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

VS.	TES OF AMERICA ERNARD, (2)	. 9 9 9	CAUSE NO. <u>W-99-CR-070</u>
	SPECI	AL FINDINGS	FORM
		COUNT ONE	
I. PART ON	NE THE ELEMENT	OF INTENT	:
Inst	ructions: For eac	h of the foll	lowing, answer "YES" if you,
the jury,	unanimously find	that the gov	ernment has established the
existence	of the listed ele	ement of int	ent in the death of Todd A.
Bagley be	yond a reasonable	e doubt; ans	wer "NO" if you do not so
find:			
I(A)	The defendant, Br		rd, intentionally killed the
	U	nanimously	YES
			NO X
I(B)		njury that r	rd, intentionally inflicted esulted in the death of the
	Ü	nanimously	YES
	,		ио
Í(C)	parricipated in the victim, Todd that lethal for person other than	A. Bagley one would be a one of the	Bernard, intentionally templating that the life of would be taken or intending used in connection with a participants in the offense, ey, died as a result of the
	T	nanimously	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, Todd A. Bagley, died as a result of the act.

Unanimously	YES	
	NO	

<u>Instructions</u>: If you answered "NO" with respect to <u>all</u> 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 <u>one or more</u> 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

<u>Instructions</u>: 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.

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 ________NO

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

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

<u>Instructions</u>: If you answered "NO" with respect to <u>all</u> 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 <u>at least one</u> 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

<u>Instructions</u>: 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:

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
<pre>III(C). The defendant, Brandon Bernard, committed the</pre>

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	

<u>Instructions</u>: 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

<u>Instructions</u>: 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:

c provided	:								
IV(A).		er defe ble in							
Numb	er of	jurors	who so	find,	if a	ıny	(<u> </u>	-
IV(B).	Brand offen	on Berr se.	nard wa	s eigh	nteer	n at t	the tim	e of	the
Numb	er of	jurors	who so	find,	if a	ny)	-
IV(C).		lon Bern ffense.		s demor	nstra	ated re	emorse	regard	ling
Numb	er of	jurors	who so	find,	if a	any)	-
IV(D).	or	other factorium	er tha	t may	y m	itigat			
	1.			· · · · · · · · · · · · · · · · · · ·					-
Numb	per of	jurors	who so	find,	if a	any			_
/	2.								_
Nunù	per of	jurors	who so	find,	ıf d	any			
	3.							·	_
Num	ber of	jurors	who so	find,	if.	any			_

- / (

4.			·····
Number of	jurors who so	find, if any	
Proceed to the	next page for	further instruct	ions

.

<u>Instructions:</u> 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	dete	rmined	that	a	sent	ence	of	deat	.h sh	oul	d
not	be :	impo	sed be	cause	e the	govern	ment	has	fai	led	to pr	ove	beyo	ond	a
reas	sona	ble	doubt	the	exist	ence of	E any	of	the	eler	ments	of	inte	ent.	

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.

	•	
FC	DREPERSON	-
Date:		2000

DECISION FORM D

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

FOREFERSON	
1 01/11 11/10/14	

Date:	6-12-	2000
Date:	,	2000

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

UNITED STA	TES OF AMERICA	§	
VS.		§ §	CAUSE NO. W-99-CR-070
BRANDON BE	ERNARD, (2)	§ §	
	SPE	CIAL FINDINGS	FORM
		COUNT THREE	
I. PART ON	VE THE ELEMEN	T OF INTENT	•
Insti	ructions: For ea	ach of the foll	owing, answer "YES" if you,
the jury,	unanimously find	d that the gove	ernment has established the
existence	of the listed e	lement of inte	ent in the death of Todd A.
Bagley be	yond a reasonab	le doubt; ans	wer "NO" if you do not so
find:			
I (A)	The defendant, victim, Todd A.		d, intentionally killed the
		Unanimously	YES
			NO X
I(B)		injury that re	rd, intentionally inflicted esulted in the death of the
		Unanimously	YES
	,		NO X
Í(C)	participated in the victim, Too that lethal fo person other th	n an act, cont dd A. Bagley w rce would be a an one of the p	Bernard, intentionally employing that the life of would be taken or intending used in connection, with a participants in the offense, ey, died as a result of the
		Unanimously	YES
			ио

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	<u> </u>
	NO	

<u>Instructions</u>: If you answered "NO" with respect to <u>all</u> 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 <u>one or more</u> 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

<u>Instructions</u>: 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		
	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	
	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	*
	OK	

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	\times

<u>Instructions</u>: If you answered "NO" with respect to <u>all</u> 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

<u>Instructions</u>: 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	
	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	YÈS	
	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

<u>Instructions</u>: 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:

prov	raca.			
IV(A)		Another defendant or defendants culpable in the crime will sideath.		
	Numbe	r of jurors who so find, if any	У	$\mathcal{O}_{}$
IV(B)		Brandon Bernard was eighteen offense.	at the	time of the
	Numbe	r of jurors who so find, if any	У	D
IV(C)		Brandon Bernard has demonstrate the offense.	ed remor	se regarding
	Numbe	r of jurors who so find, if an	У	0
IV(D)		Any other factors in Brandon or character that may mit imposition of the death senten	igate (
		1.		
	Numbe	er of jurors who so find, if an	У	
/		2.		
	Nurui-	er of yer is whose finds if an	·7	
		3.		
	Numb	er of jurors who so find, if an	ту	

4.	
Number of	jurors who so find, if any
Proceed to the	next page for further instructions.

<u>Instructions:</u> 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	dete	ermine	ed	that	а	sent	ence	of	deat	h sh	oul	d
not	be	impo	sed be	cause	the	gover	cnm	ent l	has	fai	led 1	to pr	ove	beyo	nd	a
reas	sona	ble	doubt	the e	exist	ence	of	any	of	the	elen	nents	of	inte	nt.	

FO	DREPERSON	 	-
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.

FC	REPERSON			-
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		
7350:		2000

DECISION FORM D

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

FOREPERSON	
I OREL BROOM	

Date:	6-12-	. 2000
Date:	v i α -	. 2000

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

UNITED STATES OF AMERICA VS. BRANDON BERNARD, (2)	§ § § § §	CAUSE NO.	<u>W-99-CR-070</u>
SPE	CIAL FINDINGS	FORM	
	COUNT FOUR		
I. PART ONE THE ELEMEN	T OF INTENT		
<u>Instructions</u> : For each	ach of the fol	lowing, answ	er "YES" if you,
the jury, unanimously fin	d that the gov	ernment has	established the
existence of the listed e	lement of inte	nt in the de	ath of Stacie L.
Bagley beyond a reasonab	ole doubt; ans	swer "NO" if	you do not so
find:			
I(A) The defendant, victim, Stacie		rd, intentio	nally killed the
	Unanimously	YES	
		NO	*
I(B) The defendant, serious bodily victim, Stacle	injury that r		onally inflicted the death of the
	Unanimously	YES	
•		NO	*
the victim, Sta that lethal fo person other th	n an act, con acie L. Bagley orce would be nan one of the , Stacie L. Bag	would be ta used in conparticipants gley, died as	intentionally that the life of ken or intending inection with as in the offense, a result of the
	Unanimously	YES	

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	
	ИО	

<u>Instructions</u>: If you answered "NO" with respect to <u>all</u> 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 <u>one or more</u> 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

<u>Instructions</u>: 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	<u> </u>
	ИО	

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			
	NO			

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

Unanimously	YES	
	МО	

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

<u>Instructions</u>: If you answered "NO" with respect to <u>all</u> 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

<u>Instructions</u>: 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, B	randon Bernard,	is likely to commit
criminal acts	s of violence in th	e future which	would be a continuing
and serious	threat to the live	s and safety of	others.

Unanimously	YES	
	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	<u>X</u>
	ИО	

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 authofities in regard to the investigation or prosecution of the defendants.

Unanimously	YES	
	NO	

IV. PART FOUR - MITIGATING FACTORS

<u>Instructions</u>: 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:

of the	e jur	ors f	ind by	a prep	onderan	ice c	of the	evide	ence	tha	t a
cicular	miti	gatin	g facto	r exis	ts, wr	ite	the nu	umber	"0"	in	the
nk provi	ided:										
IV(A).			er defe ble in								
V	Numbe	r of	jurors	who so	find,	if a	any		0) ———	
IV(B).		Brand offen	on Bern se.	nard w	as eigh	nteer	n at	the t	ime	of	the
1	Numbe	r of	jurors	who so	find,	if a	any		0		
IV(C)	•		on Bern ffense.		s demor	nstra	ated r	emors	e reg	gard	ing
1	Numbe	r of	jurors	whosc	find,	if a	any		\bigcirc		
IV(D)		or	other fa characte sition o	er th	at may	y m	itigat	ard's ce ag	bac) gains	kgro st	und the
		1.				····					_
1	Numbe	er of	jurors	who so	find,	if a	any		·		-
/		2.									
1	Numbe	er of	jurors	who so	find,	if .	any				-
		3.			·						_
	Numbe	er of	jurors	who so	find,	if	any			 -	_

4.	
Number of	jurors who so find, if any
Proceed to the	next page for further instructions

<u>Instructions:</u> 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	e jury	have	determin	ed	that	a	sent	ence	e of (deat	h shou	ıld
not	be	impo	sed be	cause	the gove	rnπ	nent i	has	fai	led	to pr	ove	beyond	d a
rea	sona	ble	doubt	the e	existence	of	any	of	the	eler	ments	of	intent	Ε.

FC	DREPERSON	-
Date:	/	2000

DECISION FORM B

	We	the	jury	have	determin	ied	that	a	sent	ence	of	deat	h s	shoul	Ιd
not	be i	mpos	ed be	cause	the gove	ernm	ent l	has	fai	led t	o p	rove	bey	yond	a
reas	onal	ole d	doubt	the e	existence	of	any	of	the	aggr	ava	ting	fac	ctors	3.

Ē	OREPERSON		
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	-	
FOREPERSON		

	<i>y</i> . ¬	
	/2 - / 3	
Date:	$(0 - 1)^{2}$	2000
Date.		2000

7

DECISION FORM D

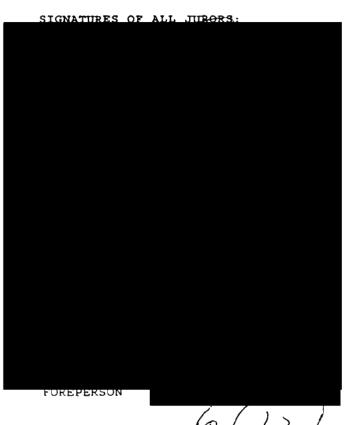
	We, the jury, recommend, by	unanimous verdict,	a sentence of
life	imprisonment without possibi	lity of release.	
	FOREPERSON		
Dato		2000	

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

UNITED STATES OF AMERICA	§	
	§	
VS.	§ CAU	SE NO. W-99-CR-070
	§	
CHRISTOPHER ANDRE VIALVA, (1)	§	
BRANDON BERNARD, (2)	\$	

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.



e: 60/13/2000