

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA :
:
:
-against- :
:
:
SAYFULLO HABIBULLAEVIC SAIPOV, :
:
Defendant. :
-----X

S1 17-CR-722 (VSB)

Special Verdict Form

SPECIAL VERDICT FORM

SECTION I. AGE

Do you unanimously find that the Government has proven beyond a reasonable doubt that Sayfullo Habibullaevic Saipov was eighteen (18) years of age or older at the time of the offenses in Counts One through Eight and Twenty-Eight?

 / Yes

 No

Proceed to Section II only if you answer "Yes." If you answer "NO," skip forward to Section VII and complete that section in accordance with the directions there. Then notify the Court that you have completed your deliberations.

SECTION II. PRELIMINARY INTENT FACTORS

General Directions for Section II:

As used in this section, the term "capital counts" refers to Counts One through Eight and Twenty-Eight, involving the following charges and victims:

Murder to Gain Entrance to ISIS

Count 1 – Diego Enrique Angelini

Count 2 – Nicholas Cleves

Count 3 – Ann-Laure Decadt

Count 4 – Darren Drake

Count 5 – Ariel Erlij

Count 6 – Hernan Ferruchi

Count 7 – Hernan Diego Mendoza

Count 8 – Alejandro Damian Pagnucco

Damage or Destruction of Motor Vehicle

Count 28 – All Eight Above-Named Victims

Please indicate which, if any, of the following preliminary intent factors you unanimously find that the Government has proven beyond a reasonable doubt. For each of the four factors listed in Part A below, you must mark one of the responses.

Part A.

1. That the defendant intentionally killed the victim of the particular capital count you are considering.

☒ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to counts 1 – 8 and count 28.

☐ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to the following capital count(s) only (identify by count number):

☐ We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

2. That the defendant intentionally inflicted serious bodily injury that resulted in the death of the victim of the particular capital count you are considering.

☒ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to counts 1 – 8 and count 28.

☐ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to the following capital count(s) only (identify by count number):

☐ We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

3. 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 the victim(s) of the particular capital count you are considering died as a direct result of the act.

☒ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to counts 1 – 8 and count 28.

☐ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to the following capital count(s) only (identify by count number):

- ☐ We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

4. That the defendant 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 the victim of the particular capital count you are considering died as a direct result of the act.

- ☒ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to counts 1 – 8 and count 28.

- ☐ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to the following capital count only (identify by count number):

- ☐ We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

Part B.

After reviewing your findings in Section II, Part A, please identify by count number those capital counts, if any, for which you have not unanimously found that the Government has proven beyond a reasonable doubt the existence of any preliminary intent factor:

None

Directions:

For each capital count, if you do not unanimously find that the Government has proven beyond a reasonable doubt at least one of the above preliminary intent factors with respect to that count, then your deliberations are over as to that count. That is to say, you are not to consider in Section III (or thereafter until Section VII) any of the counts you have specified above in Section II, Part B.

If there is no capital count for which you unanimously find a preliminary intent factor has been proved beyond a reasonable doubt, skip forward to Section VII and complete that section in accordance with the directions there. Then notify the Court that you have completed your deliberations.

If you have found at least one preliminary intent factor with regard to one or more capital counts, continue on to Section III.

SECTION III. STATUTORY AGGRAVATING FACTORS

General Directions for Section III:

As used in this section, the term “capital counts” refers only to those counts for which you found the defendant was at least age eighteen in Section I and at least one preliminary intent factor in Section II. Do not consider statutory aggravating factors in this section with regard to any counts for which you have not found at least one preliminary intent factor in Section II.

In this section, please indicate which, if any, of the following statutory aggravating factors you unanimously find that the Government has proven beyond a reasonable doubt. For each of the four statutory aggravating factors listed in Part A below, you must mark one of the responses.

Part A.

1. The death, and injury resulting in death, of the victim or victims (Diego Enrique Angelini, Nicholas Cleves, Ann-Laure Decadt, Darren Drake, Ariel Erlij, Hernan Ferruchi, Hernan Diego Mendoza, and Alejandro Damian Pagnucco) occurred during the commission and attempted commission of the offense under Title 18, United States Code, Section 33 (damage or destruction of motor vehicles).

- ☒ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to counts 1 – 8 and count 28.
- ☐ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to the following capital count(s) only (identify by count number):

- ☐ We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

2. The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

- ☒ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to counts 1 – 8 and count 28.
- ☐ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to the following capital count(s) only (identify by count number):

- ☐ We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

3. The defendant intentionally killed or attempted to kill more than one person in a single criminal episode.

- ☒ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to counts 1 – 8 and count 28.

- ☐ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to the following capital count(s) only (identify by count number):

- ☐ We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

Part B.

After reviewing your findings in Section III, Part A, please identify by count number those capital counts, if any, for which you have not unanimously found that the Government has proven beyond a reasonable doubt the existence of any statutory aggravating factor: NONE - NONE

Directions:

For each capital count you are considering in this section, if you do not unanimously find that the Government has proven beyond a reasonable doubt at least one of the above statutory aggravating factors with respect to that count, then your deliberations are over as to that capital count. In other words, you are not to consider in Section IV (or thereafter until Section VII) any of the counts you have specified above in Section III, Part B.

If there is no capital count for which you unanimously find that at least one statutory aggravating factor has been proved beyond a reasonable doubt, skip forward to Section VII and complete that section in accordance with the directions there. Then notify the Court that you have completed your deliberations.

If you have found one or more statutory aggravating factors with regard to one or more capital counts, continue on to Section IV.

SECTION IV. NON-STATUTORY AGGRAVATING FACTORS**General Directions for Section IV:**

As used in this section, the term “capital counts” refers only to those counts for which you have found the defendant was at least age eighteen in Section I and at least one preliminary intent factor in Section II and at least one statutory aggravating factor in Section III. Do not consider non-statutory aggravating factors in this section with regard to the counts for which you have not found the defendant was at least age eighteen in Section I and at least one preliminary intent factor in Section II and at least one statutory aggravating factor in Section III.

In this section, please indicate which, if any, of the following six non-statutory aggravating factors you unanimously find that the Government has proven beyond a reasonable doubt. For each of the proposed factors, you must mark one of the responses provided.

1. The defendant caused injury, harm, and loss to the families and friends of the victim or victims (Diego Enrique Angelini, Nicholas Cleves, Ann-Laure Decadt, Darren Drake, Ariel Erlij, Hernan Ferruchi, Hernan Diego Mendoza, and Alejandro Damian Pagnucco). The injury, harm, and loss caused by Mr. Saipov with respect to each deceased victim is evidenced by the victim’s personal characteristics and by the impact of the victim’s death upon his or her family and friends.

☒ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to counts 1 – 8 and count 28.

☐ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to the following capital count(s) only (identify by count number):

☐ We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

2. *For capital count 28 only:* The defendant, apart from the impact of the deaths of victims just mentioned in the first non-statutory aggravating factor, caused serious physical and emotional injury, including maiming, disfigurement, permanent disability, and grievous economic hardship, to individuals who survived the offense.

☒ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to count 28.

☐ We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to count 28.

3. The defendant committed the offense to support and further the ideological goals of the Islamic State of Iraq and al-Sham ("ISIS"), a terrorist organization that has as one of its goals to kill U.S. nationals around the world.

☒ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to counts 1 – 8 and count 28.

☐ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to the following capital count(s) only (identify by count number):

☐ We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

4. The defendant is likely to commit criminal acts of violence in prison in the future such that he poses a continuing and serious threat to the lives and safety of others as demonstrated by, among other things, his commission of the acts of violence charged in the Indictment, his stated intent to continue his attack in New York City had his truck not been rendered inoperable, and his continued support for the radical terrorist activities and goals of ISIS, which include the killing of U.S. nationals.

☐ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to counts 1 – 8 and count 28.

☐ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to the following capital count(s) only (identify by count number):

☒ We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

5. The defendant targeted the bike path on the West Side Highway on Halloween because he intended to maximize the devastation to civilians and in an attempt to instill fear in New Yorkers and tourists who use the bike path.

☒ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to counts 1 – 8 and count 28.

- ☐ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to the following capital count(s) only (identify by count number):

- ☐ We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

6. The defendant demonstrated a lack of remorse for the offense in the days and months following his crimes.

- ☒ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to counts 1 – 8 and count 28.

- ☐ We unanimously find that this factor has been proved beyond a reasonable doubt with regard to the following capital count(s) only (identify by count number):

- ☐ We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

Directions:

After you have completed your findings in this section (whether or not you have found any of the above non-statutory aggravating factors to have been proved), continue on to Section V.

SECTION V. MITIGATING FACTORS

General Directions for Section V:

As used in this section, the term "capital counts" refers only to those counts for which you found the defendant was at least age eighteen in Section I and at least one preliminary intent factor in Section II and at least one statutory aggravating factor in Section III.

As to the alleged mitigating factors which are listed below, please indicate which you find that the defendant has proven by a preponderance of the evidence.

Recall that your vote as a jury need not be unanimous with regard to each question in this section. 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 a factor established in making his or her individual determination of whether to sentence Mr. Saipov to life imprisonment without the possibility of release or the death penalty, regardless of the number of other jurors who agree or disagree that the factor has been established. The weight you decide to assign to each factor, if any, in your deliberations is up to each of you.

In the space provided, please indicate the number of jurors who have found the existence of that mitigating factor to be proven by a preponderance of the evidence with regard to each of the capital counts.

Mitigating Factor No. 1: If not sentenced to death, Sayfullo Saipov will be incarcerated for the rest of his life without any possibility of release.

Number of jurors who so find: 12

Mitigating Factor No. 2: If sentenced to life imprisonment without the possibility of release, Sayfullo Saipov will be sent to the H Unit at the Federal Bureau of Prisons ADX facility in Florence, Colorado.

Number of jurors who so find: 12

Mitigating Factor No. 3: On H Unit, Sayfullo Saipov will spend at least 22 hours a day alone in his cell.

Number of jurors who so find: 12

Mitigating Factor No. 4: For the entire time he has been incarcerated since November 1, 2017, Sayfullo Saipov has never physically harmed anyone.

Number of jurors who so find: 12

Mitigating Factor No. 5: Throughout this trial, Sayfullo Saipov sat unrestrained and did not threaten or attempt to harm anyone.

Number of jurors who so find: 12

Mitigating Factor No. 6: For the entire time he has been incarcerated since November 1, 2017, the Federal Bureau of Prisons in its monthly "SHU" reviews, has consistently assessed Sayfullo Saipov's potential for harm to others as "Low."

Number of jurors who so find: 12

Mitigating Factor No. 7: Sayfullo Saipov is under Special Administrative Measures, which restrict who may visit, have contact, or communicate with him to only those people approved by the Department of Justice.

Number of jurors who so find: 12

Mitigating Factor No. 8: All of Sayfullo Saipov's communications are monitored by the FBI in real time and can be discontinued at any time.

Number of jurors who so find: 12

Mitigating Factor No. 9: Under Special Administrative Measures Sayfullo Saipov's reading, viewing and listening material is vetted and inspected by government corrections and/or law enforcement staff.

Number of jurors who so find: 12

Mitigating Factor No. 10: Sayfullo Saipov's Special Administrative Measures cannot be removed or modified without the approval of the Attorney General of the United States.

Number of jurors who so find: 12

Mitigating Factor No. 11: In practice, Special Administrative Measures are not removed or modified without the approval of the U.S. Attorney's Office that prosecuted the case.

Number of jurors who so find: 12

Mitigating Factor No. 12: A sentence of life imprisonment without the possibility of release is a harsh punishment.

Number of jurors who so find: 12

Mitigating Factor No. 13: Sayfullo Saipov will die in prison.

Number of jurors who so find: 12

Mitigating Factor No. 14: Sayfullo Saipov was not a leader or organizer of a terrorist group.

Number of jurors who so find: 12

Mitigating Factor No. 15: Sayfullo Saipov was born and raised in Uzbekistan during a time of strict religious repression, and his ignorance about Islam contributed to his susceptibility to ISIS propaganda when he came to the U.S.

Number of jurors who so find: 12

Mitigating Factor No. 16: ISIS used manipulative techniques to convince people to commit acts of terrorism.

Number of jurors who so find: 12

Mitigating Factor No. 17: ISIS specifically targeted Uzbek migrants.

Number of jurors who so find: 12

Mitigating Factor No. 18: Sayfullo Saipov was influenced by ISIS propaganda.

Number of jurors who so find: 12

Mitigating Factor No. 19: Sayfullo Saipov was convinced by ISIS propaganda to seek martyrdom.

Number of jurors who so find: 12

Mitigating Factor No. 20: Sayfullo Saipov was convinced he had a religious obligation to commit this attack.

Number of jurors who so find: 12

Mitigating Factor No. 21: Sayfullo Saipov's family members condemn his actions, but they still love him.

Number of jurors who so find: 12

Mitigating Factor No. 22: Even from prison, Sayfullo Saipov's life is meaningful to his family.

Number of jurors who so find: 12

Mitigating Factor No. 23: Sayfullo Saipov's parents and sisters love him, and he will continue to be part of their lives even from prison.

Number of jurors who so find: 12

Mitigating Factor No. 24: Sayfullo Saipov's three children, Aisha, Hadicha, and Holid, love him.

Number of jurors who so find: 12

Mitigating Factor No. 25: Sayfullo Saipov was 29 years old at the time of this crime and had no previous criminal convictions.

Number of jurors who so find: 12

Mitigating Factor No. 26: A sentence of life imprisonment without release provides hope that Mr. Saipov may one day understand the wrongfulness of his conduct.

Number of jurors who so find: 12

Mitigating Factor No. 27: There are other factors in Sayfullo Saipov's life, personal traits, character, or background, or any other circumstances present, that suggest, for any individual juror, that life imprisonment without the possibility of release rather than death is the appropriate punishment.

Number of jurors who so find: 7

The law does not limit your consideration of mitigating factors to those submitted to you. If, in addition to those specific circumstances, there is anything about the circumstances of the offense, the defendant's personal traits, character, or background, or anything else relevant that any juror individually believes mitigates against the imposition of the death penalty, you are free to consider that factor in the balance as well. The following extra spaces are provided to write in additional mitigating factors, if any, found by any one or more jurors. If more space is needed, write "CONTINUED" and use the reverse side of the next page.

Mitigating Factor No. _____:

Number of jurors who so find: _____

Mitigating Factor No. ____:

Number of jurors who so find: _____

Mitigating Factor No. ____:

Number of jurors who so find: _____

Directions:

After you have completed your findings in this section (whether or not you have found any mitigating factors in this section), continue on to Section VI.

SECTION VI. DETERMINATION OF SENTENCE

General Directions for Section VI:

As used in this section, the term “capital count” refers only to those counts for which you found the defendant was at least age eighteen in Section I and at least one preliminary intent factor in Section II and at least one statutory aggravating factor in Section III. You may not impose a sentence of death on a particular capital count unless you have first found with regard to that count, unanimously and beyond a reasonable doubt, the defendant was at least age eighteen in Section I and at least one preliminary intent factor in Section II and at least one statutory aggravating factor in Section III.

In this section, enter your determination of the defendant’s sentence with regard to each of the capital counts.

After considering the information presented by both sides during the penalty phase and individually balancing the aggravating factors found to exist against the mitigating factors found to exist:

COUNT ONE

- ☐ We, the jury, unanimously find that a sentence of life in prison without possibility of release is the appropriate sentence for the defendant on Capital Count 1.
- ☐ We, the jury, unanimously find, for Capital Count 1, that the aggravating factor or factors found to exist sufficiently outweigh the mitigating factor or factors found to exist so that death is the appropriate sentence for the defendant. We vote unanimously that the defendant shall be sentenced to death as to Capital Count 1.

COUNT TWO

- ☐ We, the jury, unanimously find that a sentence of life in prison without possibility of release is the appropriate sentence for the defendant on Capital Count 2.
- ☐ We, the jury, unanimously find, for Capital Count 2, that the aggravating factor or factors found to exist sufficiently outweigh the mitigating factor or factors found to exist so that death is the appropriate sentence for the defendant. We vote unanimously that the defendant shall be sentenced to death as to Capital Count 2.

COUNT THREE

- ☐ We, the jury, unanimously find that a sentence of life in prison without possibility of release is the appropriate sentence for the defendant on Capital Count 3.
- ☐ We, the jury, unanimously find, for Capital Count 3, that the aggravating factor or factors found to exist sufficiently outweigh the mitigating factor or factors found to exist so that death is the appropriate sentence for the defendant. We vote unanimously that the defendant shall be sentenced to death as to Capital Count 3.

COUNT FOUR

- ☐ We, the jury, unanimously find that a sentence of life in prison without possibility of release is the appropriate sentence for the defendant on Capital Count 4.
- ☐ We, the jury, unanimously find, for Capital Count 4, that the aggravating factor or factors found to exist sufficiently outweigh the mitigating factor or factors found to exist so that death is the appropriate sentence for the defendant. We vote unanimously that the defendant shall be sentenced to death as to Capital Count 4.

COUNT FIVE

- ☐ We, the jury, unanimously find that a sentence of life in prison without possibility of release is the appropriate sentence for the defendant on Capital Count 5.
- ☐ We, the jury, unanimously find, for Capital Count 5, that the aggravating factor or factors found to exist sufficiently outweigh the mitigating factor or factors found to exist so that death is the appropriate sentence for the defendant. We vote unanimously that the defendant shall be sentenced to death as to Capital Count 5.

COUNT SIX

- ☐ We, the jury, unanimously find that a sentence of life in prison without possibility of release is the appropriate sentence for the defendant on Capital Count 6.
- ☐ We, the jury, unanimously find, for Capital Count 6, that the aggravating factor or factors found to exist sufficiently outweigh the mitigating factor or factors found to exist so that death is the appropriate sentence for the defendant. We vote unanimously that the defendant shall be sentenced to death as to Capital Count 6.

COUNT SEVEN

- ☐ We, the jury, unanimously find that a sentence of life in prison without possibility of release is the appropriate sentence for the defendant on Capital Count 7.
- ☐ We, the jury, unanimously find, for Capital Count 7, that the aggravating factor or factors found to exist sufficiently outweigh the mitigating factor or factors found to exist so that death is the appropriate sentence for the defendant. We vote unanimously that the defendant shall be sentenced to death as to Capital Count 7.

COUNT EIGHT

- ☐ We, the jury, unanimously find that a sentence of life in prison without possibility of release is the appropriate sentence for the defendant on Capital Count 8.
- ☐ We, the jury, unanimously find, for Capital Count 8, that the aggravating factor or factors found to exist sufficiently outweigh the mitigating factor or factors found to exist so that death is the appropriate sentence for the defendant. We vote unanimously that the defendant shall be sentenced to death as to this count.

COUNT TWENTY-EIGHT

- ☐ We, the jury, unanimously find that a sentence of life in prison without possibility of release is the appropriate sentence for the defendant on Capital Count 28.
- ☐ We, the jury, unanimously find, for Capital Count 28, that the aggravating factor or factors found to exist sufficiently outweigh the mitigating factor or factors found to exist so that death is the appropriate sentence for the defendant. We vote unanimously that the defendant shall be sentenced to death as to Capital Count 28.

Each juror must sign his or her name below, indicating that the above sentence determinations reflect the jury's decision:

Juror No. 1:

Juror No. 2:

Juror No. 3:

Juror No. 4:

Juror No. 5:

Juror No. 6:

Juror No. 7:

Juror No. 8:

Juror No. 9:

Juror No. 10:

Juror No. 11:

Juror No. 12:

The foreperson shall indicate the date of signing: Date: March 13, 2023.

Directions:

After you have completed your sentence determination in this section (regardless of what that determination was), continue on to Section VII.

SECTION VII. CERTIFICATION

By signing your name below, each of you individually certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or the victims was not involved in reaching your individual decision. Each of you further certifies that you, as an individual, 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 the victims. If any one or more of you cannot so certify, you may not return a verdict to the Court; instead, you should resume your deliberations.

Juror No. 1:

Juror No. 2:

Juror No. 3:

Juror No. 4:

Juror No. 5:

Juror No. 6:

Juror No. 7:

Juror No. 8:

Juror No. 9:

Juror No. 10:

Juror No. 11:

Juror No. 12:

The foreperson shall indicate the date of signing: Date: March 13, 2023.