

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

UNITED STATES OF AMERICA,
Plaintiff,

v.

EDISON BURGOS MONTES,
Defendant.

/
/

Crim. No. 06-09(JAG)

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SEP 27 2012
US DISTRICT COURT
SAN JUAN, PR

SPECIAL VERDICT FORM

I. AGE OF DEFENDANT

Instructions; Answer "YES" or "NO."

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

Edison Burgos Montes was eighteen years (18) of age or older at the time of the offenses charged under Counts Three and Four.

YES X

NO _____

REDACTED

~~Foreperson~~

Instructions: If you answered "NO" with respect to the determination in this section, then stop your deliberations, cross out Sections II, III, IV and V of this form, and proceed to Sections VI B. and VII. Each juror should then carefully read the statement in Section VII, and sign in the appropriate place if the statement accurately reflects the manner in which he or she reached his or her decision. You should then advise the court that you have reached a decision.

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

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II. THRESHOLD INTENT FACTORS

Instructions: For each of the following, answer "YES" or "NO."

1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Edison Burgos Montes intentionally killed Madelyn Semidey Morales?

Count Three: YES X Count Four: YES X
NO _____ NO _____

REDACTED

Foreperson

2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Edsion Burgos Montes intentionally inflicted serious bodily injury which resulted in the death of Madelyn Semidey Morales?

Count Three: YES X Count Four: YES X
NO _____ NO _____

REDACTED

Foreperson

3. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Edison Burgos Montes intentionally participated in an act, contemplating that the life of a person would be taken and/or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim Madelyn Semidey Morales died as a direct result of the act?

Count Three: YES X Count Four: YES X
NO _____ NO _____

REDACTED

Foreperson

4. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Edison Burgos Montes intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the

victim Madelyn Semidey Morales died as a direct result of the act?

Count Three: YES X Count Four: YES X
NO _____ NO _____

REDACTED

~~F~~oreperson _____

Instructions: If you answered "YES" to any threshold intent factor(s), then proceed to Section III. If you answered "NO" with respect to all of the determinations in this section, then stop your deliberations, cross out Sections III, IV and V of this form, and proceed to Sections VI B. and VII. Each juror should carefully read the statement in Section VII, and sign in the appropriate place if the statement accurately reflects the manner in which he or she reached his or her decision. You should then advise the court that you have reached a decision.

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III. STATUTORY AGGRAVATING FACTOR

Instructions: Answer "YES" or "NO."

1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Edison Burgos Montes committed the offense after substantial planning and premeditation to cause the death of Madelyn Semidey Morales?

Count Three: YES	<u> X </u>	Count Four: YES	<u> X </u>
NO	<u> </u>	NO	<u> </u>

REDACTED

~~For~~person

Instructions: If you answered "NO" with respect to the Statutory Aggravating Factor in this Section III, then stop your deliberations, cross out Sections IV and V of this form, and proceed to Sections VI B. and VII of this form. Each juror should then carefully read the statement in Section VII, and sign in the appropriate place if the statement accurately reflects the manner in which he or she reached his or her decision. You should then advise the court that you have reached a decision.

If you answered "Yes" in Section I, and "Yes" in Section II, and answered "Yes" with respect to the statutory aggravating factor in this Section III, proceed to Section IV which follows.

IV. NON-STATUTORY AGGRAVATING FACTORS

Instructions: For each of the following, answer "YES" or "NO."

1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the Defendant committed the offense while engaged in an offense punishable under 21 U.S.C. § 841(a), to wit, a conspiracy to distribute and possession with intent to distribute five kilograms or more of cocaine, a Schedule II controlled substance?

Count Three: YES X Count Four: YES X
NO _____ NO _____

REDACTED

~~F~~oreperson

2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Edison Burgos Montes killed Madelyn Semidey Morales in an effort to obstruct justice, tamper with a witness, and retaliate against the victim for cooperating with authorities?

Count Three: YES X Count Four: YES X
NO _____ NO _____

REDACTED

~~F~~oreperson

3. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Edison Burgos Montes caused injury, harm, and loss to Madelyn Semidey Morales' family because of Madelyn Semidey Morales' personal characteristics as an individual human being and the impact of her death upon her family?

Count Three: YES X Count Four: YES X
NO _____ NO _____

REDACTED

~~F~~oreperson

Instructions: Regardless of whether you answered "YES" or "NO" with respect to any of the three Non-Statutory Aggravating Factors in this Section IV, proceed to Section V, which follows.

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V. MITIGATING FACTORS

Instructions: For each of the following mitigating factors, you have the option to indicate, in the space provided, the number of jurors who have found the existence of that mitigating factor to be proven by a preponderance of the evidence.

A finding with respect to a mitigating factor may be made by one or more of the members of the jury, and any one member of the jury who finds the existence of a mitigating factor may consider such a factor established in considering whether or not a sentence of death shall be imposed, regardless of the number of other jurors who agree that the factor has been established. Further, any juror may also weigh a mitigating factor found by another juror, even if he or she did not initially find that factor to be mitigating:

- 1. If he is spared a sentence of death, a harsh sentence will still be imposed on defendant; that is, Edison Burgos-Montes will be incarcerated for the remainder of his life in a federal prison with no possibility of release.

Number of Jurors who so find 7

- 2. Edison, during his life, has worked hard in his tow truck business and Burgos Heavy Equipment.

Number of Jurors who so find 0

- 3. Edison treated his employees with fairness and respect.

Number of Jurors who so find 0

- 4. Edison has been a loving and supportive sibling.

Number of Jurors who so find 9

- 5. Edison has been a loving and supportive son.

Number of Jurors who so find 8

- 6. Edison has been a loving and supportive father.

Number of Jurors who so find 0

- 7. Edison has been loving and supportive to other family members.

Number of Jurors who so find 9

- 8. Edison can continue these family relationships even while serving a sentence of life

imprisonment without the possibility of release.

Number of Jurors who so find 6

9. Edison has been a helpful and supportive friend.

Number of Jurors who so find 8

10. Edison has performed acts of kindness and charitable deeds during his life.

Number of Jurors who so find 3

11. Edison helped his community and neighbors in times of hardship and natural disaster.

Number of Jurors who so find 8

12. Edison often placed himself at the service of friends, colleagues and neighbors.

Number of Jurors who so find 9

13. Edison helped his church and its members.

Number of Jurors who so find 2

14. Residual doubt remains about Edison's guilt of the murder of Madelyn Semidey-Morales. Residual doubt is a lingering uncertainty about facts, a state of mind that exists somewhere between beyond a reasonable doubt and absolute certainty.

Number of Jurors who so find 0

15. Residual doubt remains about Edison's substantial planning and premeditation of the murder of Madelyn Semidey-Morales. As noted above, residual doubt is a lingering uncertainty about facts, a state of mind that exists somewhere between beyond a reasonable doubt and absolute certainty.

Number of Jurors who so find 0

16. Edison's life has value to his family and loved ones, even in the context of life imprisonment without possibility of release.

Number of Jurors who so find 10

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17. Edison's family and loved ones will suffer grief and loss if he were executed.

Number of Jurors who so find 5

18. Edison has been respectful and behaved properly in this courtroom, even under the significant stress of a lengthy capital trial.

Number of Jurors who so find 1

19. You may consider anything else about the commission of the crime, or about the defendant's background, record, or character, or any other relevant circumstance that would mitigate against imposition of the death penalty. If there are any such mitigating factors, whether or not specifically argued by defense counsel, that are established by a preponderance of the evidence, any juror who finds them must consider them during sentencing deliberations.

Number of Jurors who so find 0

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

VI. DETERMINATION

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

A. Death Sentence

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

YES _____

NO X _____

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

REDACTED

Foreperson

B. Sentence of Life in Prison Without Possibility of Release

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

YES _____

NO X _____

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

REDACTED

Foreperson

C. Unable to Reach a Unanimous Decision

After deliberations consistent with Jury Instruction #2, we are unable to reach a unanimous vote as to a sentence of death or a sentence of life imprisonment. We

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understand that the Court will impose a sentence of life imprisonment without possibility of release.

YES

If you answer "YES" the foreperson must sign here.

REDACTED

Foreperson _____

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

A. Death Sentence

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

YES _____

NO X

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

REDACTED

~~F~~oreperson

B. Sentence of Life in Prison Without Possibility of Release

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

YES _____

NO X

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

REDACTED

~~F~~oreperson

C. Unable to Reach a Unanimous Decision

After deliberations consistent with Jury Instruction #2, we are unable to reach a unanimous vote as to a sentence of death or a sentence of life imprisonment. We understand that the Court will impose a sentence of life imprisonment without possibility of release.

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YES X

If you answer "YES" the foreperson must sign here.

REDACTED
_____ Foreperson

After completing section VI, please proceed to section VII.

1 **REDACTED**

2 **REDACTED**

3 **REDACTED**

4 **REDACTED**

5 **REDACTED**

6 **REDACTED**

7 **REDACTED**

8 **REDACTED**

9 **REDACTED**

10 **REDACTED**

11 **REDACTED**

12 **REDACTED**

VII. CERTIFICATION

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the Defendant, Edison Burgos-Montes or the victim Madelyn Semidey-Morales was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime or crimes in question regardless of the race, color, or religious beliefs of the defendant or the victim.

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

Hofeperson

Date:

Sept, 26, 2012