

Cooper Findings



MICHAEL W. DOBBINS
CLERK

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
219 SOUTH DEARBORN STREET
CHICAGO, ILLINOIS 60604

December 4, 2002

Kevin McNally
Federal Death Penalty Resource Counsel
P. O. Box 1243
Frankfort, Kentucky 40602

Re: US v Alex Cooper, 89 CR 580

I have enclosed a copy of page 27 of the docket in 89 CR 580, US v Cooper highlighting order No. 666. I was unable to find order No. 666, but I found the transcript of proceedings from that date and have enclosed a copy.

If I can be of any further assistance in this matter, you may contact me at (312)435-6041 or by e-mail Kathleen.Branch@ilnd.uscourts.gov.

Sincerely,

Kathleen Branch
Kathleen Branch
Director Files/Intake/Appeals

~~send e-mail
thinking hey~~

do we have
the co-def findings?

CR-89-00 -01

R--89-00580-01

US-V-COOPER

PROCEEDINGS

- 03/13/91 659 Hearing held (under 31 USC Sec. 848(g)) (JUDGE SHADUR)
(Dkt'd 03/22/91).
- 659 Hearing continued to 03/14/91 @ 9:30 AM (under 21 USC Sec.
848(g)) (JUDGE SHADUR) (Dkt'd 03/22/91).
- 660 Order filed (The Clerk of this court is directed to provide
coffee, rolls pop and juice for 16 jurors.) (JUDGE SHADUR)
(Dkt'd 03/22/91).
- 03/14/91 661 Order filed (The Clerk of this Court is directed to provide
coffee, rolls, pop and juice for 16 jurors.) (JUDGE SHADUR)
(Dkt'd 03/22/91).
- 662 Hearing held (under 21 U.S.C. Sec. 848(g) resumed and
concluded. Closing arguments heard and concluded. Jury
instructed. Marshal sworn. four alternate jurors
discharged. Jury deliberations commenced.) (JUDGE SHADUR)
(Dkt'd 03/22/91).
- 662 Hearing continued to 03/15/91 @ 9:00 AM (Jury deliberations
continued) (JUDGE SHADUR) (Dkt'd 03/22/91).
- 03/15/91 663 Order filed (The Clerk of this court is directed to provide
coffee and refreshments for 12 deliberating jurors for
March 14, 1991.) (JUDGE SHADUR) (Dkt'd 03/22/91).
- 664 Order filed (The clerk of this court is directed to provide
lunch for 12 deliberating jurors and 2 deputy marshals.)
(JUDGE SHADUR) (Dkt'd 03/22/91).
- 665 Order filed (The clerk of this Court is directed to provide
coffee, rolls, pop and juice for 12 deliberating jurors.)
(JUDGE SHADUR) (Dkt'd 03/22/91).
- 666 Order filed (Jury deliberations resumed and concluded.
Jury returns its responses to Special Findings and its
decision that the jury does not unanimously find that the
court shall sentence the defendant to death. Jury polled.
Jury discharged.) (JUDGE SHADUR) (Dkt'd 03/22/91).
- 666 Order cause referred to the probation department for a pre-
sentence investigation (Count SS1) (for all counts found
guilty) (JUDGE SHADUR) (Dkt'd 03/22/91).
- 666 Sentencing set for 06/12/91 @ 1:30 PM (Counts SS1-SS3, SS7,
SS9-SS14, SS17-SS18, SS20-SS22, SS25, SS27-SS29, SS32-SS37, SS39-
SS54, SS59, SS61-SS62) (JUDGE SHADUR) (Dkt'd 03/22/91).
- 667 - Filed Jury's Special Findings. (Dkt'd 03/22/91).
- 03/19/91 668 Order filed (The previously issued and served warrant for
the arrest of material witness Will Evans is discharged.)
(JUDGE SHADUR) (Dkt'd 03/22/91).
- 03/20/91 669 Filed jury instructions (given) (Dkt'd 03/22/91).
- 03/22/91 672 Order filed (Defendant post trial motions are due by
04/12/91. Governments response thereto is due by 04/19/91.

CLERK'S FILE COPY FILED

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AUG 13 1991

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS STUART CUNNINGHAM, CLERK
EASTERN DIVISION UNITED STATES DISTRICT COURT

FILED

UNITED STATES OF AMERICA) DOCKET NO. 89 CR 580 -1

Plaintiff,)

FEB 21 1997

vs.)

MICHAEL W. DOBBINS)

ALEXANDER) Chicago, Illinois

) March 15, 1991

Defendant.) 1:45 o'clock p.m.

99-2342

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE MILTON I. SHADUR, Judge and a jury

APPEARANCES:

U.S. Ct. - 7th Circuit

FILED

JUN 17 1999 PMS

MR. FRED F. FOREMAN, U. S. ATTORNEY,
MR. STEPHEN P. SINNOTT and
MR. MATTHEW SCHNEIDER, ASSISTANT U. S.
ATTORNEYS

GINO J. AGNELLO
For the Defendant:

DOC. # _____

MR. JAMES M. REILLEY and
MR. RICK HARRIS

U.S.C.A. - 7th Circuit

FILED

JAN 14 1997

THOMAS F. STRUBBE
CLERK

JESSE ANDREWS

Official Court Reporter - U.S. District Court
219 S. Dearborn Street
Chicago, Illinois 60604
(312) 435-6899

DOCKETED

AUG 18 1992

U.S.C.A. - 7th Circuit *
FILED

RECEIVED

FEB 14 1994

THOMAS F. STRUBBE
CLERK

H. STUART CUNNINGHAM
UNITED STATES DISTRICT COURT

DOC. # _____

935-18

1 (Whereupon, the following proceedings were had in open
2 court, out of the presence and hearing of the jury:)

3 THE COURT: Before we have the jury come in I just
4 want to caution everybody that whatever decision they have
5 reached I want to make sure that there isn't any kind of
6 demonstration or anything other than a normal kind of proceeding
7 that we have in court, in which only the court proceedings are
8 dealt with. Would you have the jury come in please?

9 (Whereupon the following proceedings were had in open
10 court in the presence and hearing of the jury:)

11 A MARSHAL: Everyone please rise.

12 THE COURT: Please be seated. [REDACTED] has the
13 jury reached a decision?

14 JUROR [REDACTED]: Yes, your Honor, we have.

15 THE COURT: Could you hand the forms please to the
16 Marshal. Thank you.

17 (Document tendered.)

18 THE COURT: Now, members of the jury, as you will
19 recall, when you returned your verdict in the case itself as to
20 whether the defendant was guilty or not guilty, we followed the
21 procedure, even though all of you had signed the form of
22 verdict, of polling the jury. That is, to whether the verdict
23 represented the individual verdict of each of you.

24 Once again I am going to follow the principle of
25 polling you, but that may or may not take the same form as the

1 polling at the time the verdict was rendered because, as you
2 know, depending on what decision you have reached, it may or may
3 not be required that the decision reflects the determination of
4 each of you. That would only be true if you had decided
5 unanimously to impose the death penalty. So I want you to
6 listen carefully as I read this over, because if the
7 determination is that you will not, the only question that I
8 will ask, although I will ask it of each of you, is whether that
9 is also your understanding of what the jury arrived at, because
10 in that situation any one of you would be in a position to
11 have -- any one or more of you would have been in the position
12 to determine that the death penalty should not be imposed.

13 What I am not going to do, obviously, would be to
14 inquire of your own individual determination.

15 Let me then turn to the special findings which are
16 the matter of what should be the basis for turning then to the
17 rest of the determination. And I will read this and I want you
18 to listen very carefully to these.

19 "We, the jury, unanimously find the existence of the
20 following aggravating factors have been established beyond a
21 reasonable doubt: 1. Defendant Alexander Cooper intentionally
22 engaged in conduct intending that Robert Parker be killed, or
23 that lethal force be employed against Parker which resulted in
24 Parker's death.

25 That is answered, "Yes."

1 2. Defendant Alexander Cooper procured the murder of
2 Robert Parker by payment and promise of payment of money.

3 That's answered, "No."

4 3. Defendant Alexander Cooper committed the offense
5 described in Finding 1 after substantial planning and
6 premeditation.

7 That's answered, "Yes."

8 4. Defendant Alexander Cooper committed the offense
9 described in Findings 1 to prevent Robert Parker from
10 cooperating with federal law enforcement officers, or to prevent
11 Robert Parker from cooperating as a witness in the Grand Jury
12 and in court against Cooper and his continuing criminal
13 enterprise, or to interfere with and impede a federal criminal
14 investigation of Cooper and his continuing criminal enterprise,
15 or to discourage and prevent members of his continuing criminal
16 enterprise from cooperating with federal law enforcement
17 officers.

18 That's answered, "Yes."

19 5. Defendant Alexander Cooper intentionally engaged
20 in conduct that he new would create a grave risk of death to
21 Harrison Oliver.

22 "Yes."

23 6: Defendant Alexander Cooper attempted to procure
24 the murder of Harrison Oliver by the promise of payment of
25 money.

1 "Yes."

2 7. Defendant Alexander Cooper attempted to procure
3 the murder of Harrison Oliver to prevent Oliver from
4 cooperating with federal law enforcement officers, or to prevent
5 Oliver from cooperating as a witness in the Grand Jury and in
6 court as a witness against Cooper and his continuing criminal
7 enterprise, or to obstruct, interfere with and impede a federal
8 criminal investigation of Cooper and his continuing criminal
9 enterprise, or to prevent members of his continuing criminal
10 enterprise from cooperating with federal law enforcement
11 officers.

12 Answered, "Yes."

13 8. Defendant Alexander Cooper enlisted the help of
14 other individuals in his efforts to procure the murder of
15 Harrison Oliver.

16 Answered, "Yes."

17 9. Defendant Alexander Cooper attempted to procure
18 the murder of William Evans in furtherance of Cooper's
19 continuing criminal enterprise.

20 Answer, "No."

21 Now those are things that require a unanimous
22 determination and, therefore, I am going to poll each of you in
23 turn to determine whether that represents -- that is, the
24 answers to those questions represent the unanimous answer that
25 each of you has arrived at.

1 [REDACTED], is that your response to each of the
2 matter that I had read over?

3 JUROR [REDACTED]: Yes.

4 THE COURT: [REDACTED], is it yours as well?

5 JUROR [REDACTED]: Yes.

6 THE COURT: [REDACTED], is it yours, too?

7 JUROR [REDACTED]: Yes.

8 THE COURT: [REDACTED], have I correctly reflected
9 your answer to those?

10 JUROR [REDACTED]: Yes.

11 THE COURT: [REDACTED], is this your own answer to
12 each of those questions?

13 JUROR [REDACTED]: Yes.

14 THE COURT: [REDACTED], have I correctly reflected
15 your answers as well?

16 JUROR [REDACTED]: Yes.

17 THE COURT: [REDACTED], is this your answer to each
18 of the questions that I have asked?

19 JUROR [REDACTED]: Yes.

20 THE COURT: [REDACTED], have I correctly reflected
21 your answers as well.

22 JUROR [REDACTED]: Yes.

23 THE COURT: [REDACTED], are these your answers to
24 all of the questions?

25 JUROR [REDACTED]: Yes.

1 THE COURT: [REDACTED], yours, too?

2 JUROR [REDACTED]: Yes.

3 THE COURT: [REDACTED], have I correctly reflected your
4 answers?

5 JUROR [REDACTED]: Yes.

6 THE COURT: Finally, [REDACTED], are these your
7 answers to each of those questions?

8 JUROR [REDACTED]: Yes.

9 THE COURT: Let me then turn to the Part B, the
10 mitigating factors, keeping in mind that for these to apply it
11 is necessary only that any one or more of you may have made
12 these determinations as a matter of preponderance of the
13 evidence as having been established. So what I am going to do
14 with these is to ask each of you in turn whether that has, in
15 fact, reflected the determination of one or more jurors. You
16 don't have to reflect whether it is your own.

17 One or more members of the jury finds the existence of
18 the following mitigating factors has been established by a
19 preponderance of the evidence.

20 10. Defendant Alexander Cooper was youthful although
21 not under the age of 18.

22 Answer, "Yes."

23 11. Defendant Alexander Cooper did not have a
24 significant prior criminal record.

25 Answer, "Yes."

1 12. If you find that as defendant Cooper contends
2 Harrison Oliver is equally culpable in the crime, the fact that
3 Oliver will not be punished by death.

4 Answer, "Yes."

5 13. The victim, Robert Parker, acted in a provocative
6 manner toward Alexander Cooper.

7 Answer, "Yes."

8 14. Defendant Alexander Cooper suffered from physical
9 psychological abuse, emotional deprivation and loss, and severe
10 emotional trauma and stress in the critical developmental years
11 of his childhood.

12 Answer, "Yes."

13 15. Defendant Alexander Cooper's emotional and
14 social development as a child and as an adult was affected by
15 such influences to the extent that they significantly
16 contributed to his progressive involvement in criminal
17 behavior, particularly his drug-related activities.

18 Answer, "Yes."

19 16. The family atmosphere in which defendant
20 Alexander Cooper was raised was characterized by alienation,
21 limited emotional security, social and emotional rejection,
22 inferiority and enormous needs for acceptance and belonging.

23 Answer, "Yes."

24 17. Throughout his childhood defendant Alexander
25 Cooper was subjected to confusing messages related to racial

1 identity.

2 Answer, "Yes."

3 Given the fact that, as I indicated, the determination
4 of any one person by a preponderance is sufficient to establish
5 each of these.

6 Let me just ask you collectively whether it is
7 correct that at least one juror, or more than one juror, made
8 each of these findings by a preponderance of the evidence?

9 You can answer that just collectively, is that
10 correct.

11 THE JURORS: A chorus of "Yes."

12 THE COURT: All right. Let me then turn to the
13 decision that the jury has reached.

14 "We, the jury, unanimously find beyond a reasonable
15 doubt the existence of the aggravating factor in Part 1 of Part
16 A of the form entitled "Special Findings," and one or both of
17 the aggravating factors in paragraphs two and three of part A of
18 the Special Findings form.

19 "We have considered whether the aggravating factors
20 that have been unanimously found to exist outweigh any
21 mitigating factor or factors that one or more jurors have found
22 to exist by a preponderance of the evidence. As the result of
23 our consideration, we do not unanimously find that the
24 aggravating factors that have been found to exist outweigh any
25 mitigating factor or factors that have been found to exist.

1 " Alternatively, if there have been no mitigating
2 factors found to exist by any juror, we do not unanimously find
3 that the aggravating factors are themselves sufficient to
4 justify a sentence of death.

5 "As a further alternative regardless of any findings
6 with respect to aggravating and mitigating factors, we do not
7 unanimously decide that the death sentence shall be imposed.

8 "Under any of the foregoing alternatives we do not
9 unanimously find that the Court shall sentence the defendant to
10 death."

11 Let me once again ask you collectively, because as I
12 indicated, it is sufficient for any one or more jurors to have
13 reached this determination.

14 Is it correct that at least one or more of the jurors
15 have arrived at this decision based on the factors read here?
16 Is that correct?

17 THE JURORS: A chorus of "Yes."

18 THE COURT: That being the case, the Court accepts
19 the jury's decision.

20 Let me -- may we -- may we, please not break the court
21 proceedings. If you want to -- members of the jury, when the
22 alternates were excused I took the occasion to express special
23 appreciation to them. They became strangers to your
24 deliberations, as all of us did, when they were excused for the
25 second time, but I told them as I had not, of course, advised

1 you until now, that we are dealing with a law that is being
2 applied for the first time in this federal court system in the
3 United States. You're the first jury to have had the occasion
4 to deal with this statute which became effective in November
5 1988, and this is the first time that anyone has had to arrive
6 in the federal system at the kind of decision that you have.

7 As you might judge from that, we have done a great
8 many things in connection with the proceeding that have not
9 previously been tested. It was my lot to have to deal in the
10 first instance with the constitutionality of this statute which
11 had not previously been tested. And then in each of the
12 proceedings that you were dealing with, we had to draw up sort
13 of guidelines and rules for you to follow.

14 To the extent that you may have found those
15 complicated or difficult I must apologize, but really that's
16 because Congress set the matter up in those terms. It is, I
17 know an awesome responsibility that you have had, and I speak
18 for everyone I am sure in saying that the strength of our system
19 comes from the fact that jurors represent essentially the
20 conscience of the community. We were careful in selecting you.
21 We had the preliminary questioning that you remember very well,
22 I know, although it's almost a month and a half ago. We wanted
23 to make sure that this was an issue that if we had to confront
24 we would deal with an open mind. And I thank all of you for
25 your service. At this time the jury is discharged. Thank you.

1 A MARSHAL: All rise.

2 (Whereupon, the following proceedings were had in open
3 court, out of the presence and hearing of the jury:)

4 THE COURT: Mr. Cooper.

5 MR. HALPRIN: Yes, sir, your Honor.

6 THE COURT: Well, I really don't have to say anything
7 to you about the extent of relief I know you have. I want to
8 thank counsel on both sides for a high degree of professionalism
9 in the handling of this very difficult issue.

10 MR. REILLEY: Thank you, Judge:

11 THE COURT: What we have at this point, as you know
12 it tended to be overshadowed and overwhelmed quite properly by
13 what we were dealing with up to this point which is the
14 consideration of appropriate sentencing because, as you know, it
15 is now the Court's function, as it normally is in every other
16 case --

17 MR. HALPRIN: Your Honor?

18 THE COURT: All right?

19 MR. HALPRIN: Would it be all right if we sit down?

20 THE COURT: -- to decide on sentence.

21 MR. HALPRIN: Right.

22 THE COURT: And I do that, and I make that point,
23 even though, as you may have seen, 848 says, "There shall be no
24 PSI."

25 MR. HALPRIN: Right.

1 THE COURT: And that -- it says that whatever the
2 sentence is. But the point is that because we -- you know, we
3 have all the other counts to deal with, I am going to have to
4 order a PSI in connection with the other counts.

5 MR. HALPRIN: Because of the guidelines?

6 THE COURT: That's right. Exactly.

7 MR. HALPRIN: Well, excuse me, Judge, and I concur.

8 THE COURT: I must.

9 MR. HALPRIN: I know. You ought to order, I suggest,
10 maybe the transcripts in mitigation as well, and aggravation for
11 that matter, I guess.

12 THE COURT: Well, I don't need to --

13 MR. HALPRIN: Of course. I forget. The way you take
14 notes, Judge, it isn't a problem. That's right.

15 THE COURT: What --

16 MR. HALPRIN: I'm relieved to find out that you're
17 going to be ordering a PSI.

18 THE COURT: Well, what we are going to do then --
19 well, let just ask the government on an issue. As you know,
20 there were a number of defendants whose sentencings were
21 deferred pending this trial, and I would assume that we ought to
22 deal with ordering the PSIs on all of the remaining defendants
23 in all events.

24 MR. SINNOTT: I don't think so, your Honor. They're
25 still scheduled to be witnesses in the trial of Darnell Davis.

1 THE COURT: Oh, really? Oh, that's right. But I see
2 no reason that we should defer Mr. Cooper's determination
3 pending that.

4 And, accordingly I am going to set the date of
5 sentencing here for June 12th, at 1:30.

6 MR. REILLEY: What day of the week is that?

7 THE COURT: That's Wednesday. Is that all?

8 MR. REILLEY: Fine.

9 THE COURT: Now, Mr. Cooper, this is going to sound
10 odd to you, but I have to caution you that you have to be in
11 court on the day of sentencing because otherwise that's a
12 violation of still another federal law. June 12th.

13 MR. REILLEY: Judge, that's my wedding anniversary.
14 May I get permission from my wife to be here on that day?

15 THE COURT: I guess. All right. Thank you.

16 MR. REILLEY: Thank you.

17 MR. HALPRIN: Thank you, Judge.

18 MR. FOREMAN: Thank you Judge.

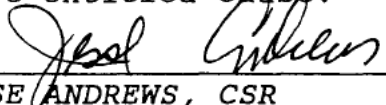
19 MR. SINNOTT: Thank you, Judge.

20 (WHICH WERE ALL OF THE PROCEEDINGS HAD AT THE
21 HEARING OF THE ABOVE-ENTITLED CAUSE ON THE DAY
22 AND DATE AFORESAID.)
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24
25

C E R T I F I C A T E

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I HEREBY CERTIFY that the foregoing is a true and correct transcript from the report of proceedings in the above-entitled cause.



JESSE ANDREWS, CSR
OFFICIAL COURT REPORTER
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION
DATED: July 3, 1991