If more space is needed, simply write below and on the back of this sheet. Please remember that you need not be able to articulate a mitigating factor with specificity to consider it in your deliberations.)

**V. DETERMINATION**

Instruction: As to each count, please check one of the three boxes below, sign your names, and then proceed to Section VI.

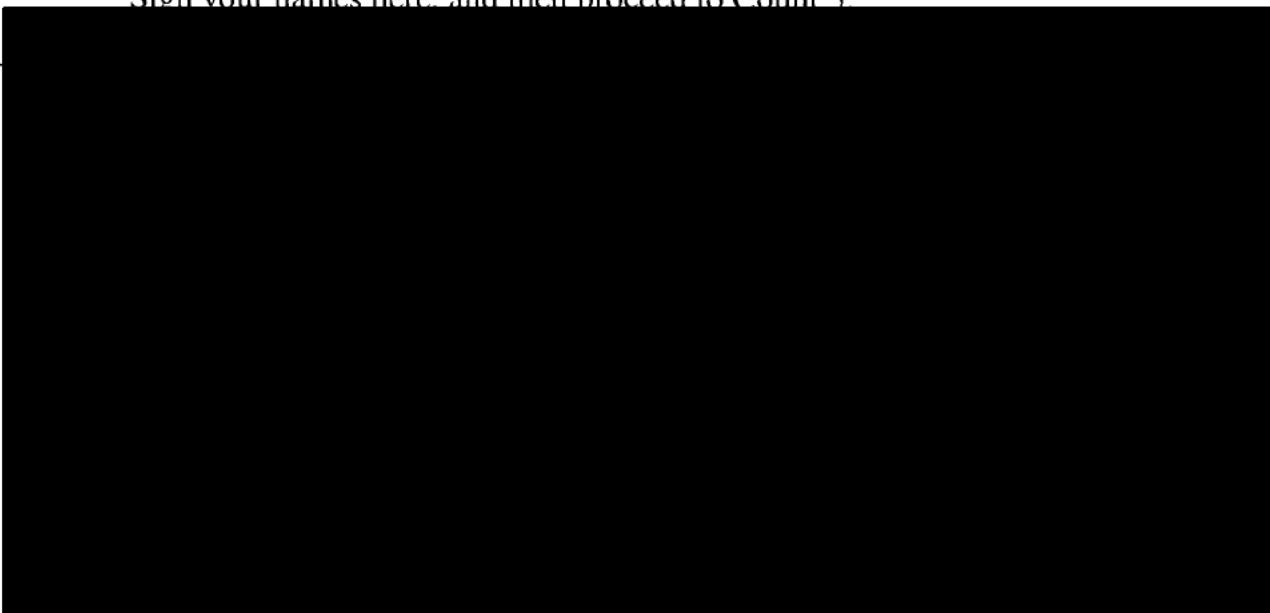
**Count 2: With respect to Count 2, murder with a firearm in relation to a drug trafficking crime:**

We, the jury, after weighing the aggravating and mitigating factors, unanimously find that the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist to justify a sentence of death, and unanimously recommend that the defendant be sentenced to death.

We, the jury, after weighing the aggravating and mitigating factors, and considering the evidence and the law, recommend that the defendant be sentenced to life imprisonment without the possibility of release.

We, the jury, after weighing the aggravating and mitigating factors, and considering the evidence and the law, recommend that the defendant be sentenced to any term of incarceration, which may include life imprisonment, to be imposed by the Court.

Sign your names here, and then proceed to Count 3



Date: 10/9/03

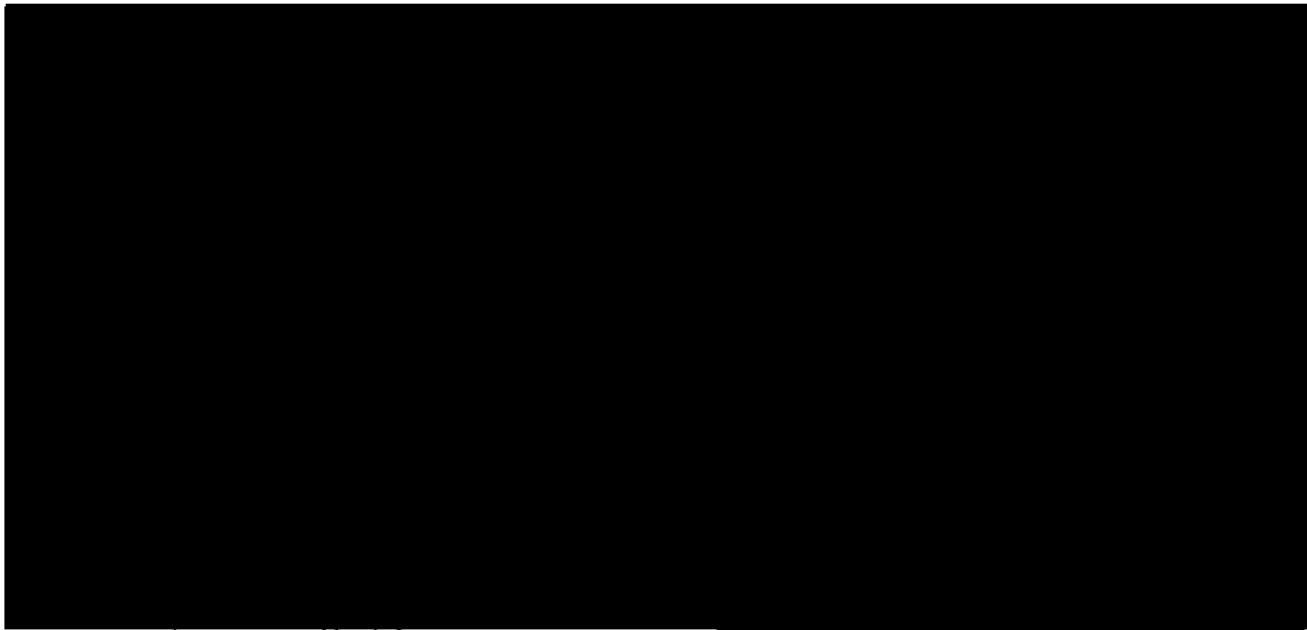
**Count 3: With respect to Count 3, murder with a firearm during the commission of a crime of violence:**

We, the jury, after weighing the aggravating and mitigating factors, unanimously find that the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist to justify a sentence of death, and unanimously recommend that the defendant be sentenced to death.

We, the jury, after weighing the aggravating and mitigating factors, and considering the evidence and the law, recommend that the defendant be sentenced to life imprisonment without the possibility of release.

We, the jury, after weighing the aggravating and mitigating factors, and considering the evidence and the law, recommend that the defendant be sentenced to any term of incarceration, which may include life imprisonment, to be imposed by the Court.

Sign your names here, and then proceed to Section VI.



Date: 10/9/03

## VI. CERTIFICATION

By signing below, each juror certifies that neither the defendant's nor the victim's race, color, religious beliefs, national origin, or sex was considered in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime in question regardless of the race, color, religious beliefs, national origin, or sex of the defendant, or the victim.

Sign your names here:

Date: \_\_\_\_\_

10/9/03