

FILED IN OPEN COURT
DATE 12-5-2007
BY A. Owen
DEPUTY CLERK
DIVISION, W.D. of

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

UNITED STATES OF AMERICA)
)
) Case No.1:06CR00001
)
v.)
)
CARLOS DAVID CARO,)
)
Defendant.)

SPECIAL VERDICT FORM REGARDING THE AGE OF THE DEFENDANT,
REQUISITE MENTAL STATE OF THE DEFENDANT, AND STATUTORY
AGGRAVATING FACTORS OF THE DEFENDANT FOR THE KILLING OF
ROBERTO SANDOVAL

I. AGE OF THE DEFENDANT

Instructions: Answer "Yes" or "No."

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

1. The defendant was eighteen years of age or older at the time of the offense committed
in Count One?

Yes: ✓

No: 

Instructions: If you answered "No" with respect to the determination in Section I, then stop your deliberations, cross out Sections II, and III of this form, and proceed to Section IV. Each juror should then carefully read the statement in Section IV, 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 Section I, then proceed with Section II, which follows:

II. **REQUISITE MENTAL STATE:**

Instructions: For each of the following, answer "Yes" or "No."

1. Do you the jury, unanimously find that the government has proven beyond a reasonable doubt that the defendant intentionally killed Roberto Sandoval?

Yes: ✓

No: _____

2. Do you, the jury, unanimously find that the government has proven beyond a reasonable doubt that the defendant intentionally inflicted serious bodily injury which resulted in the death of Roberto Sandoval?

Yes: ✓

No: _____

3. Do you, the jury, unanimously find that the government has proven beyond a reasonable doubt that the defendant intentionally engaged in conduct intending that Roberto Sandoval be killed and/or that lethal force be employed against Roberto Sandoval which resulted in the death of Roberto Sandoval?

Yes:

No:

4. Do you, the jury, unanimously find that the government has proven beyond a reasonable doubt that the defendant engaged in conduct which the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense and resulted in the death of Roberto Sandoval?

Yes:

No:

Instructions: If you answered "No" with respect to all of the determinations in this Section II, then stop your deliberations, cross out Section III of this form, and proceed to Section IV. Each juror should carefully read the statement in Section IV, 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 any one of the determinations in Section II, stop your deliberations and then proceed to Section III, which follows:

III. **STATUTORY AGGRAVATING FACTORS:**

Instructions: For each of the following, answer "Yes" or "No."

Do you, the jury, unanimously find that the government has established the existence of the following statutory aggravating factors beyond a reasonable doubt:

1. Do you, the jury, unanimously find that the government has proven beyond a reasonable doubt that the defendant has been previously convicted of two state or federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance?

Yes:

No:

2. Do you, the jury, unanimously find that the government has proven beyond a reasonable doubt that the defendant had been previously convicted of violating Title II or Title III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 for which a sentence of 5 or more years may be imposed?

Yes:

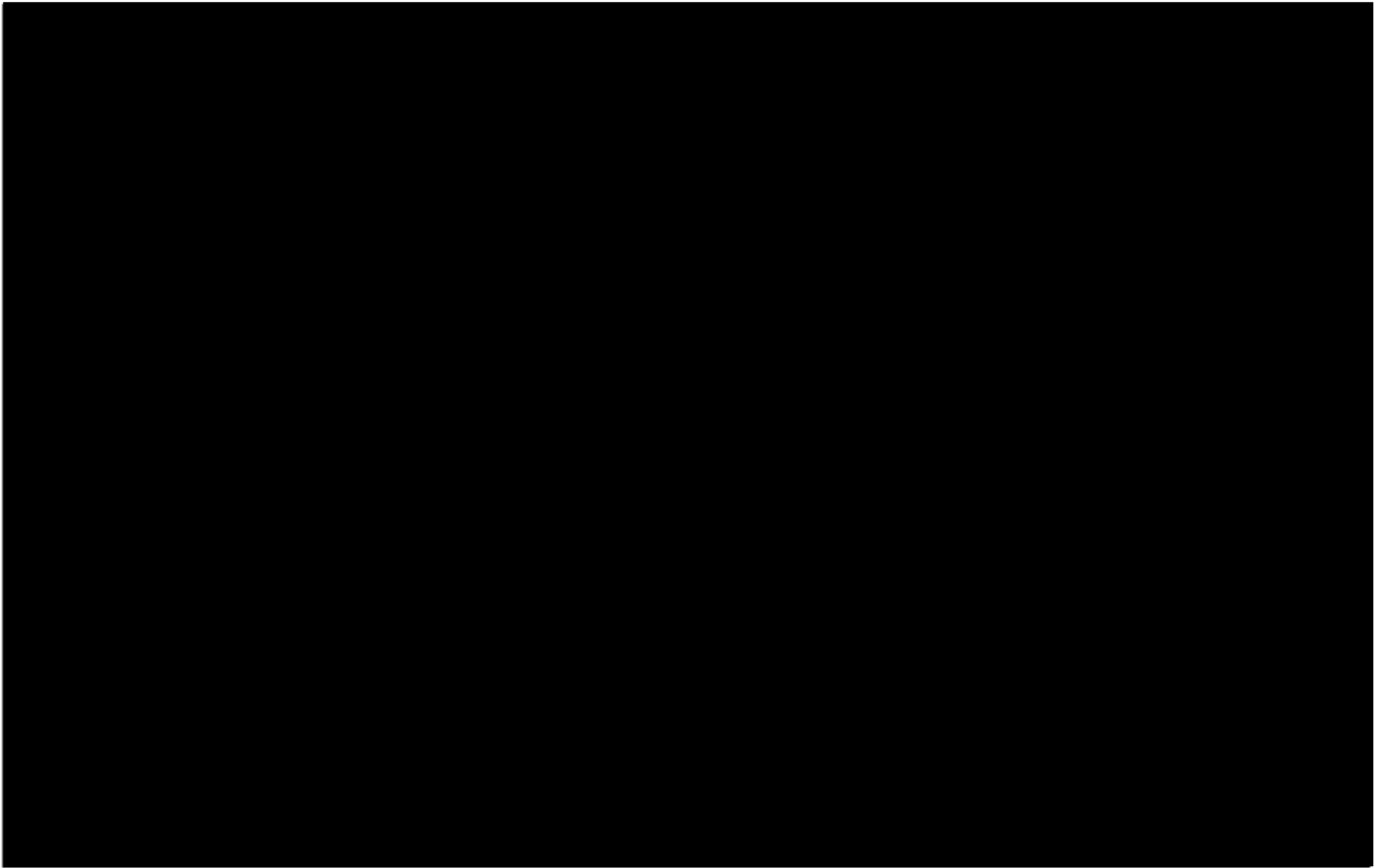
No:

Instructions: Once you have completed Sections I, II, and III, stop your deliberations and proceed to Section IV. Each juror should carefully read the statement in Section IV, 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.

IV. CERTIFICATION

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or victim was not involved in reaching his or her individual decision, and that the individual juror would have made the same decision no matter what the race, color, religious beliefs, national origin, or sex of the defendant, or the victim, would have been.



Date: 2/5/07

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

CLERK'S OFFICE U.S. DIST COURT
AT ABINGDON, VA
FILED

FEB 13 2007

JOHN F. CORCORAN, CLERK
BY: *[Signature]*
DEPUTY CLERK

UNITED STATES OF AMERICA)
)
)
 v.)
)
)
 CARLOS DAVID CARO)

Case No. 1:06CR00001

**SPECIAL VERDICT FORM REGARDING THE PUNISHMENT TO BE IMPOSED
UPON THE DEFENDANT FOR THE KILLING OF ROBERTO SANDOVAL
(PART TWO)**

I. AGGRAVATING FACTORS:

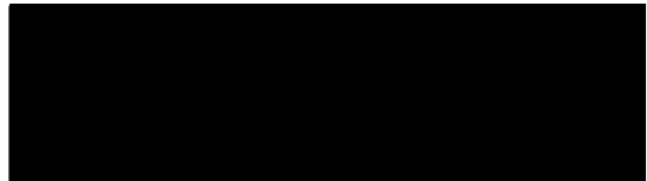
Instructions: For each of the following, answer "Yes" or "No."

Do you, the jury, unanimously find that the government has established the existence of the following aggravating factors beyond a reasonable doubt:

1. Do you, the jury, unanimously find that the government has proven beyond a reasonable doubt that the defendant caused a significant impact on the family of the victim as a result of the murder of Roberto Sandoval?

Yes: ✓

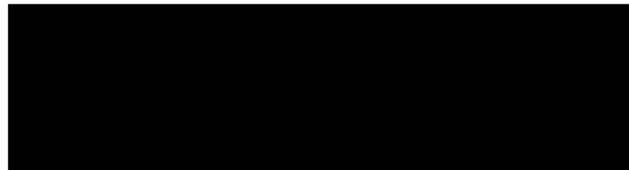
No: _____



2. Do you, the jury, unanimously find that the government has proven beyond a reasonable doubt that the defendant is likely to commit acts of violence against other inmates or staff within the federal prison system if imprisoned for life without possibility of release?

Yes: _____

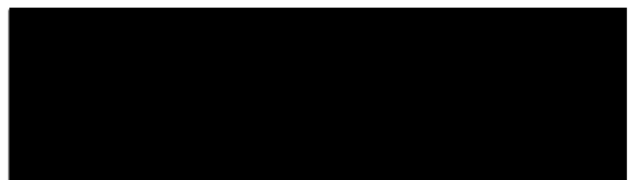
No: _____



3. Do you, the jury, unanimously find that the government has proven beyond a reasonable doubt that the defendant has not expressed remorse for killing Roberto Sandoval?

Yes: _____

No: _____



Instructions: Regardless of whether you answered “Yes” or “No” with respect to the three aggravating factors in this Section I, then proceed to Section II, which follows:

II. MITIGATING FACTORS:

Instructions: For each of the following mitigating factors, in the space provided, indicate 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 member of the jury who finds the existence of a mitigating factor must consider such factors 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.

The mitigating factors that the defendant contends have been proved by a preponderance of the evidence are:

1. If not sentenced to death, Mr. Caro will spend the rest of his life incarcerated in a secure federal institution.

Number of jurors who so find: 9

2. Mr. Caro exhibited symptoms of failure to thrive as he was a listless and inactive baby.

Number of jurors who so find: 0

3. Throughout his childhood, Mr. Caro was exposed to repeated instances of domestic violence and household disruption.

Number of jurors who so find: 12

4. Mr. Caro's father was a corrupting influence in that his father's alcoholic, violent, criminal and neglectful behavior was so severe and longstanding that it had a pervasive, devastating influence on the lives of his four sons in that all four sons have criminal records and three of the four have been incarcerated and are currently incarcerated.

Number of jurors who so find: 1

5. Mr. Caro was raised in a home where education was not valued.

Number of jurors who so find: 12

6. Mr. Caro was raised in a poverty-stricken community with limited economic opportunities.

Number of jurors who so find: 12

7. Despite the environment in which he was raised, Mr. Caro, throughout his childhood, was an obedient, respectful, well-behaved child at home, in school and in the community.

Number of jurors who so find: 12

8. Mr. Caro required special education services and eventually dropped out of school without having completed the ninth grade.

Number of jurors who so find: 12

9. According to his 8th grade math teacher, Mr. Caro was a shy respectful student in contrast to his brothers, and their parents showed no interest in their academic progress.

Number of jurors who so find: 12

10. The ability of Mr. Caro's mother to nurture her sons was impeded by her repeated victimization at the hands of her violent and abusive husband.

Number of jurors who so find: 0

11. Mr. Caro's maternal uncles involved him in illegal drug trafficking.

Number of jurors who so find: 12

12. For certain periods of time, Mr. Caro proved himself to be a good father and husband.

Number of jurors who so find: 0

13. Mr. Caro has never been physically violent or abusive toward his wife, Yveth, or their daughter, Xinia.

Number of jurors who so find: 12

14. If Mr. Caro is executed, his wife, children and extended family will suffer grief and loss.

Number of jurors who so find: 5

15. Mr. Caro was not involved in gangs or gang-related activity while in the community.

Number of jurors who so find: 0

16. Mr. Caro was not involved in gang-related activity in prison until he was sentenced to thirty years incarceration in 2001.

Number of jurors who so find: 0

17. Mr. Caro was never a violent or aggressive individual until after he received the 30-year sentence to be served in the Federal Bureau of Prisons.

Number of jurors who so find: 12

18. During his entire history of incarceration, Mr. Caro has never assaulted or harmed a correctional guard, counselor, or other prison staff member.

Number of jurors who so find: 12

19. Mr. Caro has never attempted to escape from any correctional officer or from any correctional facility.

Number of jurors who so find: 12

20. Since December 18, 2003, the Federal Bureau of Prisons has properly and securely housed Mr. Caro at various high security federal institutions.

Number of jurors who so find: 12

21. Mr. Caro is 40 years old, and is less likely, as he ages, to engage in violent behavior.

Number of jurors who so find: 0

22. Mr. Caro's life has value to his wife, daughter and family.

Number of jurors who so find: 8

The following extra spaces are provided to write in additional mitigating factors, if any, found by one or more jurors. If none, write "None." If more space is needed, write "Continued" and use the reverse side of this page.

1.

Number of jurors who so find: _____

2.

Number of jurors who so find: _____

3.

Number of jurors who so find: _____

Instructions: Regardless of your written findings regarding mitigating factors in Section II above, proceed to Section III and Section IV which follow:

III. **DETERMINATION:**

A. **Death Sentence:**

Based upon our consideration of the evidence and in accordance with the court's instructions, we find by unanimous vote that a sentence of death shall be imposed on the defendant for the killing of Roberto Sandoval.

YES: ✓

NO: _____

If you answer "Yes," sign your names here, and then proceed to Section IV. If you answer "No," the Foreperson alone should sign, and you should proceed to Section III(B).



Date: 2/13/07

OR

B. Sentence of Life in Prison Without Possibility of Release:

Based upon our consideration of the evidence and in accordance with the court's instructions, we find by unanimous vote that a sentence of life in prison without possibility of release shall be imposed on the defendant for the killing of Roberto Sandoval.

YES: _____

NO : ✓

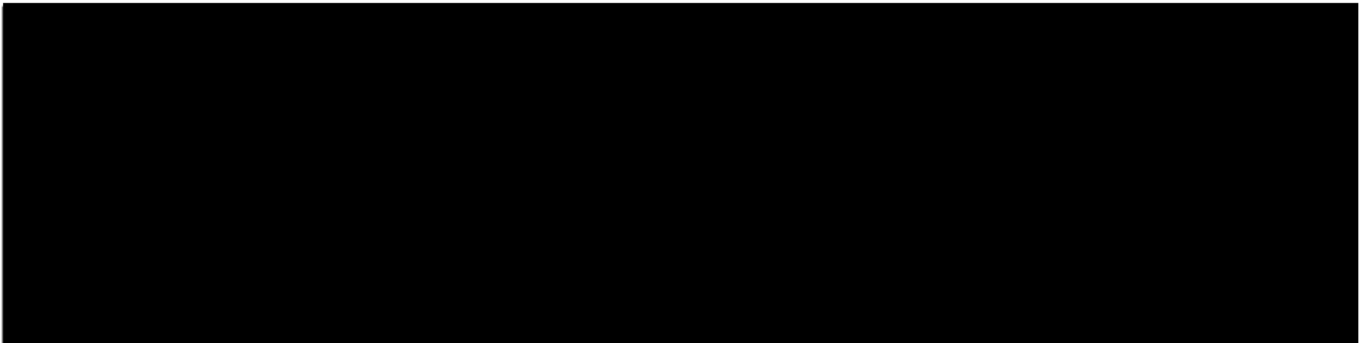
If you answer "Yes," sign your names here, and then proceed to Section IV.

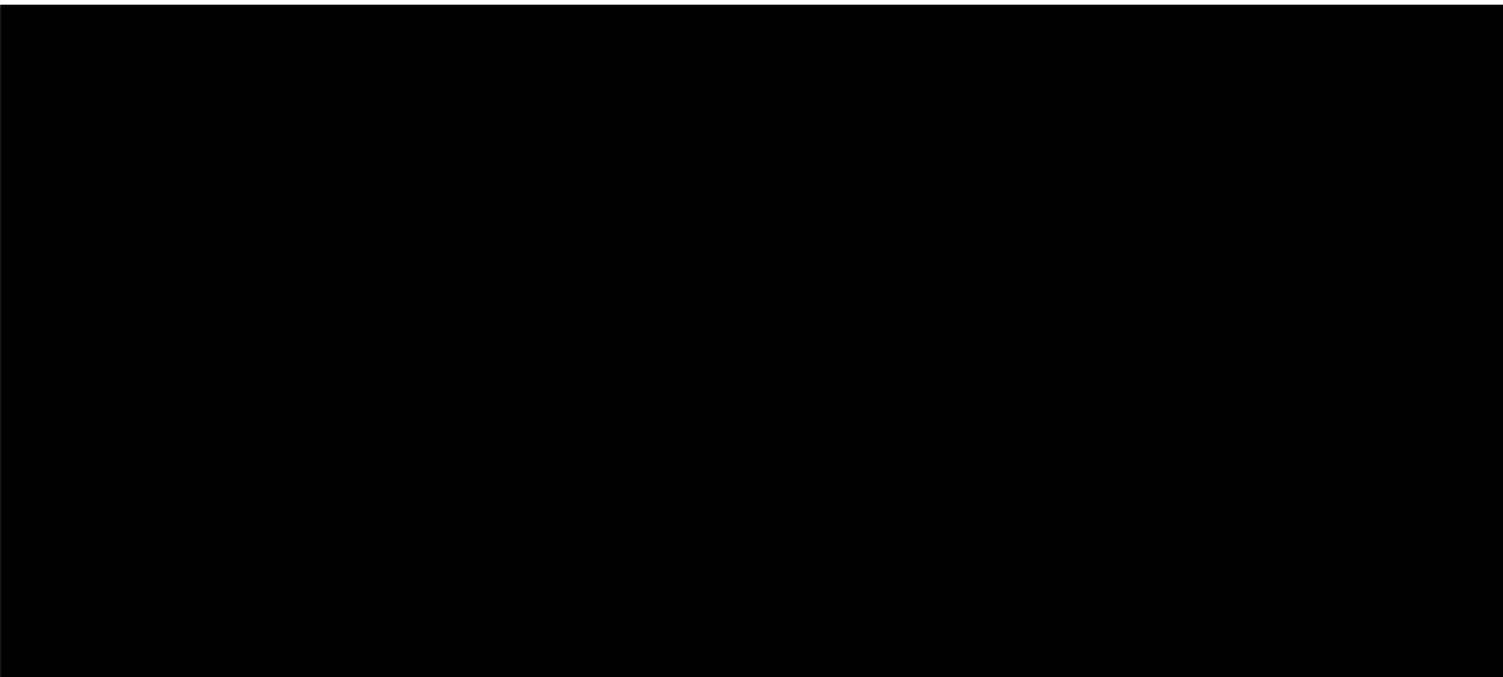
FOREPERSON

Date: _____

IV. **Certification:**

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or victim was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant, or the victim, would have been.





Date: 2/13/07