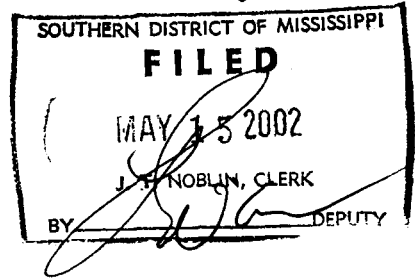


UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

UNITED STATES OF AMERICA)
)
 v.)
)
 BILLY D. COOPER,)
)
 Defendant.)
_____)

Criminal No. 4:01cr8BN



SPECIAL VERDICT FORM

SECTION I. THRESHOLD INTENT FACTOR

General directions for Section I:

In this section, enter your findings regarding the following threshold intent factors alleged by the government. Your vote as a jury must be unanimous. You may mark a particular factor as proven only in the event you find that the government has proven the factor beyond a reasonable doubt.

The defendant intentionally killed Lottie Anderson Marshall.

We unanimously find that the above factor **has been proven** beyond a reasonable doubt.

We unanimously find that the above factor **has not been proven** beyond a reasonable doubt.

The defendant intentionally participated in an act, contemplating that the life of a person would be taken or intending lethal force would be used in connection with a person, other than one of the participants in the offense, and Lottie Anderson Marshall died as a direct result of the act.

We unanimously find that the above factor **has been proven** beyond a reasonable doubt.

We unanimously find that the above factor **has not been proven** beyond a reasonable doubt.

Directions:

- If you found that at least one of the threshold intent factors has been proven, continue on to Section II.
- If you found that the above threshold intent factors have not been proven, continue on to Section VI and complete that section in accordance with the directions there. Your deliberations will be over after completing Section VI.

SECTION II. STATUTORY AGGRAVATING FACTORS

General directions for Section II:

In this section, enter your findings regarding the following statutory aggravating factors alleged by the government. Your vote as a jury must be unanimous as to each question in this section. You may mark a particular factor as proven only in the event you find that the government has proven the factor beyond a reasonable doubt.

- A. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to Lottie Anderson Marshall.

We unanimously find that the above factor **has been proven** beyond a reasonable doubt.

We unanimously find that the above factor **has not been proven** beyond a reasonable doubt.

- B. The defendant committed the offense in the expectation of the receipt of anything of pecuniary value.

We unanimously find that the above factor **has been proven** beyond a reasonable doubt.

We unanimously find that the above factor **has not been proven** beyond a reasonable doubt.

- C. The defendant committed the intentional killing of Lottie Anderson Marshall after substantial planning and premeditation to kill Lottie Anderson Marshall.

We unanimously find that the above factor **has been proven** beyond a reasonable doubt.

We unanimously find that the above factor **has not been proven** beyond a reasonable doubt.

- D. The defendant has previously been convicted of violating Title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 Substances Act for which a sentence of five or more years may be imposed.

We unanimously find that the above factor **has been proven** beyond a reasonable doubt.

We unanimously find that the above factor **has not been proven** beyond a reasonable doubt.

- E. The defendant intentionally killed more than one person in a single criminal episode.

We unanimously find that the above factor **has been proven** beyond a reasonable doubt.

We unanimously find that the above factor **has not been proven** beyond a reasonable doubt.

Directions:

- If you found one or more statutory aggravating factors have been proven, continue on to Section III.
- If you found that none of the above statutory aggravating factors had been proven, continue on to Section VI and complete that section in accordance with the directions there. Your deliberations will be over after completing Section VI.

SECTION III. NON-STATUTORY AGGRAVATING FACTORS

General directions for Section III:
In this section, enter your findings regarding the following non-statutory aggravating factors alleged by the government. Your vote as a jury must be unanimous with regard to each question in this section. You may mark a particular factor as proven only in the event you find that the government has proven the factor beyond a reasonable doubt.

1. The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others and demonstrates low rehabilitative potential.

_____ We unanimously find that the above factor **has been proven** beyond a reasonable doubt.

_____ We find that the above factor **has not been proven** beyond a reasonable doubt.

2. As demonstrated by Lottie Anderson Marshall's personal characteristics as an individual human being and the impact of her death upon her family, the defendant caused injury, harm, and loss to the family of the deceased victim.

_____ We unanimously find that the above factor **has been proven** beyond a reasonable doubt.

_____ We find that the above factor **has not been proven** beyond a reasonable doubt.

3. The defendant committed the offense with the intent to prevent Lottie Anderson Marshall from providing information and assistance to law enforcement authorities in regards to the investigation or prosecution of the commission of another offense, the murder of Willie Hatten III.

We unanimously find that the above factor **has been proven** beyond a reasonable doubt.

We find that the above factor **has not been proven** beyond a reasonable doubt.

Directions: After you have completed your findings in this section (whether or not you have found any of the above non-statutory aggravating factors to have been proven), continue on to Section IV.

SECTION IV. MITIGATING FACTORS

General directions for Section IV:

- In this section you are asked, but not required, to indicate in the spaces provided whether one or more jurors has found that defendant has proved by a preponderance of the evidence any of the statutory or non-statutory mitigating factors asserted by the defendant. If you decide to so indicate as to one or more of these factors, please put the number of jurors who have so found, or zero if no juror has so found.
- Your vote as a jury need not be unanimous with regard to each question in this section. 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 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.

A. Statutory Mitigating Factors:

The statutory mitigating factors the defendant asserts he has proven by a preponderance of the evidence are:

1. Billy D. Cooper's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was impaired, regardless of whether his capacity was so impaired as to constitute a defense the charge.

Number of Jurors so finding: 0

2. The victim consented to the criminal conduct that resulted in the victims death.

Number of Jurors so finding: 2

3. Any other factor in this defendant's background or character or any other circumstances of the offense that mitigate against imposition of the death penalty.

Number of Jurors so finding: 2

B. Non-statutory Mitigating Factors:

The non-statutory mitigating factors the defendant asserts he has proven by a preponderance of the evidence are:

1. Billy D. Cooper was subjected to emotional and physical abuse and neglect as a child and was deprived of parental guidance and protection, which he needed.

Number of Jurors so finding: 11

2. Billy D. Cooper suffers from mental retardation.

Number of Jurors so finding: 3

3. Billy D. Cooper grew up in an impoverished, violent and brutal environment, and was exposed to extreme violence as a child.

Number of Jurors so finding: 12

4. That another defendant, James Earnest Frye, Jr., equally culpable in the crime may not be punished by death.

Number of Jurors so finding: 2

5. That Billy D. Cooper has responded well to structured environments, and would likely make an excellent adaptation to prison if he were sentenced to life imprisonment without possibility of release.

Number of Jurors so finding: 7

6. That other factors in Billy D. Cooper's childhood, background or character mitigate against imposition of the death penalty.

Number of Jurors so finding: 3

Further directions regarding other mitigating factors:

- The following extra spaces are provided for you to list additional mitigating factors, if any, which have not been listed above but which one or more jurors has found to have been proved by defendant by a preponderance of the evidence. Although any juror may consider any such additional mitigating factor, it is optional that such factor be listed. If more space is needed, write "CONTINUED" and use the reverse side of this page.

DR. MOORES TESTIFIED THAT TINA COOPER ^(BILLY D. COOPER'S SISTER) TOLD HIM IN AN INTERVIEW THAT BILLY D. COOPER'S PARENTS NEVER TOLD HIM THAT THEY LOVE HIM.

Number of jurors who so find 3.

Number of jurors who so find _____.

Number of jurors who so find _____.

Number of jurors who so find _____.

Directions: After you have completed your findings in this section (whether or not you have entered written findings of mitigating factors in this section), continue on to Section V.

SECTION V. DETERMINATION OF SENTENCE

General directions for Section V:

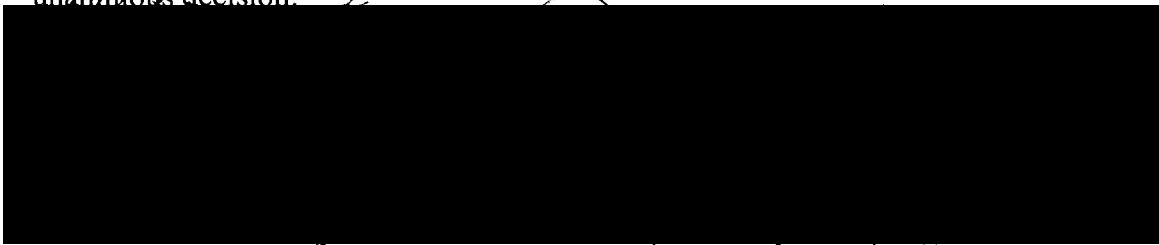
- In this section, enter your determination of the defendant's sentence. Your vote as a jury must be unanimous with regard to each question in this section.
- **You may not complete this section unless you have first found, unanimously and beyond a reasonable doubt, at least one threshold intent factor in Section I and at least one statutory aggravating factor in Section II.**

Based upon consideration of whether the aggravating factors found to exist to justify a sentence of death sufficiently outweigh any mitigating factor or factors found to exist, or, in the absence of any mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death:

_____ We unanimously sentence the defendant to death.

We unanimously sentence the defendant to life imprisonment without the possibility of release.

Each juror must sign below indicating that the above sentence determination reflects the jury's unanimous decision:



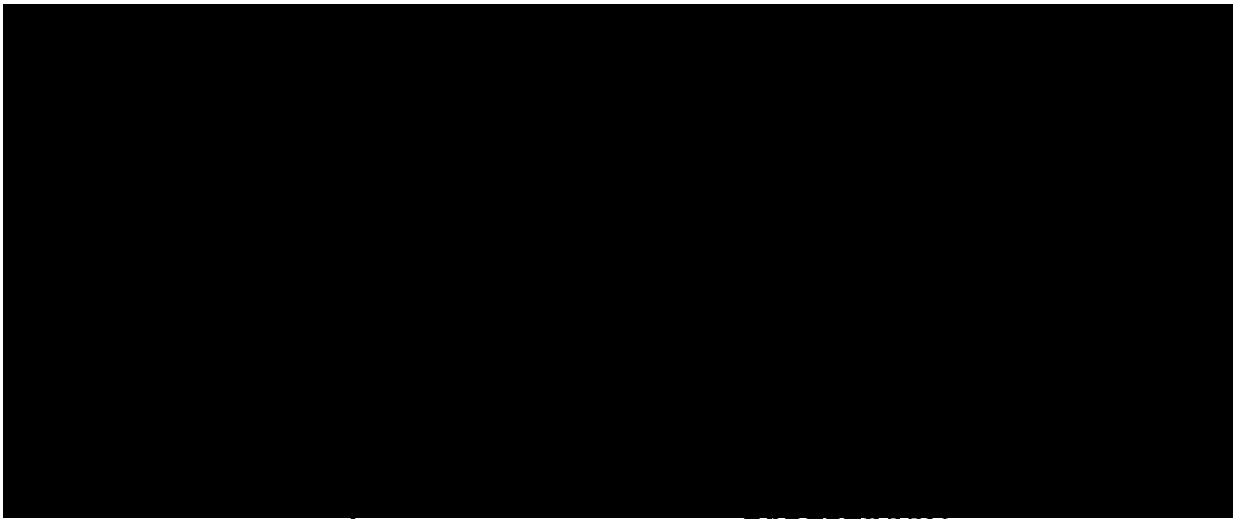
FOREPERSON

Date: 5-2-02

Directions: After you have completed your sentence determination in this section (regardless of what that determination was), continue on to Section VI.

SECTION VI. CERTIFICATION

By signing below each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or the victims 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, religious beliefs, national origin, or sex of the defendant, or the victims.



FOREPERSON

Date: 5-2-02