

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FILED _____ ENTERED _____
LODGED _____ RECEIVED _____

MAR 24 2010

AT GREENBELT
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND
DEPUTY

UNITED STATES OF AMERICA *

BY

v. *

Case No. DKC-05-0393

ROBERTO ANTONIO ARGUETA *

* * * * *

PENALTY PHASE VERDICT FORM

Part I. Defendant's Age

Do you unanimously find beyond a reasonable doubt that Roberto Antonio Argueta was 18 years old or older at the time he committed the offenses in counts 15 and 18?

YES

NO

SIGNATURE REDACTED

Foreperson

Part II. Threshold Eligibility Factor

Do you unanimously find beyond a reasonable doubt that Roberto Antonio Argueta 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 Nancy Diaz died as a direct result of the act?

Count 15: YES NO

Count 18: YES NO

SIGNATURE REDACTED

Foreperson

If you answer "no" as to the eligibility factor as to both counts, stop, your deliberations are at an end. If you answer "yes" as to either or both counts, please continue to Part III.

1575
12

Part III. Statutory Aggravating Factors

A. Do you unanimously find beyond a reasonable doubt that Roberto Antonio Argueta committed the offense after substantial planning and premeditation?

Count 15: YES NO NOT APPLICABLE*

Count 18: YES NO NOT APPLICABLE*

*"Not Applicable" if the threshold eligibility factor in Part II was not found as to this count.

B. Do you unanimously find beyond a reasonable doubt that Roberto Antonio Argueta killed or attempted to kill more than one person in a single episode?

Count 15: YES NO NOT APPLICABLE*

Count 18: YES NO NOT APPLICABLE*

*"Not Applicable" if the threshold eligibility factor in Part II was not found as to this count.

SIGNATURE REDACTED

Foreperson

You may continue with your deliberations only if you have found, unanimously and beyond a reasonable doubt, at least one listed aggravating factor with respect to at least one of the counts. If you do not find the aggravating factor or factors to have been proven as to both counts, report this to the Court and your deliberations are concluded.

Part IV. Non-statutory Aggravating Factors

- A. Victim Impact : Do you unanimously find that Roberto Antonio Argueta caused injury, harm, and loss to the family of Nancy Diaz?

Proved to the jury's unanimous satisfaction YES NO

- B. Participation in other serious acts of violence:

Do you unanimously find beyond a reasonable doubt that Roberto Argueta committed additional serious acts of violence?

The assault of Vitalino Carreto on June 13, 2004, in Montgomery County, Maryland.

YES NO

The assault of Jhony Diaz on September 17, 2004 in Prince George's County, Maryland.

YES NO

The assault of Daniel Guzman and others on September 19, 2004, at the Hispanic Family Festival.

YES NO

SIGNATURE REDACTED

Foreperson/

Regardless of the findings you have made as to these non-statutory aggravating factors, proceed to the next part inquiring as to mitigating factors.

Part V. Mitigating Factors

For each of the following mitigating factors, you may indicate, in the space provided, whether one or more jurors find that mitigating factor proved by a preponderance of the evidence.

- A. One or more gang members who were involved in or committed the murder of Nancy Diaz did not face the death penalty.

Number of jurors who so find: 8

- B. Roberto Argueta was raised in an environment of poverty.

Number of jurors who so find: 4

- C. Roberto Argueta did not have the benefit of school beyond the fifth grade.

Number of jurors who so find: 5

- D. Roberto Argueta helped support his family by leaving school after fifth grade to work.

Number of jurors who so find: 3

- E. Family members of Roberto Argueta, including his father, were killed during the civil war.

Number of jurors who so find: 9

- F. Roberto Argueta grew up in an area of El Salvador disrupted by war.

Number of jurors who so find: 11

- G. Roberto Argueta was separated from his parents as a child.

Number of jurors who so find: 7

- H. During his teenage years, Roberto Argueta was separated from his family by coming to the United States.

Number of jurors who so find: 2

- I. Roberto Argueta was employed most of his life.

Number of jurors who so find: 5

J. Roberto Argueta was exposed at an early age to violence.

Number of jurors who so find: 12

K. Roberto Argueta has a loving relationship with Nayeli Rodriguez and his son Miguel.

Number of jurors who so find: 2

L. Roberto Argueta has a loving relationship with his son Victor and his son Roberto Carlos, who reside in El Salvador.

Number of jurors who so find: 0

M. All of Roberto Argueta's criminal conduct occurred while he was a member of MS-13.

Number of jurors who so find: 5

N. Roberto Argueta, like many other members of MS-13, came to view its members as family to whom he owed some of the loyalty and protection due a traditional family.

Number of jurors who so find: 5

O. Roberto Argueta was indoctrinated in the rules of MS-13, which included threat of sanction and retaliation by other members of MS-13.

Number of jurors who so find: 4

P. The family of Roberto Argueta will suffer grief and loss if he is executed.

Number of jurors who so find: 7

Q. If he is not sentenced to death, Roberto Argueta will be incarcerated for the rest of his life in federal prison without the possibility of release or parole.

Number of jurors who so find: 8

R. Other mitigating factor(s) found by at least one juror:

1. When living in the United States
he lacked parental guidance & support

Number of jurors who so find: 5

2. His life imprisonment would serve as an example
to his children that bad actions, bad choices and
bad friends have consequences

Number of jurors who so find: 11

3. _____

Number of jurors who so find: _____

4. _____

Number of jurors who so find: _____

5. _____

Number of jurors who so find: _____

Part VI. Determination of Sentence

Do you unanimously find that the aggravating factor(s) found to exist sufficiently outweigh all of the mitigating factors, or in the absence of mitigating factors, that the aggravating factor(s) themselves justify a sentence of death?

Count 15 YES ___ NO ✓

Count 18 YES ___ NO ___

SIGNATURE REDACTED

Foreperson

March 24, 2010
Date

Part VII. Certificate

By signing below, each of us individually hereby certifies that consideration of the race, color, religious beliefs, national origin, or sex of Roberto Antonio Argueta and of Nancy Diaz, were not involved in reaching our respective individual decisions. Each of us individually further certifies that the same decision regarding a sentence would have been made no matter what the race, color, religious beliefs, national origin, or sex of the defendant or victim may have been.

SIGNATURE REDACTED

Date: March 24, 2010

Foreperson