

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

UNITED STATES OF AMERICA

VS.

BRANDON BERNARD, (2)

§
§
§
§
§

CAUSE NO. W-99-CR-070

SPECIAL FINDINGS FORM

COUNT ONE

I. PART ONE -- THE ELEMENT OF INTENT

Instructions: For each of the following, answer "YES" if you, the jury, unanimously find that the government has established the existence of the listed element of intent in the death of Todd A. Bagley beyond a reasonable doubt; answer "NO" if you do not so find:

I(A) The defendant, Brandon Bernard, intentionally killed the victim, Todd A. Bagley

Unanimously YES _____
NO X

I(B) The defendant, Brandon Bernard, intentionally inflicted serious bodily injury that resulted in the death of the victim, Todd A. Bagley

Unanimously YES _____
NO X

I(C) The defendant, Brandon Bernard, intentionally participated in the act, contemplating that the life of the victim, Todd A. Bagley 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, Todd A. Bagley, died as a result of the act;

Unanimously YES X _____
NO _____

I(D) The defendant, Brandon Bernard, intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to someone 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, Todd A. Bagley, died as a result of the act.

Unanimously

YES

X

NO

Instructions: If you answered "NO" with respect to all of the elements of intent listed in Part One, above, then stop your deliberations, fill out Decision Form A, and advise the Court that you have reached a decision.

If you answered "YES" with respect to one or more of the elements of intent listed in Part One, above, then continue your deliberations in accordance with the Court's instructions and proceed to Part Two.

II. PART TWO - STATUTORY AGGRAVATING FACTORS

Instructions: For each of the following, answer "YES" if you, the jury, unanimously find that the government has established the existence of that statutory aggravating factor **beyond a reasonable doubt**; answer "NO" if you do not so find:

II(A). The defendant, Brandon Bernard, committed the offense in an especially heinous, cruel or depraved manner in that it involved torture or serious physical abuse to the victim Todd A. Bagley.

Unanimously YES X
 NO _____

II(B). The defendant, Brandon Bernard, committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

Unanimously YES X
 NO _____

II(C). The defendant, Brandon Bernard, committed the offense after substantial planning and premeditation to cause the death of Todd A. Bagley.

Unanimously YES X
 NO _____

II(D). The defendant, Brandon Bernard, intentionally killed or attempted to kill Todd A. Bagley and Stacie L. Bagley in a single criminal episode.

Unanimously YES _____
 NO X

Instructions: If you answered "NO" with respect to all of the statutory aggravating factors in Part Two, above, then stop your deliberations, fill out Decision Form B, and advise the Court that you have reached a decision..

If you answered "YES" with respect to at least one of the statutory aggravating factors in Part Two, above, then continue your deliberations in accordance with the Court's instructions and proceed to Part Three.

III. PART THREE - NON-STATUTORY AGGRAVATING FACTORS

Instructions: For each of the following, answer "YES" if you, the jury, unanimously find that the government has established the existence of that non-statutory aggravating factor **beyond a reasonable doubt**; answer "NO" if you do not so find:

III(A). The defendant, Brandon Bernard, is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others.

Unanimously YES X
 NO

III(B). The defendant, Brandon Bernard, has caused injury, harm and loss to the family of the victim, Todd A. Bagley, because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family.

Unanimously YES X
 NO

III(C). The defendant, Brandon Bernard, committed the offense for the purpose of preventing the victim, Todd A. Bagley, from providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the defendants.

Unanimously YES X
 NO

Instructions: Regardless of whether you answered "YES" or "NO" with respect to the Non-Statutory Aggravating Factors in Part Three, above, continue your deliberations in accordance with the Court's instructions and proceed to Part Four.

IV. PART FOUR - MITIGATING FACTORS

Instructions: For each of the following mitigating factors, indicate the number of jurors who find the existence of each particular mitigating factor by a preponderance of the evidence; if none of the jurors find by a preponderance of the evidence that a particular mitigating factor exists, write the number "0" in the blank provided:

IV(A). Another defendant or defendants who may be equally culpable in the crime will not be punished by death.

Number of jurors who so find, if any 0

IV(B). Brandon Bernard was eighteen at the time of the offense.

Number of jurors who so find, if any 0

IV(C). Brandon Bernard has demonstrated remorse regarding the offense.

Number of jurors who so find, if any 0

IV(D). Any other factors in Brandon Bernard's background or character that may mitigate against the imposition of the death sentence.

1. _____

Number of jurors who so find, if any _____

2. _____

Number of jurors who so find, if any _____

3. _____

Number of jurors who so find, if any _____

4. _____

Number of jurors who so find, if any _____

Proceed to the next page for further instructions.

Instructions: Continue your deliberations in accordance with the Court's instructions and then complete either Decision Form C recommending a sentence of death, or Decision Form D recommending a sentence of life imprisonment without the possibility of release.

DECISION FORM A

We the jury have determined that a sentence of death should not be imposed because the government has failed to prove beyond a reasonable doubt the existence of any of the elements of intent.

FOREPERSON

Date: _____, 2000

DECISION FORM B

We the jury have determined that a sentence of death should not be imposed because the government has failed to prove beyond a reasonable doubt the existence of any of the aggravating factors.

FOREPERSON

Date: _____, 2000

DECISION FORM C

Based upon consideration of whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death, we, the jury, recommend, by unanimous vote, that the defendant should be sentenced to death.

FOREPERSON

Date: _____, 2000

DECISION FORM D

We, the jury, recommend, by unanimous verdict, a sentence of life imprisonment without possibility of release.



FOREPERSON

Date: 6-12-, 2000

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

UNITED STATES OF AMERICA

VS.

BRANDON BERNARD, (2)

§
§
§
§
§

CAUSE NO. W-99-CR-070

SPECIAL FINDINGS FORM

COUNT THREE

I. PART ONE -- THE ELEMENT OF INTENT

Instructions: For each of the following, answer "YES" if you, the jury, unanimously find that the government has established the existence of the listed element of intent in the death of Todd A. Bagley beyond a reasonable doubt; answer "NO" if you do not so find:

I(A) The defendant, Brandon Bernard, intentionally killed the victim, Todd A. Bagley

Unanimously YES _____
 NO X

I(B) The defendant, Brandon Bernard, intentionally inflicted serious bodily injury that resulted in the death of the victim, Todd A. Bagley

Unanimously YES _____
 NO X

I(C) The defendant, Brandon Bernard, intentionally participated in an act, contemplating that the life of the victim, Todd A. Bagley 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, Todd A. Bagley, died as a result of the act;

Unanimously YES X
 NO _____

I(D) The defendant, Brandon Bernard, intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to someone 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, Todd A. Bagley, died as a result of the act.

Unanimously

YES

X

NO

Instructions: If you answered "NO" with respect to all of the elements of intent listed in Part One, above, then stop your deliberations, fill out Decision Form A, and advise the Court that you have reached a decision.

If you answered "YES" with respect to one or more of the elements of intent listed in Part One, above, then continue your deliberations in accordance with the Court's instructions and proceed to Part Two.

II. PART TWO - STATUTORY AGGRAVATING FACTORS

Instructions: For each of the following, answer "YES" if you, the jury, unanimously find that the government has established the existence of that statutory aggravating factor **beyond a reasonable doubt**; answer "NO" if you do not so find:

II(A). The defendant, Brandon Bernard, committed the offense in an especially heinous, cruel or depraved manner in that it involved torture or serious physical abuse to the victim Todd A. Bagley.

Unanimously YES X
 NO

II(B). The defendant, Brandon Bernard, committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

Unanimously YES X
 NO

II(C). The defendant, Brandon Bernard, committed the offense after substantial planning and premeditation to cause the death of Todd A. Bagley.

Unanimously YES X
 NO

II(D). The defendant, Brandon Bernard, intentionally killed or attempted to kill Todd A. Bagley and Stacie L. Bagley in a single criminal episode.

Unanimously	YES	_____
	NO	_____X_____

Instructions: If you answered "NO" with respect to all of the statutory aggravating factors in Part Two, above, then stop your deliberations, fill out Decision Form B, and advise the Court that you have reached a decision.

If you answered "YES" with respect to at least one of the statutory aggravating factors in Part Two, above, then continue your deliberations in accordance with the Court's instructions and proceed to Part Three.

36
H

III. PART THREE - NON-STATUTORY AGGRAVATING FACTORS

Instructions: For each of the following, answer "YES" if you, the jury, unanimously find that the government has established the existence of that non-statutory aggravating factor **beyond a reasonable doubt**; answer "NO" if you do not so find:

III(A). The defendant, Brandon Bernard, is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others.

Unanimously YES X
 NO _____

III(B). The defendant, Brandon Bernard, has caused injury, harm and loss to the family of the victim, Todd A. Bagley, because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family.

Unanimously YES X
 NO _____

III(C). The defendant, Brandon Bernard, committed the offense for the purpose of preventing the victim, Todd A. Bagley, from providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the defendants.

Unanimously YES ✓
 NO _____

Instructions: Regardless of whether you answered "YES" or "NO" with respect to the Non-Statutory Aggravating Factors in Part Three, above, continue your deliberations in accordance with the Court's instructions and proceed to Part Four.

IV. PART FOUR - MITIGATING FACTORS

Instructions: For each of the following mitigating factors, indicate the number of jurors who find the existence of each particular mitigating factor by a preponderance of the evidence; if none of the jurors find by a preponderance of the evidence that a particular mitigating factor exists, write the number "0" in the blank provided:

IV(A). Another defendant or defendants who may be equally culpable in the crime will not be punished by death.

Number of jurors who so find, if any 0

IV(B). Brandon Bernard was eighteen at the time of the offense.

Number of jurors who so find, if any 0

IV(C). Brandon Bernard has demonstrated remorse regarding the offense.

Number of jurors who so find, if any 0

IV(D). Any other factors in Brandon Bernard's background or character that may mitigate against the imposition of the death sentence.

1. _____

Number of jurors who so find, if any _____

2. _____

Number of jurors who so find, if any _____

3. _____

Number of jurors who so find, if any _____

4. _____

Number of jurors who so find, if any _____

Proceed to the next page for further instructions.

Instructions: Continue your deliberations in accordance with the Court's instructions and then complete either Decision Form C recommending a sentence of death, or Decision Form D recommending a sentence of life imprisonment without the possibility of release.

DECISION FORM A

We the jury have determined that a sentence of death should not be imposed because the government has failed to prove beyond a reasonable doubt the existence of any of the elements of intent.

FOREPERSON

Date: _____, 2000

DECISION FORM B

We the jury have determined that a sentence of death should not be imposed because the government has failed to prove beyond a reasonable doubt the existence of any of the aggravating factors.

FOREPERSON

Date: _____, 2000

DECISION FORM C

Based upon consideration of whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death, we, the jury, recommend, by unanimous vote, that the defendant should be sentenced to death.

FOREPERSON

Date: _____, 2000

DECISION FORM D

We, the jury, recommend, by unanimous verdict, a sentence of
life imprisonment without possibility of release.



FOREPERSON

Date: 6-12-, 2000

Unanimously YES
NO

I(D) The defendant, Brandon Bernard, intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to someone 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, Stacie L. Bagley, died as a result of the act.

Unanimously YES X
 NO

Instructions: If you answered "NO" with respect to all of the elements of intent listed in Part One, above, then stop your deliberations, fill out Decision Form A, and advise the Court that you have reached a decision.

If you answered "YES" with respect to one or more of the elements of intent listed in Part One, above, then continue your deliberations in accordance with the Court's instructions and proceed to Part Two.

II. PART TWO - STATUTORY AGGRAVATING FACTORS

Instructions: For each of the following, answer "YES" if you, the jury, unanimously find that the government has established the existence of that statutory aggravating factor **beyond a reasonable doubt**; answer "NO" if you do not so find:

II(A). The defendant, Brandon Bernard, committed the offense in an especially heinous, cruel or depraved manner in that it involved torture or serious physical abuse to the victim Stacie L. Bagley.

Unanimously YES X
 NO _____

II(B). The defendant, Brandon Bernard, committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

Unanimously YES X
 NO _____

II(C). The defendant, Brandon Bernard, committed the offense after substantial planning and premeditation to cause the death of Stacie L. Bagley.

Unanimously YES X
 NO _____

II(D). The defendant, Brandon Bernard, intentionally killed or attempted to kill Todd A. Bagley and Stacie L. Bagley in a single criminal episode.

Unanimously	YES	_____
	NO	_____X_____

Instructions: If you answered "NO" with respect to all of the statutory aggravating factors in Part Two, above, then stop your deliberations, fill out Decision Form B, and advise the Court that you have reached a decision.

If you answered "YES" with respect to at least one of the statutory aggravating factors in Part Two, above, then continue your deliberations in accordance with the Court's instructions and proceed to Part Three.

III. PART THREE - NON-STATUTORY AGGRAVATING FACTORS

Instructions: For each of the following, answer "YES" if you, the jury, unanimously find that the government has established the existence of that non-statutory aggravating factor beyond a reasonable doubt; answer "NO" if you do not so find:

III(A). The defendant, Brandon Bernard, is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others.

Unanimously YES X
 NO _____

III(B). The defendant, Brandon Bernard, has caused injury, harm and loss to the family of the victim, Stacie L. Bagley, because of the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family.

Unanimously YES X
 NO _____

III(C). The defendant, Brandon Bernard, committed the offense for the purpose of preventing the victim, Stacie L. Bagley, from providing information and assistance to law enforcement authorities in regard to the investigation or prosecution of the defendants.

Unanimously YES X
 NO _____

IV. PART FOUR - MITIGATING FACTORS

Instructions: For each of the following mitigating factors, indicate the number of jurors who find the existence of each particular mitigating factor by a preponderance of the evidence; if none of the jurors find by a preponderance of the evidence that a particular mitigating factor exists, write the number "0" in the blank provided:

IV(A). Another defendant or defendants who may be equally culpable in the crime will not be punished by death.

Number of jurors who so find, if any 0

IV(B). Brandon Bernard was eighteen at the time of the offense.

Number of jurors who so find, if any 0

IV(C). Brandon Bernard has demonstrated remorse regarding the offense.

Number of jurors who so find, if any 0

IV(D). Any other factors in Brandon Bernard's background or character that may mitigate against the imposition of the death sentence.

1. _____

Number of jurors who so find, if any _____

2. _____

Number of jurors who so find, if any _____

3. _____

Number of jurors who so find, if any _____

4. _____

Number of jurors who so find, if any _____

Proceed to the next page for further instructions.

Instructions: Continue your deliberations in accordance with the Court's instructions and then complete either Decision Form C recommending a sentence of death, or Decision Form D recommending a sentence of life imprisonment without the possibility of release.

DECISION FORM A

We the jury have determined that a sentence of death should not be imposed because the government has failed to prove beyond a reasonable doubt the existence of any of the elements of intent.

FOREPERSON

Date: _____, 2000

DECISION FORM B


We the jury have determined that a sentence of death should not be imposed because the government has failed to prove beyond a reasonable doubt the existence of any of the aggravating factors.

FOREPERSON

Date: _____, 2000

DECISION FORM C

Based upon consideration of whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death, we, the jury, recommend, by unanimous vote, that the defendant should be sentenced to death.


FOREPERSON

Date: 6-13-, 2000

DECISION FORM D

We, the jury, recommend, by unanimous verdict, a sentence of
life imprisonment without possibility of release.

FOREPERSON

Date: _____, 2000

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

UNITED STATES OF AMERICA

VS.

CHRISTOPHER ANDRE VIALVA, (1)
BRANDON BERNARD, (2)

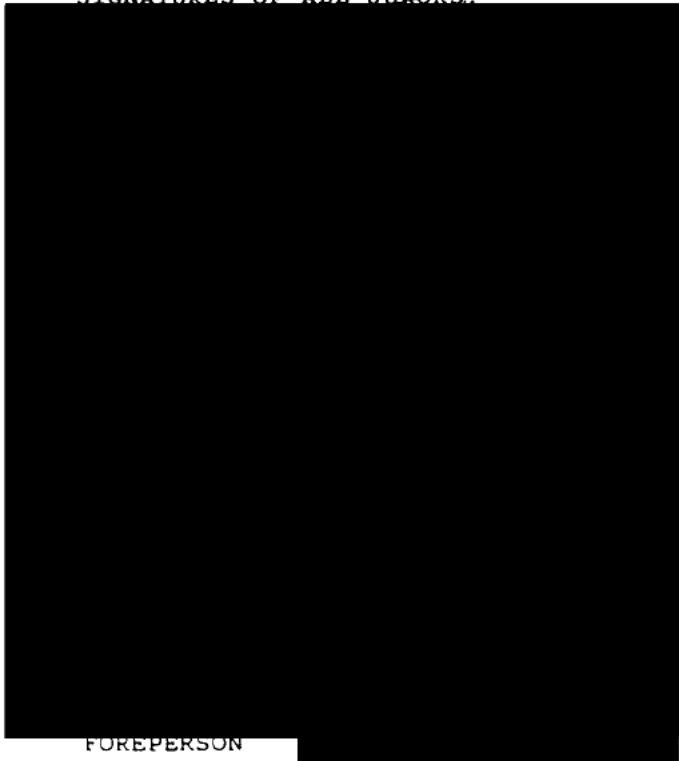
§
§
§
§
§
§

CAUSE NO. W-99-CR-070

CERTIFICATION

By signing below, each juror certifies that, in considering whether a sentence of death is justified as to any count of the indictment, and as to each defendant, consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim 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 in question no matter what the race, color, religious beliefs, national origin, or sex of either defendant, or any victim may be.

SIGNATURES OF ALL JURORS:



FOREPERSON

Date: 10/13/ 2000

16
4/1
12