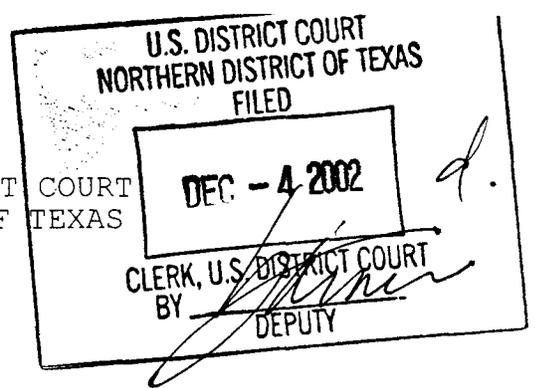


ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION



UNITED STATES OF AMERICA §
VS. §
L.J. Britt (15) §

ACTION NO. 4:00-CR-260-Y

SPECIAL VERDICT FORM

Question No. 1:

Do you unanimously find beyond a reasonable doubt that L.J. Britt was eighteen years of age or older at the time of the offenses alleged in the Fourth Superseding Indictment?

Answer "Yes" or "No."

Answer: Yes.

Instruction: If you answered "Yes" to Question No. 1, proceed to Question No. 2. If you answered "No" to Question No. 1, you are finished with your deliberations.

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Question No. 2--Count Three--Killing of Johnny Lee Shelton While Working in Furtherance of a Continuing Criminal Enterprise:

2(A). Threshold Eligibility Factors

Instruction: If you answer "Yes" to **any** of the four following questions, you may immediately proceed to Question No. 2(B) on the following page. If you answer "No" to **all** of the four following questions, proceed to Question No. 3.

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt intentionally killed another person, namely: Johnny Lee Shelton?

Answer "Yes" or "No."

Answer: Yes.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt intentionally inflicted serious bodily injury on another person that resulted in the death of Johnny Lee Shelton?

Answer "Yes" or "No."

Answer: Yes.

(3) Do you unanimously find beyond a reasonable doubt that L.J. Britt intentionally engaged in conduct intending that another person be killed or that lethal force be employed against such person, which conduct resulted in the death of Johnny Lee Shelton?

Answer "Yes" or "No."

Answer: Yes.

(4) Do you unanimously find beyond a reasonable doubt that L.J. Britt intentionally engaged in conduct that he knew would create a grave risk of death to a person, other than one of the participants in the offense, which conduct resulted in the death of Johnny Lee Shelton?

Answer "Yes" or "No."

Answer: Yes.

2(B). Statutory Aggravating Factors

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt knowingly created a grave risk of death to one or more persons in addition to the victim, Johnny Lee Shelton?

Answer "Yes" or "No."

Answer: Yes.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt committed the offense against Johnny Lee Shelton after substantial planning and premeditation to cause the death of another person?

Answer "Yes" or "No."

Answer: Yes.

Instruction: If you answered "Yes" to **either** portion of Question No. 2(B), proceed to Question No. 2(C) on the following page. If you answered "No" to **both** portions of Question No. 2(B), proceed to Question No. 3.

2(C). Non-Statutory Aggravating Factors

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons, as evidenced by a lack of remorse during or soon after the killing of Johnny Lee Shelton?

Answer "Yes" or "No."

Answer: No.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons as evidenced by specific threats and acts of violence?

Answer "Yes" or "No."

Answer: No.

(3) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons due to his poor rehabilitative potential?

Answer "Yes" or "No."

Answer: No.

Instruction: Proceed to Question No. 2(D) regardless of how you answered either part of Question No. 2(C).

2(D). Statutory Mitigating Factors

Instruction: For each of the following mitigating factors, you must indicate, on the space provided, the number of jurors, if any, who have found the existence of that mitigating factor by a preponderance of the evidence. A finding of a mitigating factor by a preponderance of the evidence may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor must 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 concur that the factor has been established.

(1) Do **any** of you find by a preponderance of the evidence that L.J. Britt is punishable as a principal in the killing of Johnny Lee Shelton, which killing was committed by another, but his participation was relatively minor?

Number of jurors who so find: 0

(2) Do **any** of you find by a preponderance of the evidence that L.J. Britt could not reasonably have foreseen that his conduct in the course of the killing of Johnny Lee Shelton would cause, or would create a grave risk of causing, death to any person?

Number of jurors who so find: 0

(3) Do **any** of you find by a preponderance of the evidence that at the time of the killing of Johnny Lee Shelton, L.J. Britt was youthful, although not under the age of eighteen?

Number of jurors who so find: 9

(4) Do **any** of you find by a preponderance of the evidence that at the time of the killing of Johnny Lee Shelton, L.J. Britt did not have a significant prior criminal record?

Number of jurors who so find: 10

(5) Do **any** of you find by a preponderance of the evidence that another defendant or defendants, equally culpable in the killing of Johnny Lee Shelton, will not be punished by death?

Number of jurors who so find: 12

(6) Do **any** of you find by a preponderance of the evidence that

other factors in L.J. Britt's background or character mitigate against imposition of the death penalty?

Number of jurors who so find: 12

Instruction: Proceed to Question No. 2(E) regardless of how you answered any part of Question No. 2(D).

2(E). Non-Statutory Mitigating Factors

Instruction: For each of the following mitigating factors, you must indicate, on the space provided, the number of jurors, if any, who have found the existence of that mitigating factor by a preponderance of the evidence. A finding of a mitigating factor by a preponderance of the evidence may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor must 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 concur that the factor has been established.

(1) Do **any** of you find by a preponderance of the evidence that L.J. Britt has exhibited good behavior in a jail, prison, institutional setting, or other structured environment and would adapt to prison if he were sentenced to life imprisonment without the possibility of release or parole, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 12

(2) Do **any** of you find by a preponderance of the evidence that the fact that L.J. Britt can be sentenced to life in prison without any possibility of parole or release if he is not executed mitigates against imposition of the death penalty?

Number of jurors who so find: 12

(3) Do **any** of you find by a preponderance of the evidence that a substantial portion of the evidence against L.J. Britt regarding the killing of Johnny Lee Shelton consisted of the testimony of either accomplices in the killing and/or persons who have made agreements with the government in expectation of possible leniency for their criminal conduct, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 11

(4) Do **any** of you find by a preponderance of the evidence that there was little or no physical evidence against L.J. Britt linking him to or proving his involvement in the killing of Johnny Lee Shelton, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 12

2(F). Recommendation

Based upon consideration of whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of any mitigating factors, whether the aggravating factor or factors are themselves sufficient to justify a sentence of death, we recommend, by unanimous vote, that L.J. Britt should be sentenced as follows for the killing of Johnny Lee Shelton while engaging in or working in furtherance of a continuing criminal enterprise:

_____ Death
 Life Imprisonment Without Possibility of Release
_____ Some Other Lesser Sentence

Instruction: Proceed to Question No. 3 regardless of how you answered Question No. 2(F).

Question No. 3--Count Four--Killing of Rudolfo Resendez While Engaging in or Working in Furtherance of a Continuing Criminal Enterprise:

3(A). Threshold Eligibility Factors

Instruction: If you answer "Yes" to **either** of the following questions, you may immediately proceed to Question No. 3(B) on the following page. If you answer "No" to **both** of the following questions, proceed to Question No. 4.

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt intentionally engaged in conduct intending that another person be killed or that lethal force be employed against such person, which conduct resulted in the death of Rudolfo Resendez?

Answer "Yes" or "No."

Answer: Yes.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt intentionally engaged in conduct that he knew would create a grave risk of death to a person, other than one of the participants in the offense, which conduct resulted in the death of Rudolfo Resendez?

Answer "Yes" or "No."

Answer: Yes.

3(B). Statutory Aggravating Factors

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt participated in the killing of Rudolfo Resendez as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value?

Answer "Yes" or "No."

Answer: Yes.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt committed the offense against Rudolfo Resendez after substantial planning and premeditation to cause the death of Rudolfo Resendez?

Answer "Yes" or "No."

Answer: Yes.

Instruction: If you answered "Yes" to **either** portion of Question No. 3(B), proceed to Question No. 3(C) on the following page. If you answered "No" to **both** portions of Question No. 3(B), proceed to Question No. 4.

3(C). Non-Statutory Aggravating Factors

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons, as evidenced by a lack of remorse during or soon after the killing of Rudolfo Resendez?

Answer "Yes" or "No."

Answer: Yes.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons as evidenced by specific threats and acts of violence?

Answer "Yes" or "No."

Answer: Yes.

(3) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons due to his poor rehabilitative potential?

Answer "Yes" or "No."

Answer: No.

Instruction: Proceed to Question No. 3(D) regardless of how you answered any part of Question No. 3(C).

3(D). Statutory Mitigating Factors

Instruction: For each of the following mitigating factors, you must indicate, on the space provided, the number of jurors, if any, who have found the existence of that mitigating factor by a preponderance of the evidence. A finding of a mitigating factor by a preponderance of the evidence may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor must 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 concur that the factor has been established.

(1) Do **any** of you find by a preponderance of the evidence that L.J. Britt was under unusual and substantial duress as to the killing of Rudolfo Resendez?

Number of jurors who so find: 0

(2) Do **any** of you find by a preponderance of the evidence that L.J. Britt is punishable as a principal in the killing of Rudolfo Resendez, which killing was committed by another, but his participation was relatively minor?

Number of jurors who so find: 0

(3) Do **any** of you find by a preponderance of the evidence that L.J. Britt could not reasonably have foreseen that his conduct in the course of the killing of Rudolfo Resendez would cause, or would create a grave risk of causing, death to any person?

Number of jurors who so find: 0

(4) Do **any** of you find by a preponderance of the evidence that at the time of the killing of Rudolfo Resendez, L.J. Britt was youthful, although not under the age of eighteen?

Number of jurors who so find: 8

(5) Do **any** of you find by a preponderance of the evidence that at the time of the killing of Rudolfo Resendez, L.J. Britt did not have a significant prior criminal record?

Number of jurors who so find: 10

(6) Do **any** of you find by a preponderance of the evidence that

another defendant or defendants, equally culpable in the killing of Rudolfo Resendez, will not be punished by death?

Number of jurors who so find: 12

(7) Do **any** of you find by a preponderance of the evidence that other factors in L.J. Britt's background or character mitigate against imposition of the death penalty?

Number of jurors who so find: 12

Instruction: Proceed to Question No. 3(E) regardless of how you answered any part of Question No. 3(D).

3(E). Non-Statutory Mitigating Factors

Instruction: For each of the following mitigating factors, you must indicate, on the space provided, the number of jurors, if any, who have found the existence of that mitigating factor by a preponderance of the evidence. A finding of a mitigating factor by a preponderance of the evidence may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor must 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 concur that the factor has been established.

(1) Do **any** of you find by a preponderance of the evidence that L.J. Britt has exhibited good behavior in a jail, prison, institutional setting, or other structured environment and would adapt to prison if he were sentenced to life imprisonment without the possibility of release or parole, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 12

(2) Do **any** of you find by a preponderance of the evidence that the fact that L.J. Britt can be sentenced to life in prison without any possibility of parole or release if he is not executed mitigates against imposition of the death penalty?

Number of jurors who so find: 12

(3) Do **any** of you find by a preponderance of the evidence that a substantial portion of the evidence against L.J. Britt regarding the killing of Rudolfo Resendez consisted of the testimony of either accomplices in the killing and/or persons who have made agreements with the government in expectation of possible leniency for their criminal conduct, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 10

(4) Do **any** of you find by a preponderance of the evidence that there was little or no physical evidence against L.J. Britt linking him to or proving his involvement in the killing of Rudolfo Resendez, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 7

(5) Do **any** of you find by a preponderance of the evidence that L.J. Britt presents a low risk of harm to others in a prison or institutional setting, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 9

(6) Do **any** of you find by a preponderance of the evidence the existence of any other mitigating factor, outside of those provided for by statute or proposed by L.J. Britt?

<u>Mitigating Factor</u>	<u>Number of Jurors Who So Find</u>
<u>Participation in bible study</u> <u>while in Tarrant County</u> <u>Jail</u>	<u>11</u>
<u>Non leadership role in</u> <u>continuing criminal enterprise</u>	<u>7</u>

Instruction: Proceed to Question No. 4(F) regardless of how you answered any part of Question No. 4(E).

3(F). Recommendation

Based upon consideration of whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of any mitigating factors, whether the aggravating factor or factors are themselves sufficient to justify a sentence of death, we recommend, by unanimous vote, that L.J. Britt should be sentenced as follows for the killing of Rudolfo Resendez while engaging in or working in furtherance of a continuing criminal enterprise:

_____ Death
_____ Life Imprisonment Without Possibility of Release
_____ Some Other Lesser Sentence

Instruction: Proceed to Question No. 4 regardless of how you answered Question No. 3(F).

Question No. 4--Count Six--Killing of Johnny Lee Shelton in the Course of Carrying or Using a Firearm During and in Relation to a Drug-Trafficking Crime:

4(A). Threshold Eligibility Factors

Instruction: If you answer "Yes" to **either** of the following questions, you may immediately proceed to Question No. 4(B) on the following page. If you answer "No" to **both** of the questions, proceed to Question No. 5.

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt intentionally killed another person, namely: Johnny Lee Shelton?

Answer "Yes" or "No."

Answer: Yes.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt 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 Johnny Lee Shelton died as a direct result of the act?

Answer "Yes" or "No."

Answer: Yes.

4(B). Statutory Aggravating Factors

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to Johnny Lee Shelton, the victim of the offense?

Answer "Yes" or "No."

Answer: Yes.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt committed the offense against Johnny Lee Shelton after substantial planning and premeditation to cause the death of Johnny Lee Shelton?

Answer "Yes" or "No."

Answer: Yes.

Instruction: If you answered "Yes" to **either** portion of Question No. 4(B), proceed to Question No. 4(C) on the following page. If you answered "No" to **both** portions of Question No. 4(B), proceed to Question No. 5.

4(C). Non-Statutory Aggravating Factors

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons, as evidenced by a lack of remorse during or soon after the killing of Johnny Lee Shelton?

Answer "Yes" or "No."

Answer: No.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons as evidenced by specific threats and acts of violence?

Answer "Yes" or "No."

Answer: No.

(3) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons due to his poor rehabilitative potential?

Answer "Yes" or "No."

Answer: No.

Instruction: Proceed to Question No. 4(D) regardless of how you answered any part of Question No. 4(C).

4(D). Statutory Mitigating Factors

Instruction: For each of the following mitigating factors, you must indicate, on the space provided, the number of jurors, if any, who have found the existence of that mitigating factor by a preponderance of the evidence. A finding of a mitigating factor by a preponderance of the evidence may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor must 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 concur that the factor has been established.

(1) Do **any** of you find by a preponderance of the evidence that L.J. Britt is punishable as a principal in the killing of Johnny Lee Shelton, which killing was committed by another, but his participation was relatively minor?

Number of jurors who so find: 0

(2) Do **any** of you find by a preponderance of the evidence that another defendant or defendants, equally culpable in the killing of Johnny Lee Shelton, will not be punished by death?

Number of jurors who so find: 12

(3) Do **any** of you find by a preponderance of the evidence that other factors in L.J. Britt's background or character mitigate against imposition of the death penalty?

Number of jurors who so find: 12

Instruction: Proceed to Question No. 4(E) regardless of how you answered any part of Question No. 4(D).

4(E). Non-Statutory Mitigating Factors

Instruction: For each of the following mitigating factors, you must indicate, on the space provided, the number of jurors, if any, who have found the existence of that mitigating factor by a preponderance of the evidence. A finding of a mitigating factor by a preponderance of the evidence may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor must 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 concur that the factor has been established.

(1) Do **any** of you find by a preponderance of the evidence that L.J. Britt has exhibited good behavior in a jail, prison, institutional setting, or other structured environment and would adapt to prison if he were sentenced to life imprisonment without the possibility of release or parole, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 12

(2) Do **any** of you find by a preponderance of the evidence that the fact that L.J. Britt can be sentenced to life in prison without any possibility of parole or release if he is not executed mitigates against imposition of the death penalty?

Number of jurors who so find: 12

(3) Do **any** of you find by a preponderance of the evidence that a substantial portion of the evidence against L.J. Britt regarding the killing of Johnny Lee Shelton consisted of the testimony of either accomplices in the killing and/or persons who have made agreements with the government in expectation of possible leniency for their criminal conduct, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 10

(4) Do **any** of you find by a preponderance of the evidence that there was little or no physical evidence against L.J. Britt linking him to or proving his involvement in the killing of Johnny Lee Shelton, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 12

(5) Do **any** of you find by a preponderance of the evidence that

at the time of the killing of Johnny Lee Shelton, L.J. Britt was youthful, although not under the age of eighteen?

Number of jurors who so find: 9

(6) Do **any** of you find by a preponderance of the evidence that at the time of the killing of Johnny Lee Shelton, L.J. Britt did not have a significant prior criminal record?

Number of jurors who so find: 10

(7) Do **any** of you find by a preponderance of the evidence that L.J. Britt presents a low risk of harm to others in a prison or institutional setting, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 10

(8) Do **any** of you find by a preponderance of the evidence the existence of any other mitigating factor, outside of those provided for by statute or proposed by L.J. Britt?

<u>Mitigating Factor</u>	<u>Number of Jurors Who So Find</u>
Participation in bible study	11
while in Tarrant County	
Jail	

Instruction: Proceed to Question No. 5(F) regardless of how you answered any part of Question No. 5(E).

4(F). Recommendation

Based upon consideration of whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of any mitigating factors, whether the aggravating factor or factors are themselves sufficient to justify a sentence of death, we recommend, by unanimous vote, that L.J. Britt should be sentenced as follows for the killing of Johnny Lee Shelton in the course of carrying or using a firearm during and in relation to a drug-trafficking crime:

 Death
 ✓ Life Imprisonment Without Possibility of Release
 Some Other Lesser Sentence

Instruction: Proceed to Question No. 5 regardless of how you answered Question No. 4(F).

Question 5--Count Nine--Killing of Rudolfo Resendez in the Course of Carrying or Using a Firearm During and in Relation to a Drug-Trafficking Crime:

5(A). Threshold Eligibility Factor

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt intentionally killed another person, namely: Rudolfo Resendez?

Answer "Yes" or "No."

Answer: Yes.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt 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 Rudolfo Resendez died as a direct result of the act?

Answer "Yes" or "No."

Answer: Yes.

(3) Do you unanimously find beyond a reasonable doubt that the defendant, L.J. Britt, did intentionally and specifically engage 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 that Rudolfo Resendez died as a direct result of the act?

Answer "Yes" or "No."

Answer: Yes.

Instruction: If you answered "Yes" to **any** question above, proceed to Question No. 5(B) on the following page. If you answered "No" to **all** questions above, proceed to Question No. 6.

5(B). Statutory Aggravating Factors

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt, participated in the killing of Rudolfo Resendez as consideration for the receipt, or in the expectation of the receipt of anything of pecuniary value?

Answer "Yes" or "No."

Answer: Yes.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt committed the offense against Rudolfo Resendez after substantial planning and premeditation to cause the death of Rudolfo Resendez?

Answer "Yes" or "No."

Answer: Yes.

Instruction: If you answered "Yes" to **either** portion of Question No. 5(B), proceed to Question No. 5(C) on the following page. If you answered "No" to **both** portions of Question No. 5(B), proceed to Question No. 6.

5(C). Non-Statutory Aggravating Factors

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons, as evidenced by a lack of remorse during or soon after the killing of Rudolfo Resendez?

Answer "Yes" or "No."

Answer: Yes.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons as evidenced by specific threats and acts of violence?

Answer "Yes" or "No."

Answer: No.

(3) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons due to his poor rehabilitative potential?

Answer "Yes" or "No."

Answer: No.

Instruction: Proceed to Question No. 5(D) regardless of how you answered any part of Question No. 5(C).

5(D). Statutory Mitigating Factors

Instruction: For each of the following mitigating factors, you must indicate, on the space provided, the number of jurors, if any, who have found the existence of that mitigating factor by a preponderance of the evidence. A finding of a mitigating factor by a preponderance of the evidence may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor must 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 concur that the factor has been established.

(1) Do **any** of you find by a preponderance of the evidence that L.J. Britt was under unusual and substantial duress as to the killing of Rudolfo Resendez?

Number of jurors who so find: 0

(2) Do **any** of you find by a preponderance of the evidence that L.J. Britt is punishable as a principal in the killing of Rudolfo Resendez, which killing was committed by another, but his participation was relatively minor?

Number of jurors who so find: 0

(3) Do **any** of you find by a preponderance of the evidence that another defendant or defendants, equally culpable in the killing of Rudolfo Resendez, will not be punished by death?

Number of jurors who so find: 12

(4) Do **any** of you find by a preponderance of the evidence that other factors in L.J. Britt's background or character mitigate against imposition of the death penalty?

Number of jurors who so find: 12

Instruction: Proceed to Question No. 5(E) regardless of how you answered any part of Question No. 5(D).

5(E). Non-Statutory Mitigating Factors

Instruction: For each of the following mitigating factors, you must indicate, on the space provided, the number of jurors, if any, who have found the existence of that mitigating factor by a preponderance of the evidence. A finding of a mitigating factor by a preponderance of the evidence may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor must 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 concur that the factor has been established.

(1) Do **any** of you find by a preponderance of the evidence that L.J. Britt has exhibited good behavior in a jail, prison, institutional setting, or other structured environment and would adapt to prison if he were sentenced to life imprisonment without the possibility of release or parole, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 12

(2) Do **any** of you find by a preponderance of the evidence that the fact that L.J. Britt can be sentenced to life in prison without any possibility of parole or release if he is not executed mitigates against imposition of the death penalty?

Number of jurors who so find: 12

(3) Do **any** of you find by a preponderance of the evidence that a substantial portion of the evidence against L.J. Britt regarding the killing of Rudolfo Resendez consisted of the testimony of either accomplices in the killing and/or persons who have made agreements with the government in expectation of possible leniency for their criminal conduct, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 10

(4) Do **any** of you find by a preponderance of the evidence that there was little or no physical evidence against L.J. Britt linking him to or proving his involvement in the killing of Rudolfo Resendez, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 7

(5) Do **any** of you find by a preponderance of the evidence that

at the time of the killing of Rudolfo Resendez, L.J. Britt was youthful, although not under the age of eighteen?

Number of jurors who so find: 8

(6) Do **any** of you find by a preponderance of the evidence that at the time of the killing of Rudolfo Resendez, L.J. Britt did not have a significant prior criminal record?

Number of jurors who so find: 10

(7) Do **any** of you find by a preponderance of the evidence that L.J. Britt presents a low risk of harm to others in a prison or institutional setting, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 10

(8) Do **any** of you find by a preponderance of the evidence the existence of any other mitigating factor, outside of those provided for by statute or proposed by L.J. Britt?

<u>Mitigating Factor</u>	<u>Number of Jurors Who So Find</u>
<u>Participation in bible study</u>	<u>11</u>
<u>while at Tarrant County</u>	<u>_____</u>
<u>Jail</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>
<u>_____</u>	<u>_____</u>

Instruction: Proceed to Question No. 5(F) regardless of how you answered any part of Question No. 5(E).

5(F). Recommendation

Based upon consideration of whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of any mitigating factors, whether the aggravating factor or factors are themselves sufficient to justify a sentence of death, we recommend, by unanimous vote, that L.J. Britt should be sentenced as follows for the killing of Rudolfo Resendez in the course of carrying or using a firearm during and in relation to a drug-trafficking crime:

- Death
- Life Imprisonment Without Possibility of Release
- Some Other Lesser Sentence

Instruction: Proceed to Question No. 8 regardless of how you answered Question No. 7(F).

Question No. 6--Counts Two and Seven--Killing of Rudolfo Resendez While Engaging In Drug-Trafficking Crime:

6(A). Threshold Eligibility Factors

Instruction: If you answer "Yes" to **any** of the following questions, you may immediately proceed to Question No. 6(B) on the following page. If you answer "No" to **all** of the following questions, proceed to the next-to-last page of this Special Verdict Form.

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt intentionally killed another person, namely: Rudolfo Resendez?

Answer "Yes" or "No."

Answer: Yes.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt intentionally engaged in conduct intending that Rudolfo Resendez be killed or that lethal force be employed against Rudolfo Resendez, which conduct resulted in the death of Rudolfo Resendez?

Answer "Yes" or "No."

Answer: Yes.

(3) Do you unanimously find beyond a reasonable doubt that L.J. Britt intentionally engaged in conduct that he knew would create a grave risk of death to a person, other than one of the participants in the offense, and that resulted in the death of Rudolfo Resendez?

Answer "Yes" or "No."

Answer: Yes.

6(B). Statutory Aggravating Factors

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt, participated in the killing of Rudolfo Resendez as consideration for the receipt, or in the expectation of the receipt of anything of pecuniary value?

Answer "Yes" or "No."

Answer: Yes.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt committed the offense against Rudolfo Resendez after substantial planning and premeditation to cause the death of Rudolfo Resendez?

Answer "Yes" or "No."

Answer: Yes.

Instruction: If you answered "Yes" to **either** portion of Question No. 6(B), proceed to Question No. 6(C) on the following page. If you answered "No" to **both** portions of Question No. 6(B), proceed to the next-to-last page of this Special Verdict Form.

6(C). Non-Statutory Aggravating Factors

(1) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons, as evidenced by a lack of remorse during or soon after the killing of Rudolfo Resendez?

Answer "Yes" or "No."

Answer: Yes.

(2) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons as evidenced by specific threats and acts of violence?

Answer "Yes" or "No."

Answer: No.

(3) Do you unanimously find beyond a reasonable doubt that L.J. Britt is a future danger to the lives and safety of other persons due to his poor rehabilitative potential?

Answer "Yes" or "No."

Answer: No.

Instruction: Proceed to Question No. 6(D) regardless of how you answered any part of Question No. 6(C).

6(D). Statutory Mitigating Factors

Instruction: For each of the following mitigating factors, you must indicate, on the space provided, the number of jurors, if any, who have found the existence of that mitigating factor by a preponderance of the evidence. A finding of a mitigating factor by a preponderance of the evidence may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor must 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 concur that the factor has been established.

(1) Do **any** of you find by a preponderance of the evidence that L.J. Britt was under unusual and substantial duress as to the killing of Rudolfo Resendez?

Number of jurors who so find: 0

(2) Do **any** of you find by a preponderance of the evidence that L.J. Britt is punishable as a principal in the killing of Rudolfo Resendez, which killing was committed by another, but his participation was relatively minor?

Number of jurors who so find: 0

(3) Do **any** of you find by a preponderance of the evidence that L.J. Britt could not reasonably have foreseen that his conduct in the course of the killing of Rudolfo Resendez would cause, or would create a grave risk of causing, death to any person?

Number of jurors who so find: 0

(4) Do **any** of you find by a preponderance of the evidence that at the time of the killing of Rudolfo Resendez, L.J. Britt was youthful, although not under the age of eighteen?

Number of jurors who so find: 9

(5) Do **any** of you find by a preponderance of the evidence that at the time of the killing of Rudolfo Resendez, L.J. Britt did not have a significant prior criminal record?

Number of jurors who so find: 10

(6) Do **any** of you find by a preponderance of the evidence that

another defendant or defendants, equally culpable in the killing of Rudolfo Resendez, will not be punished by death?

Number of jurors who so find: 12

(7) Do **any** of you find by a preponderance of the evidence that other factors in L.J. Britt's background or character mitigate against imposition of the death penalty?

Number of jurors who so find: 12

Instruction: Proceed to Question No. 6(E) regardless of how you answered any part of Question No. 6(D).

6(E). Non-Statutory Mitigating Factors

Instruction: For each of the following mitigating factors, you must indicate, on the space provided, the number of jurors, if any, who have found the existence of that mitigating factor by a preponderance of the evidence. A finding of a mitigating factor by a preponderance of the evidence may be made by one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor must 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 concur that the factor has been established.

(1) Do **any** of you find by a preponderance of the evidence that L.J. Britt has exhibited good behavior in a jail, prison, institutional setting, or other structured environment and would adapt to prison if he were sentenced to life imprisonment without the possibility of release or parole, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 12

(2) Do **any** of you find by a preponderance of the evidence that the fact that L.J. Britt can be sentenced to life in prison without any possibility of parole or release if he is not executed mitigates against imposition of the death penalty?

Number of jurors who so find: 12

(3) Do **any** of you find by a preponderance of the evidence that a substantial portion of the evidence against L.J. Britt regarding the killing of Rudolfo Resendez consisted of the testimony of either accomplices in the killing and/or persons who have made agreements with the government in expectation of possible leniency for their criminal conduct, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 10

(4) Do **any** of you find by a preponderance of the evidence that there was little or no physical evidence against L.J. Britt linking him to or proving his involvement in the killing of Rudolfo Resendez, and that this mitigates against imposition of the death penalty?

Number of jurors who so find: 6

6(F). Recommendation

Based upon consideration of whether the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of any mitigating factors, whether the aggravating factor or factors are themselves sufficient to justify a sentence of death, we recommend, by unanimous vote, that L.J. Britt should be sentenced as follows for the killing of Rudolfo Resendez while engaging in a drug-trafficking crime:

- Death
 ✓ Life Imprisonment Without Possibility of Release
 Some Other Lesser Sentence

Instruction: Proceed to the next page.

The answers to the preceding questions represent the verdict of the jury.



Presiding Juror

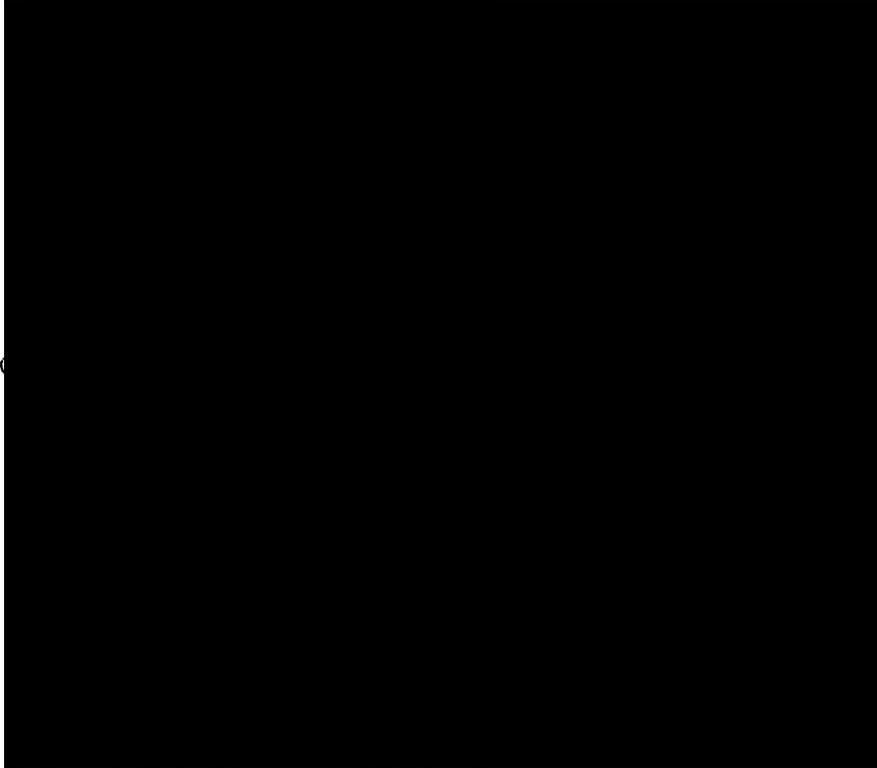
December 4, 2002
Date

Instruction: Proceed to the next page.

Certification:

By signing below, each juror certifies that, in considering whether a sentence of death is justified, consideration of the race, color, religious beliefs, national origin, or sex of the defendant or the victim was not involved in reaching his or her individual decisions, 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 the defendant, or the victim.

SIGNATURES OF ALL JURORS:



PRESIDING JUROR

Date: December 4, 2002