

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

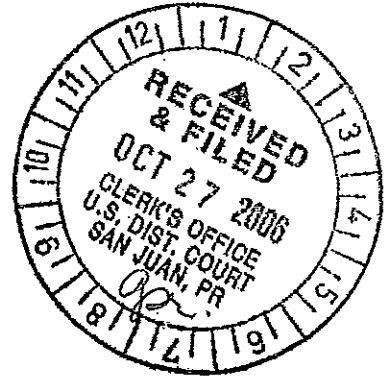
Plaintiff(s)

v.

CARLOS L. AYALA-LOPEZ

Defendant(s)

CRIMINAL NO. 03-55 (JAG)



SPECIAL VERDICT FORM

I. AGE OF DEFENDANT

Instructions; Answer "YES" or "NO."

1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that:

Carlos Ayala-Lopez was eighteen years (18) of age or older at the time he committed the offenses in Counts 5 and 6 of the third superceding indictment.

YES X

NO

Foreperson

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

If you answered "YES" with respect to the determination in this Section I, proceed to Section II which follows,
(Cont.)

II. THRESHOLD INTENT 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 Carlos Ayala-Lopez intentionally killed Jose Oscar Rodriguez Reyes?

YES X

NO _____

Foreperson

- 2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Carlos Ayala-Lopez intentionally inflicted serious bodily injury which resulted in the death of Jose Oscar Rodriguez Reyes?

YES X

NO _____

Foreperson

- 3. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Carlos Ayala-Lopez intentionally participated in an act, contemplating that the life of a person would be taken and/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 Jose Oscar Rodriguez Reyes died as a direct result of the act?

YES X

NO _____

Foreperson

(Cont.)

4. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Carlos Ayala-Lopez 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 Jose Oscar Rodriguez Reyes died as a direct result of the act?

YES X

NO

Foreperson

Instructions: If you answered "NO" with respect to all of the determinations in this section, then stop your deliberations, cross out 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 he or she reached his or her decision. You should then advise the court that you have reached a decision.

III. 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 Carlos Ayala-Lopez committed the offenses in Counts Five and Six of the Third Superseding Indictment as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value, specifically the weapon of Jose Oscar Rodriguez-Reyes?

YES X

NO

Foreperson

2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Carlos Ayala-Lopez committed the offenses in Counts Five and Six of the Third Superseding Indictment after substantial planning and premeditation to cause the death of the victim Jose Oscar Rodriguez Reyes?

YES X

NO

Foreperson

3. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Carlos Ayala-Lopez committed the offenses described in Counts Five and Six of the Third Superseding Indictment against Jose Oscar Rodriguez-Reyes, a Federal Police Officer with the Police and Security Division of the U.S. Department of Veterans Affairs, who was killed while he was engaged in the performance of his official duties?

YES X
NO

Foreperson

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

If you answered "Yes" in Section I, and "Yes" in Section II, and answered "Yes" with respect to one or more of the aggravating factors in this Section III, proceed to Section IV which follows.

V. MITIGATING FACTORS

Instructions: For each of the following mitigating factors, you have the option to 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 one 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. 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. Carlos Ayala-Lopez was born prematurely and developed physical problems including a defect in his chin and legs that turned inward and required braces.

Number of Jurors who so find

0

2. Carlos Ayala-Lopez's parents had a very troubled marriage, resulting in their divorce when Carlos was approximately two years old.

Number of Jurors who so find

0

3. Carlos Ayala-Lopez heard repeated derogatory references about his father from his mother.

Number of Jurors who so find

0

4. Carlos Ayala-Lopez's father infrequently saw Carlos during his early years and Carlos grew up without the close, positive influence of a father.

Number of Jurors who so find

0

5. As a youth, Carlos Ayala-Lopez was called names and belittled by neighborhood kids, and he was clumsy and uncoordinated as a child, causing him to receive facial injuries and have other accidents.

Number of Jurors who so find

0

6. Carlos Ayala-Lopez was negatively influenced by Jose Rivero-Gonzalez, also known as "Luis Llorens."

Number of Jurors who so find 3

7. Carlos Ayala-Lopez is loving and kind to 13 year old Jayleen Esquilin, who sees Carlos as her Godfather.

Number of Jurors who so find 1

8. Carlos Ayala-Lopez continues to be a positive influence on 13 year old Jayleen Esquilin, and she accepts and relies upon his advice in her life.

Number of Jurors who so find 0

9. Carlos Ayala-Lopez provided emotional support and friendship to Roberto, the mentally ill son of Professor Irma Vazquez Asencio, during a lengthy period of Roberto's deep depression.

Number of Jurors who so find 1

10. After Professor Irma Vazquez Asencio's son Roberto committed suicide, Carlos Ayala Lopez consoled and comforted her.

Number of Jurors who so find 0

11. Carlos Ayala-Lopez has been loving to his cousins, Luis and Maritere.

Number of Jurors who so find 0

12. Carlos Ayala-Lopez provided health insurance coverage to his girlfriend, Mariluz Gonzalez and her two children despite the fact that he was not the father of those two children.

Number of Jurors who so find 0

13. Carlos Ayala-Lopez was described as well mannered and respectful by his professors.

Number of Jurors who so find 0

14. Carlos Ayala-Lopez financially assisted Patricia Torres, the mother of Jayleen Torres and assisted her with clothes for her children.

Number of Jurors who so find 0

15. Carlos Ayala-Lopez intervened and prevented the physical assault of Patricia Torres by Patricia's husband, Jason.

Number of Jurors who so find 0

16. Carlos Ayala-Lopez prevented a stranger from committing a potential assault upon Jayleen Esquilin in a restaurant bathroom.

Number of Jurors who so find 0

17. As a young teenager, Carlos Ayala-Lopez began smoking marijuana and his drug usage escalated to abuse of illegal substances such as Percoset, Xanax and other pills, and alcohol.

Number of Jurors who so find 1

18. Carlos Ayala-Lopez received insufficient treatment for his drug and alcohol problems.

Number of Jurors who so find 0

19. Carlos Ayala-Lopez's abuse of drugs and alcohol affected his ability to make good decisions.

Number of Jurors who so find 0

20. On the day of the killing of Jose O. Rodriguez-Reyes, Carlos had smoked marijuana and drank alcohol.

Number of Jurors who so find 0

21. While incarcerated at MDC, Carlos Ayala-Lopez has committed no violent acts.

Number of Jurors who so find 0

22. While incarcerated at MDC, Carlos Ayala-Lopez has assisted staff by helping to teach GED classes to other inmates.

Number of Jurors who so find 0

23. Carlos Ayala-Lopez has the potential for rehabilitation.

Number of Jurors who so find 2

24. Carlos Ayala-Lopez's mother, father, family members, and others including Jayleen Esquilin and Professor Irma Vazquez Asencio desire to continue their relationship with Carlos if he is given a life sentence without the possibility of release.

Number of Jurors who so find 0

25. Carlos Ayala-Lopez has taken vocational courses in MDC such as book-binding, card making, and leather work, has completed the "Walking for Fitness" Program, and he made a leather binder for his mother, as well as other items, while he has been in the Metropolitan Detention Center (MDC).

Number of Jurors who so find 0

26. The U.S. Marshals who had custody of Carlos Ayala-Lopez for all courtroom proceedings described him as respectful to them, and following all of their orders.

Number of Jurors who so find 0

27. If given a life sentence, Carlos Ayala-Lopez can have a positive impact on others.

Number of Jurors who so find 0

28. Co-Defendant Angel Obregon Fontanez participated in the murder of Jose Oscar Rodriguez-Reyes, yet he is not facing the death penalty and he faces a sentence of no more than 15 years in prison.

Number of Jurors who so find 1

29. Co-defendant Eusebio Llanos-Crespo was arrested with the murder weapon after having murdered another person in a robbery in which Carlos Ayala-Lopez was not involved, yet Eusebio Llanos-Crespo has been freed.

Number of Jurors who so find 1

30. The second person in the V.A. video fired his weapon at the victim but is not facing the death penalty or life in prison without release.

Number of Jurors who so find 0

31. Carlos Ayala-Lopez was equally culpable in the crime as to another co-defendant who will not be punished by death.

Number of Jurors who so find 0

32. Carlos Ayala-Lopez was only twenty-four years old at the time of the offense.

Number of Jurors who so find 0

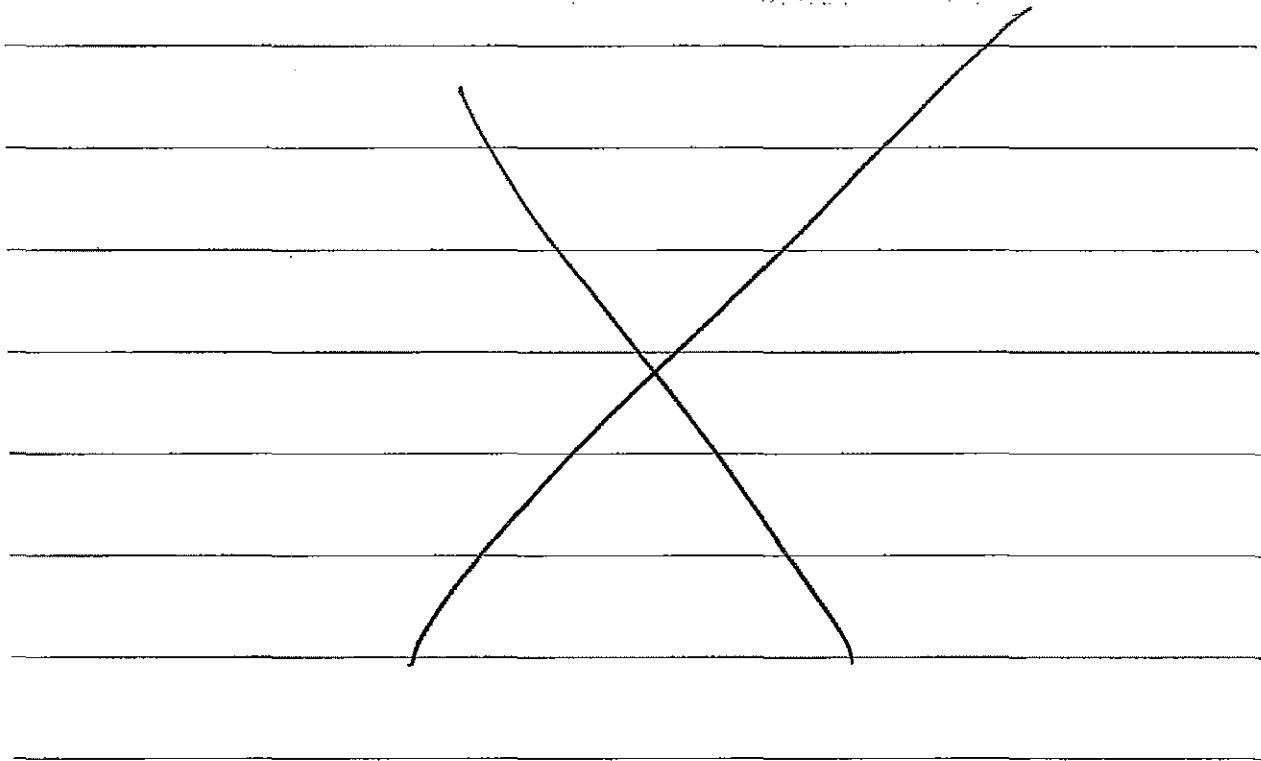
33. Carlos Ayala-Lopez's mother, father and other loved ones will suffer greatly if he were executed, because of positive aspects of his character and the manner in which he continues to treat them.

Number of Jurors who so find 0

34. The execution of Carlos Ayala-Lopez would be especially devastating to his mother, as he is her only child.

Number of Jurors who so find 7

The following extra spaces are provided to write in any additional mitigating factors found by any one or more jurors.

A set of ten horizontal lines intended for writing. A large, handwritten 'X' is drawn across the entire set of lines, indicating that this section is to be ignored or is otherwise void.

Instructions: After you have made written findings for the Mitigating Factors in Section V above, proceed to Section VI which follows.

VI. DETERMINATION

Count Five: As to Count Five, based upon consideration of whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or whether the mitigating factors outweigh the aggravating factors, or in the absence of any mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death, and whether death or life in prison without the possibility of release is the appropriate sentence in this case:

A. Death Sentence

We determine, by unanimous vote, that a sentence of death shall be imposed.

YES _____

NO X

If you answer "YES," the foreperson must sign here, and you must then proceed to Count Six below. If you answer "NO," the foreperson must sign, and you must then proceed to Question B immediately below.

Foreperson

B. Sentence of Life in Prison Without Possibility of Release

We determine, by unanimous vote, that a sentence of life imprisonment without possibility of release shall be imposed.

YES X

NO _____

If you answer "YES," the foreperson must sign here, and then you must proceed to Count Six below. If your answer is "NO", the foreperson must sign and you must then proceed to Question C immediately below.

Foreperson

C. Unable to Reach a Unanimous Decision

We are unable to reach a unanimous vote as to a sentence of death or a sentence of life imprisonment. We understand that the Court will impose a sentence of life imprisonment without possibility of release.

YES _____

NO _____

If you answer is "YES", the foreperson must sign here and then you must proceed to Count Six below.

Foreperson

Count Six: As to Count Six, based upon consideration of whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or whether the mitigating factors outweigh the aggravating factors, or in the absence of any mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death, and whether death, or life imprisonment without the possibility of release, or imprisonment for a term of years in prison up to life imprisonment is the appropriate sentence in this case:

A. Death Sentence

We determine, by unanimous vote, that a sentence of death shall be imposed.

YES _____

NO X

If you answer "YES," the foreperson must sign here. If you answer "NO," the foreperson must sign, and you must then proceed to Question B immediately below.

Foreperson

B. Sentence of Life in Prison Without Possibility of Release

We determine, by unanimous vote, that a sentence of life imprisonment without possibility of release shall be imposed.

YES X

NO

If you answer "YES," the foreperson must sign here. If your answer is "NO", the foreperson must sign and you must then proceed to Question C immediately below.

Foreperson

C. Imprisonment for a Term of Years in Prison up to Life Imprisonment

We determine, by unanimous vote, that a sentence of imprisonment for a term of years in prison up to life imprisonment without possibility of release shall be imposed.

YES

NO

If you answer "YES," the foreperson must sign here. If your answer is "NO", the foreperson must sign and you must then proceed to Question D immediately below.

Foreperson

D. Unable to Reach a Unanimous Decision

We are unable to reach a unanimous vote as to a sentence of death or a sentence of life imprisonment or a sentence of a term of years in prison up to life imprisonment. We understand that the Court will impose a sentence of life imprisonment without possibility of release or a sentence of a term of years up to life in prison, in addition to the sentence imposed on Count Five.

YES _____

NO _____

If you answer "YES" or "NO" the foreperson must sign here

Foreperson

VII. CERTIFICATION

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the Defendant, Carlos Ayala-Lopez or the victim Jose Oscar Rodriguez Reyes 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, or religious beliefs of the defendant or the victim.

Foreperson

Date: _____

10/27/06

(End)