

UNITED STATES OF AMERICA)

v.)

Criminal No. 3:03cr00013

SHAWN ARNETTE BREEDEN)

SPECIAL FINDINGS

Part I. Non-statutory Aggravating Factors

[To be proved by the Government **beyond a reasonable doubt**]

As to each of Counts Four, Five, and Six:

(1) We the jury unanimously find beyond a reasonable doubt that the defendant, Shawn Arnette Breedon, committed the murder of Kevin Lee Hester by deception by taking advantage of his prior friendship and close relationship with Kevin Lee Hester.

Foreperson

AND/OR

(2) We the jury unanimously find beyond a reasonable doubt that the defendant, Shawn Arnette Breedon, participated in other criminal conduct on August 8 and 9, 2002, including: (a) conspiracy to commit robbery ☒, (b) robbery ☒, (c) possession of prohibited weapons ☒, (d) assault ☒, and (e) obstruction of justice ☒.

Foreperson

AND/OR

(3) We the jury unanimously find beyond a reasonable doubt that the defendant, Shawn Arnette Breedon, committed other criminal offenses, including: (a)

narcotics trafficking ✓ and (b) the malicious wounding of Joshua
Hightower ✓.


Foreperson

AND/OR

(4) We the jury unanimously find beyond a reasonable doubt that the defendant, Shawn Arnette Breeden, committed an assault against a law enforcement officer, that is, the stabbing of Charlottesville Police Officer Douglas Brooks, on August 3, 2002.

Foreperson

AND/OR

(5) We the jury unanimously find beyond a reasonable doubt that the defendant, Shawn Arnette Breeden, is likely to commit acts of violence in the future which would be a continuing and serious threat to the lives and safety of others, including, but not limited to, inmates and correctional officers resident in an institutional correctional setting.

Foreperson

AND/OR

(6) We the jury unanimously find beyond a reasonable doubt that the defendant, Shawn Arnette Breeden, caused injury, harm, and loss to the friends and family of Kevin Lee Hester because of Kevin Lee Hester's personal characteristics as an individual and the impact of his death upon those persons.


Foreperson

OR

(7) We the jury DO NOT unanimously find beyond a reasonable doubt one or more of (1)-(6), above.

Foreperson

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

Part II. Mitigating Factors

[To be proved by the defense by a **preponderance of the evidence**]

(1) Shawn Breeden has provided a comprehensive statement to police concerning the offense and other conduct which occurred on the night of August 8 & 9, 2002, during which he acknowledged his guilt and demonstrated acceptance of responsibility for his role in the death of Kevin Hester.

Number of jurors who so find: 12

(2) Shawn Breeden has shown substantial and sincere remorse about Kevin Lee Hester's death and about his own involvement in the circumstances surrounding Hester's death.

Number of jurors who so find: 7

(3) Shawn Breeden was under duress at the time of the stabbing of Kevin Lee Hester, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

Number of jurors who so find: 0

(4) Two co-defendants, Kevin Cassell and Robbic Outterbridge, equally culpable in the death of Kevin Lee Hester, will not be punished by death.

Number of jurors who so find: 12

(5) The death of Shawn Breeden will not necessarily relieve the suffering of the family of Kevin Hester.

Number of jurors who so find: 12

(6) Numerous circumstances in Shawn Breeden's upbringing, including an extensive history of emotional and physical abuse by his mother and her boyfriends, neglect, lack of moral guidance and early exposure to alcohol, drugs and crime severely impaired his social, psychological and moral development.

Number of jurors who so find: 12

(7) Recurrent placement outside the home of his mother prevented Shawn Breeden from achieving a safe and secure sense of the world and adversely impacted normal character development.

Number of jurors who so find: 12

(8) Shawn Breeden's biological and genetic predisposition for addiction and his early exposure to drugs and alcohol fostered the early onset of alcoholism and drug addiction in Shawn. This addiction significantly contributed to his relationship with Kevin Lee Hester and Shawn's use of drugs and alcohol on the night of the murder.

Number of jurors who so find: 0

(9) At the time of the offense, Shawn Breeden was a young man (25).

Number of jurors who so find: 12

(10) At age 27, Shawn Breeden's increasing age is a good indicator that he will not pose a substantial risk of harm to others in prison.

Number of jurors who so find: 7

(11) Shawn Breeden has a history of nearly five years of functioning well in the prison system, which is a strong predictor of his future adjustment in prison.

Number of jurors who so find: 10

(12) If incarcerated for the remainder of his natural life, Shawn Breeden is unlikely to be a continuing and serious threat to the lives and safety of others in the prison setting.

Number of jurors who so find: 9

(13) Shawn Breeden has the capacity to make productive contributions to his prison society.

Number of jurors who so find: 12

(14) Shawn Breeden has demonstrated the ability to respond well in a structured and monitored environment like the one in which he will live in federal prison.

Number of jurors who so find: 8

(16) Shawn Breeden remains involved in and positively contributes to the lives of his daughters, wife, nephew and other family members.

Number of jurors who so find: 12

(18) Despite many damaging developmental experiences, Shawn Breeden has attempted to constructively and responsibly better himself while incarcerated by spending a substantial amount of time reading and studying and otherwise engaging himself during his incarceration and intends to further his education in the future.

Number of jurors who so find: 0

(19) Kevin Hester engaged in criminal conduct that may have contributed to the circumstances leading to his death in that he was involved in narcotics possession and/or distribution.

Number of jurors who so find: 11

(20) There is some doubt as to whether Shawn Breeden intended to murder Kevin Hester before leaving the District of Columbia.

Number of jurors who so find: 8

(21) There are other factors in Shawn Arnette Breeden's childhood, background or character that mitigate against imposition of the death sentence.

Number of jurors who so find: 8


Foreperson

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 3:03cr00013
)	
)	COUNT FOUR
)	
SHAWN ARNETTE BREEDEN)	<u>DECISION FORM (B)</u>
)	

We the jury unanimously find that the aggravating factors proved in this case sufficiently outweigh any mitigating factors, and are so serious as to justify a sentence of death. We vote unanimously that Shawn Arnette Breeden shall be sentenced to death.

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11.	
12.	(Foreperson)

DATE: _____

FILED IN OPEN COURT
DATE: 10-13-04
IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION
MICHELE BOSSEMAN
DEPUTY CLERK

UNITED STATES OF AMERICA)
)
)
v.) Criminal No. 3:03cr00013
)
) COUNT FIVE
)
SHAWN ARNETTE BREEDEN) DECISION FORM (A)
)

We the jury DO NOT unanimously find that the aggravating factors proved in this case sufficiently outweigh the mitigating factors to justify a sentence of death. We therefore return a decision that Shawn Arnette Breedon be sentenced to life imprisonment without possibility of release.


Foreperson

DATE: 10/13/04

OCT-14-04 09:03 Rose Emery Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

UNITED STATES OF AMERICA

v.

SHAWN ARNETTE BREEDEN

Criminal No. 3:03cr00013

COUNT SIX

DECISION FORM (A)

We the jury DO NOT unanimously find that the aggravating factors proved in this case sufficiently outweigh the mitigating factors to justify a sentence of death. We therefore return a decision that Shawn Arnette Breeden be sentenced to life imprisonment without possibility of release

Foreperson

DATE: 10/13/04

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 3:03cr00013
)	
)	COUNT SIX
)	
SHAWN ARNETTE BREEDEN)	<u>DECISION FORM (B)</u>
)	

We the jury unanimously find that the aggravating factors proved in this case sufficiently outweigh any mitigating factors, and are so serious as to justify a sentence of death. We vote unanimously that Shawn Arnette Breeden shall be sentenced to death.

1.	_____
2.	_____
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10.	_____
11.	_____
12.	_____ (Foreperson)


DATE: _____

DATE: 10-13-04

DEPUTY CLERK

CERTIFICATE

By signing below, each of us individually certifies that consideration of the race, color, religious beliefs, national origin, or sex of Shawn Arnette Breeden and of the victim, 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.



Forcperson)

DATE: 10/13/04