

**FILE IN RECORD**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT LOUISIANA

FILED  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF LA  
2003 MAY 19 AM 9:13  
LORETTA G. WHYTE  
CLERK

UNITED STATES OF AMERICA  
VERSUS  
JOHNNY DAVIS

CRIMINAL ACTION  
NO. 01-282  
SECTION: R(1)

**SPECIAL VERDICT FORM**

Section I:

Count Six. Murder of Samuel Collins Through the Use of a Firearm  
During and in Relation to a Heroin Trafficking Conspiracy

Question No. 1(A):

Do you unanimously find beyond a reasonable doubt that Johnny Davis was eighteen years of age or older at the time he committed the murder of Samuel Collins, charged in Count Six of the Second Superseding Indictment?

Answer "Yes" or "No."

Answer: YES

Instruction: If you answered "Yes" to Question No. 1(A), proceed to Question No. 1(B). If you answered "No" to Question No. 1(A), you are finished with your deliberations as to Count Six and must proceed to Section II.

Fee \_\_\_\_\_  
Process \_\_\_\_\_  
 Dkt \_\_\_\_\_  
CtRmDep \_\_\_\_\_  
Doc.No. \_\_\_\_\_

Question No. 1(B):

1(B). Mental State

(1) Do you unanimously find beyond a reasonable doubt that Johnny Davis intentionally killed Samuel Collins?

Answer "Yes" or "No."

Answer: Yes.

(2) Do you unanimously find beyond a reasonable doubt that Johnny Davis intentionally inflicted serious bodily injury that resulted in the death of Samuel Collins?

Answer "Yes" or "No."

Answer: Yes.

(3) Do you unanimously find beyond a reasonable doubt that Johnny Davis 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 the victim, Samuel Collins, died as a result of the act?

Answer "Yes" or "No."

Answer: Yes.

(4) Do you unanimously find beyond a reasonable doubt that Johnny Davis 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, Samuel Collins?

Answer "Yes" or "No."

Answer: YES.

Instruction: If you unanimously answered "Yes" to **any** of these four questions, proceed to Question No. 1(C) on the following page. If you answer "No" to **all** of these four questions, you are finished with your deliberations as to Count Six and must proceed to Section II.

1(C). Statutory Aggravating Factors

Do you unanimously find beyond a reasonable doubt that Johnny Davis committed the offense against Samuel Collins after substantial planning and premeditation to cause the death of Samuel Collins?

Answer "Yes" or "No."

Answer: YES.

Instruction: If you answered "Yes" to Question No. 1(C), proceed to Question No. 1(D) on the following page. If you answered "No" to Question No. 1(C), you are finished with your deliberations as to Count Six and must proceed to Section II.

1(D). Non-Statutory Aggravating Factors

(1) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, has engaged in a continuing pattern of violent conduct, beginning at the age of fifteen with an adjudication as a juvenile delinquent on October 29, 1991, for the illegal carrying of a weapon, resisting arrest and battery of a police officer in violation of Louisiana Revised Statutes 14:95, 14:108 and 14:34.2. On August 14, 1991, the defendant, Johnny Davis, resisted arrest and committed a battery upon a police officer while in possession of a concealed firearm.

Answer "Yes" or "No."

Answer: YES.

(2) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, was convicted on April 27, 1993, of a crime of violence which involved 11 counts of armed robbery in violation of Louisiana Revised Statutes 14:64. On April 8, 1992, the defendant, Johnny Davis, along with several other gunmen shot and robbed several customers inside the Imperial Lounge located at 320 Westwego Avenue in Bridge City, Louisiana.

Answer "Yes" or "No."

Answer: YES.

(3) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, was convicted on December 5, 2001 of being a felon in possession of a firearm, in violation of Title 18, United States Code, Section 922(g)(1). On April 18, 2001, the defendant, Johnny Davis, and Anthony Buckles were arrested by members of the New Orleans Police Department. At the time of the arrest, Anthony Buckles provided a false statement to the police officers, at the request of Johnny Davis, claiming that the recovered firearm belonged to him and not Johnny Davis.

Answer "Yes" or "No."

Answer: YES.

(4) We unanimously find that the government proved beyond a reasonable doubt that: While incarcerated, the defendant, Johnny Davis, has demonstrated his contempt for the criminal justice system and his low rehabilitative potential, by soliciting the assistance of a co-defendant, Anthony Buckles a/k/a "Nutta," to kill Leonard Smith a/k/a "Fu", who is a cooperating government witness in this case.

Answer "Yes" or "No."

Answer: YES.

(5) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, solicited juveniles to serve under him as his lieutenants, these juveniles out of fear of Johnny Davis, acquiescing to any of his demands.

Answer "Yes" or "No."

Answer: YES.

(6) We unanimously find that the government proved beyond a reasonable doubt that: While incarcerated on prior drug charges in 1998, the defendant, Johnny Davis, continued his participation in the illegal drug trade in the St. Thomas Housing Development by soliciting the aid of Leonard Smith a/k/a "Fu", a fellow drug dealer, to buy and sell drugs on his behalf.

Answer "Yes" or "No."

Answer: YES.

(7) We unanimously find that the government proved beyond a reasonable doubt that: While incarcerated on prior drug charges in 1998, the defendant, Johnny Davis, solicited the aid of Leonard Smith a/k/a "Fu", a fellow drug dealer, in the smuggling of contraband into the Orleans Parish jail.

Answer "Yes" or "No."

Answer: YES.

(8) We unanimously find that the government proved beyond a reasonable doubt that: As demonstrated by Samuel Collins's personal characteristics as an individual human being and the impact of his death upon his family, friends and co-workers, the defendant, Johnny Davis, caused injury, harm, and loss to the victim, his family, his friends, and his co-workers.

Answer "Yes" or "No."

Answer: Yes.

(9) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, has demonstrated a lack of remorse for his criminal conduct.

Answer "Yes" or "No."

Answer: ~~No~~ Yes 

Instruction: Proceed to Question No. 1(E) regardless of how you answered any part of Question No. 1(D).

1(E). 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 other participants in one or more of the capital offenses will not be punished by death, including but not limited to the following individuals: Richard Porter, Quandell Curtis, and Anthony Buckles?

Number of jurors who so find: 12

(2) Do **any** of you find by a preponderance of the evidence that other participants in the drug trafficking offenses and murders are now eligible to receive reduced sentences as a result of plea agreements with the government?

Number of jurors who so find: 12

(3) Do **any** of you find by a preponderance of the evidence that there is evidence that Richard Porter hired Johnny Davis to commit the murder of victim Leonard Morgan, and Richard Porter 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 all of the victims, Samuel Collins, Walter Naylor, and Leonard Morgan, engaged in criminal conduct that may have contributed to the circumstances leading to their deaths, in that these victims were involved in narcotics possession and or distribution?

Number of jurors who so find: 12

(5) Do **any** of you find by a preponderance of the evidence that if he is not put to death, Johnny Davis will live every day of the rest of his life incarcerated in a federal prison, he will die in federal prison and he will never enjoy freedom again?

Number of jurors who so find: 12

(6) Do **any** of you find by a preponderance of the evidence that Johnny Davis was subjected to emotional abuse, physical abuse, abandonment and neglect as a child?

Number of jurors who so find: 12

(7) Do **any** of you find by a preponderance of the evidence that Johnny Davis was deprived of the parental love, guidance, and protection that he needed?

Number of jurors who so find: 12

(8) Do **any** of you find by a preponderance of the evidence that Johnny Davis suffers from the effects of early childhood lead poisoning?

Number of jurors who so find: 4

(9) Do **any** of you find by a preponderance of the evidence that Johnny Davis suffers from brain damage?

Number of jurors who so find: 0

(10) Do **any** of you find by a preponderance of the evidence that Johnny Davis' brain was damaged by his mother's substance abuse during her pregnancy?

Number of jurors who so find: 4

(11) Do **any** of you find by a preponderance of the evidence that Johnny Davis' brain was damaged by several head injuries in which he was knocked unconscious?

Number of jurors who so find: 0

(12) Do **any** of you find by a preponderance of the evidence that Johnny Davis suffers from brain dysfunction, which has impaired his ability to make good decisions about his life and the lives of others, although he still must be held accountable for his actions?

Number of jurors who so find: 0

(13) Do **any** of you find by a preponderance of the evidence that Johnny Davis was introduced to addictive drugs and alcohol while a child and has suffered from alcoholism and drug addiction since then?

Number of jurors who so find: 12



(14) Do **any** of you find by a preponderance of the evidence that Johnny Davis had learning problems in school, which led to academic failure and an inability to progress in school?

Number of jurors who so find: 12

(15) Do **any** of you find by a preponderance of the evidence that although the evidence presented at trial was sufficient to prove Johnny Davis' guilt beyond a reasonable doubt, additional evidence, including DNA and other forensic evidence, which might have proved his guilt or innocence to an absolute certainty, was not available?

Number of jurors who so find: 12

(16) Do **any** of you find by a preponderance of the evidence that Johnny Davis has suffered from symptoms of Post-Traumatic Stress Disorder for many years, and will continue to suffer from mental illness?

Number of jurors who so find: 5

(17) Do **any** of you find by a preponderance of the evidence that Johnny Davis has suffered from symptoms of depression for many years, and will struggle with depression for the rest of his life in prison?

Number of jurors who so find: 8

(18) Do **any** of you find by a preponderance of the evidence that Johnny Davis has shown love and kindness towards his family?

Number of jurors who so find: 0

(19) Do **any** of you find by a preponderance of the evidence that Johnny Davis' daughters will be forever deprived of their father if he is executed?

Number of jurors who so find: 12

(20) Do **any** of you find by a preponderance of the evidence that although Johnny Davis has caused much pain and sorrow, his innocent family and friends love him deeply and will suffer if he is executed?

Number of jurors who so find: 12

(21) Do **any** of you find by a preponderance of the evidence that although Johnny Davis can distinguish right from wrong and deserves to be held accountable for his actions, he suffers from mild mental retardation?

Number of jurors who so find: 0

(22) Do **any** of you find by a preponderance of the evidence that although Johnny Davis can distinguish right from wrong and deserves to be held accountable for his actions, he suffers from borderline intellectual functioning?

Number of jurors who so find: 12

(23) Do **any** of you find by a preponderance of the evidence that the Louisiana juvenile justice system attempted to intervene in Johnny Davis's life, but was unsuccessful in part because of the lack of continuing family involvement, direction and support?

Number of jurors who so find: 12

(24) Do **any** of you find by a preponderance of the evidence that other factors in Johnny Davis' childhood, background or character mitigate against imposition of the death sentence?

Number of jurors who so find: 0

The following extra spaces are provided to write in additional mitigating factors, if any, found by any one or more jurors by a preponderance of the evidence. If none, write "NONE" and cross out the extra spaces with a large "X." If more space is needed, write "CONTINUED" and use the reverse side of this page?

Mitigating Factor

Number of Jurors Who So Find

~~NONE~~

~~NONE~~

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_~~

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_~~

Instruction: Proceed to Question No. 1(F) regardless of how you answered any part of Question No. 1(E).

1(F). Determination

We, the Jury, unanimously determine that the sentence to be imposed on Johnny Davis as to Count 6 is:

           Death

           Life Imprisonment Without Possibility of  
Release

  ✓           Some Other Lesser Sentence

Instruction: Proceed to Section II regardless of how you answered Question No. 1(F).

Section II:  
Count Eight, Murder of Walter Naylor Through the Use of a Firearm  
During and in Relation to a Heroin Trafficking Conspiracy

Question No. 2(A):

Do you unanimously find beyond a reasonable doubt that Johnny Davis was eighteen years of age or older at the time he committed the murder of Walter Naylor, charged in Count Eight of the Second Superseding Indictment?

Answer "Yes" or "No."

Answer: YES.

Instruction: If you answered "Yes" to Question No. 2(A), proceed to Question No. 2(B). If you answered "No" to Question No. 2(A), you are finished with your deliberations as to Count Eight and must proceed to Section III.

Question No. 2(B):

2(B). Mental State

(1) Do you unanimously find beyond a reasonable doubt that Johnny Davis intentionally killed Walter Naylor?

Answer "Yes" or "No."

Answer: YES.

(2) Do you unanimously find beyond a reasonable doubt that Johnny Davis intentionally inflicted serious bodily injury that resulted in the death of Walter Naylor?

Answer "Yes" or "No."

Answer: YES.

(3) Do you unanimously find beyond a reasonable doubt that Johnny Davis 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 the victim, Walter Naylor, died as a result of the act?

Answer "Yes" or "No."

Answer: YES.

(4) Do you unanimously find beyond a reasonable doubt that Johnny Davis 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, Walter Naylor?

Answer "Yes" or "No."

Answer: YES.

Instruction: If you unanimously answered "Yes" to **any** of these four questions, proceed to Question No. 2(C) on the following page. If you answered "No" to **all** of these four questions, you are finished with your deliberations as to Count Eight and must proceed to Section III.

2(C). Statutory Aggravating Factors

Do you unanimously find beyond a reasonable doubt that Johnny Davis committed the offense against Walter Naylor after substantial planning and premeditation to cause the death of Walter Naylor?

Answer "Yes" or "No."

Answer: Yes.

Instruction: If you answered "Yes" to Question No. 2(C), proceed to Question No. 2(D) on the following page. If you answered "No" to Question No. 2(C), you are finished with your deliberations as to Count Eight and must proceed to Section III.

2(D). Non-Statutory Aggravating Factors

(1) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, has engaged in a continuing pattern of violent conduct, beginning at the age of fifteen with an adjudication as a juvenile delinquent on October 29, 1991, for the illegal carrying of a weapon, resisting arrest and battery of a police officer in violation of Louisiana Revised Statutes 14:95, 14:108 and 14:34.2. On August 14, 1991, the defendant, Johnny Davis, resisted arrest and committed a battery upon a police officer while in possession of a concealed firearm.

Answer "Yes" or "No."

Answer: Yes.

(2) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, was convicted on April 27, 1993, of a crime of violence which involved 11 counts of armed robbery in violation of Louisiana Revised Statutes 14:64. On April 8, 1992, the defendant, Johnny Davis, along with several other gunmen shot and robbed several customers inside the Imperial Lounge located at 320 Westwego Avenue in Bridge City, Louisiana.

Answer "Yes" or "No."

Answer: YES.

(3) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, was convicted on December 5, 2001 of being a felon in possession of a firearm, in violation of Title 18, United States Code, Section 922(g)(1). On April 18, 2001, the defendant, Johnny Davis, and Anthony Buckles were arrested by members of the New Orleans Police Department. At the time of the arrest, Anthony Buckles provided a false statement to the police officers, at the request of Johnny Davis, claiming that the recovered firearm belonged to him and not Johnny Davis.

Answer "Yes" or "No."

Answer: Yes.

(4) We unanimously find that the government proved beyond a reasonable doubt that: While incarcerated, the defendant, Johnny Davis, has demonstrated his contempt for the criminal justice system and his low rehabilitative potential, by soliciting the assistance of a co-defendant, Anthony Buckles a/k/a "Nutta," to kill Leonard Smith a/k/a "Fu", who is a cooperating government witness in this case.

Answer "Yes" or "No."

Answer: Yes.

(5) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, solicited juveniles to serve under him as his lieutenants, these juveniles out of fear of Johnny Davis, acquiescing to any of his demands.

Answer "Yes" or "No."

Answer: Yes.

(6) We unanimously find that the government proved beyond a reasonable doubt that: While incarcerated on prior drug charges in 1998, the defendant, Johnny Davis, continued his participation in the illegal drug trade in the St. Thomas Housing Development by soliciting the aid of Leonard Smith a/k/a "Fu", a fellow drug dealer, to buy and sell drugs on his behalf.

Answer "Yes" or "No."

Answer: Yes.

(7) We unanimously find that the government proved beyond a reasonable doubt that: While incarcerated on prior drug charges in 1998, the defendant, Johnny Davis, solicited the aid of Leonard Smith a/k/a "Fu", a fellow drug dealer, in the smuggling of contraband into the Orleans Parish jail.

Answer "Yes" or "No."

Answer: Yes.



(8) We unanimously find that the government proved beyond a reasonable doubt that: As demonstrated by Walter Naylor's personal characteristics as an individual human being and the impact of his death upon his family, friends and co-workers, the defendant, Johnny Davis, caused injury, harm, and loss to the victim, his family, his friends, and his co-workers.

Answer "Yes" or "No."

Answer: YES.

(9) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, has demonstrated a lack of remorse for his criminal conduct.

Answer "Yes" or "No."

Answer: YES.

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

2(E). 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 other participants in one or more of the capital offenses will not be punished by death, including but not limited to the following individuals: Richard Porter, Quandell Curtis, and Anthony Buckles?

Number of jurors who so find: 12

(2) Do **any** of you find by a preponderance of the evidence that other participants in the drug trafficking offenses and murders are now eligible to receive reduced sentences as a result of plea agreements with the government?

Number of jurors who so find: 12

(3) Do **any** of you find by a preponderance of the evidence that there is evidence that Richard Porter hired Johnny Davis to commit the murder of victim Leonard Morgan, and Richard Porter 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 all of the victims, Samuel Collins, Walter Naylor, and Leonard Morgan, engaged in criminal conduct that may have contributed to the circumstances leading to their deaths, in that these victims were involved in narcotics possession and or distribution?

Number of jurors who so find: 12

(5) Do **any** of you find by a preponderance of the evidence that if he is not put to death, Johnny Davis will live every day of the rest of his life incarcerated in a federal prison, he will die in federal prison and he will never enjoy freedom again?

Number of jurors who so find: 12

(6) Do **any** of you find by a preponderance of the evidence that Johnny Davis was subjected to emotional abuse, physical abuse, abandonment and neglect as a child?

Number of jurors who so find: 12

(7) Do **any** of you find by a preponderance of the evidence that Johnny Davis was deprived of the parental love, guidance, and protection that he needed?

Number of jurors who so find: 12

(8) Do **any** of you find by a preponderance of the evidence that Johnny Davis suffers from the effects of early childhood lead poisoning?

Number of jurors who so find: 4

(9) Do **any** of you find by a preponderance of the evidence that Johnny Davis suffers from brain damage?

Number of jurors who so find: 0

(10) Do **any** of you find by a preponderance of the evidence that Johnny Davis' brain was damaged by his mother's substance abuse during her pregnancy?

Number of jurors who so find: 4

(11) Do **any** of you find by a preponderance of the evidence that Johnny Davis' brain was damaged by several head injuries in which he was knocked unconscious?

Number of jurors who so find: 0

(12) Do **any** of you find by a preponderance of the evidence that Johnny Davis suffers from brain dysfunction, which has impaired his ability to make good decisions about his life and the lives of others, although he still must be held accountable for his actions?

Number of jurors who so find: 0

(13) Do **any** of you find by a preponderance of the evidence that Johnny Davis was introduced to addictive drugs and alcohol while a child and has suffered from alcoholism and drug addiction since then?

Number of jurors who so find: 12

(14) Do **any** of you find by a preponderance of the evidence that Johnny Davis had learning problems in school, which led to academic failure and an inability to progress in school?

Number of jurors who so find: 12

(15) Do **any** of you find by a preponderance of the evidence that although the evidence presented at trial was sufficient to prove Johnny Davis' guilt beyond a reasonable doubt, additional evidence, including DNA and other forensic evidence, which might have proved his guilt or innocence to an absolute certainty, was not available?

Number of jurors who so find: 12

(16) Do **any** of you find by a preponderance of the evidence that Johnny Davis has suffered from symptoms of Post-Traumatic Stress Disorder for many years, and will continue to suffer from mental illness?

Number of jurors who so find: 5

(17) Do **any** of you find by a preponderance of the evidence that Johnny Davis has suffered from symptoms of depression for many years, and will struggle with depression for the rest of his life in prison?

Number of jurors who so find: 8

(18) Do **any** of you find by a preponderance of the evidence that Johnny Davis has shown love and kindness towards his family?

Number of jurors who so find: 0

(19) Do **any** of you find by a preponderance of the evidence that Johnny Davis' daughters will be forever deprived of their father if he is executed?

Number of jurors who so find: 12

(20) Do **any** of you find by a preponderance of the evidence that although Johnny Davis has caused much pain and sorrow, his innocent family and friends love him deeply and will suffer if he is executed?

Number of jurors who so find: 12

(21) Do **any** of you find by a preponderance of the evidence that although Johnny Davis can distinguish right from wrong and deserves to be held accountable for his actions, he suffers from mild mental retardation?

Number of jurors who so find: 0

(22) Do **any** of you find by a preponderance of the evidence that although Johnny Davis can distinguish right from wrong and deserves to be held accountable for his actions, he suffers from borderline intellectual functioning?

Number of jurors who so find: 12

(23) Do **any** of you find by a preponderance of the evidence that the Louisiana juvenile justice system attempted to intervene in Johnny Davis's life, but was unsuccessful in part because of the lack of continuing family involvement, direction and support?

Number of jurors who so find: 12

(24) Do **any** of you find by a preponderance of the evidence that other factors in Johnny Davis' childhood, background or character mitigate against imposition of the death sentence?

Number of jurors who so find: 0

The following extra spaces are provided to write in additional mitigating factors, if any, found by any one or more jurors by a preponderance of the evidence. If none, write "NONE" and cross out the extra spaces with a large "X." If more space is needed, write "CONTINUED" and use the reverse side of this page.

<u>Mitigating Factor</u>
<del>██████████ NONE</del>
<del> </del>
<del> </del>
<del> </del>

<u>Number of Jurors Who So Find</u>
<del>NONE</del>
<del> </del>
<del> </del>
<del> </del>

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

2(F). Determination

We, the Jury, unanimously determine that the sentence to be imposed on Johnny Davis as to Count 8 is:

\_\_\_\_\_ Death

\_\_\_\_\_ Life Imprisonment Without Possibility of  
Release

\_\_\_\_\_ Some Other Lesser Sentence

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

**Section III:**  
**Count Ten, Murder of Leonard Morgan Through the Use of a Firearm**  
**During and in Relation to a Heroin Trafficking Conspiracy**

Question No. 3(A):

Do you unanimously find beyond a reasonable doubt that Johnny Davis was eighteen years of age or older at the time he committed the murder of Leonard Morgan, charged in Count Ten of the Second Superseding Indictment?

Answer "Yes" or "No."

Answer: YES.

Instruction: If you answered "Yes" to Question No. 3(A), proceed to Question No. 3(B). If you answered "No" to Question No. 3(A), you are finished with your deliberations as to Count Ten and must proceed to Section IV.

Question No. 3(B):

3(B). Mental State

(1) Do you unanimously find beyond a reasonable doubt that Johnny Davis intentionally killed Leonard Morgan?

Answer "Yes" or "No."

Answer: YES.

(2) Do you unanimously find beyond a reasonable doubt that Johnny Davis intentionally inflicted serious bodily injury that resulted in the death of Leonard Morgan?

Answer "Yes" or "No."

Answer: YES.

(3) Do you unanimously find beyond a reasonable doubt that Johnny Davis 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 the victim, Leonard Morgan, died as a result of the act?

Answer "Yes" or "No."

Answer: YES.

(4) Do you unanimously find beyond a reasonable doubt that Johnny Davis 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, Leonard Morgan?

Answer "Yes" or "No."

Answer: YES.

Instruction: If you unanimously answered "Yes" to **any** of these four questions, proceed to Question No. 3(C) on the following page. If you answered "No" to **all** of these four questions, you are finished with your deliberations as to Count Ten and must proceed to Section IV.



3(C). Statutory Aggravating Factors

(1) Do you unanimously find beyond a reasonable doubt that Johnny Davis committed the offense against Leonard Morgan after substantial planning and premeditation to cause the death of Leonard Morgan?

Answer "Yes" or "No."

Answer: YES.

(2) Do you unanimously find beyond a reasonable doubt that Johnny Davis committed the offense against Leonard Morgan in consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value?

Answer "Yes" or "No."

Answer: YES.

Instruction: If you answered "Yes" to either part of Question No. 3(C), proceed to Question No. 3(D) on the following page. If you answered "No" to both parts of Question No. 3(C), you are finished with your deliberations as to Count Ten and must proceed to Section IV.

3(D). Non-Statutory Aggravating Factors

(1) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, has engaged in a continuing pattern of violent conduct, beginning at the age of fifteen with an adjudication as a juvenile delinquent on October 29, 1991, for the illegal carrying of a weapon, resisting arrest and battery of a police officer in violation of Louisiana Revised Statutes 14:95, 14:108 and 14:34.2. On August 14, 1991, the defendant, Johnny Davis, resisted arrest and committed a battery upon a police officer while in possession of a concealed firearm.

Answer "Yes" or "No."

Answer: Yes.

(2) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, was convicted on April 27, 1993, of a crime of violence which involved 11 counts of armed robbery in violation of Louisiana Revised Statutes 14:64. On April 8, 1992, the defendant, Johnny Davis, along with several other gunmen shot and robbed several customers inside the Imperial Lounge located at 320 Westwego Avenue in Bridge City, Louisiana.

Answer "Yes" or "No."

Answer: Yes.

(3) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, was convicted on December 5, 2001 of being a felon in possession of a firearm, in violation of Title 18, United States Code, Section 922(g)(1). On April 18, 2001, the defendant, Johnny Davis, and Anthony Buckles were arrested by members of the New Orleans Police Department. At the time of the arrest, Anthony Buckles provided a false statement to the police officers, at the request of Johnny Davis, claiming that the recovered firearm belonged to him and not Johnny Davis.

Answer "Yes" or "No."

Answer: Yes.

(4) We unanimously find that the government proved beyond a reasonable doubt that: While incarcerated, the defendant, Johnny Davis, has demonstrated his contempt for the criminal justice system and his low rehabilitative potential, by soliciting the assistance of a co-defendant, Anthony Buckles a/k/a "Nutta," to kill Leonard Smith a/k/a "Fu", who is a cooperating government witness in this case.

Answer "Yes" or "No."

Answer: YES.

(5) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, solicited juveniles to serve under him as his lieutenants, these juveniles out of fear of Johnny Davis, acquiescing to any of his demands.

Answer "Yes" or "No."

Answer: YES.

(6) We unanimously find that the government proved beyond a reasonable doubt that: While incarcerated on prior drug charges in 1998, the defendant, Johnny Davis, continued his participation in the illegal drug trade in the St. Thomas Housing Development by soliciting the aid of Leonard Smith a/k/a "Fu", a fellow drug dealer, to buy and sell drugs on his behalf.

Answer "Yes" or "No."

Answer: YES.

(7) We unanimously find that the government proved beyond a reasonable doubt that: While incarcerated on prior drug charges in 1998, the defendant, Johnny Davis, solicited the aid of Leonard Smith a/k/a "Fu", a fellow drug dealer, in the smuggling of contraband into the Orleans Parish jail.

Answer "Yes" or "No."

Answer: YES.

(8) We unanimously find that the government proved beyond a reasonable doubt that: As demonstrated by Leonard Morgan's personal characteristics as an individual human being and the impact of his death upon his family, friends and co-workers, the defendant, Johnny Davis, caused injury, harm, and loss to the victim, his family, his friends, and his co-workers.

Answer "Yes" or "No."

Answer: Yes.

(9) We unanimously find that the government proved beyond a reasonable doubt that: The defendant, Johnny Davis, has demonstrated a lack of remorse for his criminal conduct.

Answer "Yes" or "No."

Answer: YES.

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

3(E). 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 other participants in one or more of the capital offenses will not be punished by death, including but not limited to the following individuals: Richard Porter, Ouanell Curtis, and Anthony Buckles?

Number of jurors who so find: 12

(2) Do **any** of you find by a preponderance of the evidence that other participants in the drug trafficking offenses and murders are now eligible to receive reduced sentences as a result of plea agreements with the government?

Number of jurors who so find: 12

(3) Do **any** of you find by a preponderance of the evidence that there is evidence that Richard Porter hired Johnny Davis to commit the murder of victim Leonard Morgan, and Richard Porter 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 all of the victims, Samuel Collins, Walter Naylor, and Leonard Morgan, engaged in criminal conduct that may have contributed to the circumstances leading to their deaths, in that these victims were involved in narcotics possession and or distribution?

Number of jurors who so find: 12

(5) Do **any** of you find by a preponderance of the evidence that if he is not put to death, Johnny Davis will live every day of the rest of his life incarcerated in a federal prison, he will die in federal prison and he will never enjoy freedom again?

Number of jurors who so find: 12

(6) Do **any** of you find by a preponderance of the evidence that Johnny Davis was subjected to emotional abuse, physical abuse, abandonment and neglect as a child?

Number of jurors who so find: 12

(7) Do **any** of you find by a preponderance of the evidence that Johnny Davis was deprived of the parental love, guidance, and protection that he needed?

Number of jurors who so find: 12

(8) Do **any** of you find by a preponderance of the evidence that Johnny Davis suffers from the effects of early childhood lead poisoning?

Number of jurors who so find: 4

(9) Do **any** of you find by a preponderance of the evidence that Johnny Davis suffers from brain damage?

Number of jurors who so find: 0

(10) Do **any** of you find by a preponderance of the evidence that Johnny Davis' brain was damaged by his mother's substance abuse during her pregnancy?

Number of jurors who so find: 4

(11) Do **any** of you find by a preponderance of the evidence that Johnny Davis' brain was damaged by several head injuries in which he was knocked unconscious?

Number of jurors who so find: 0

(12) Do **any** of you find by a preponderance of the evidence that Johnny Davis suffers from brain dysfunction, which has impaired his ability to make good decisions about his life and the lives of others, although he still must be held accountable for his actions?

Number of jurors who so find: 0

(13) Do **any** of you find by a preponderance of the evidence that Johnny Davis was introduced to addictive drugs and alcohol while a child and has suffered from alcoholism and drug addiction since then?

Number of jurors who so find: 12

(14) Do **any** of you find by a preponderance of the evidence that Johnny Davis had learning problems in school, which led to academic failure and an inability to progress in school?

Number of jurors who so find: 12

(15) Do **any** of you find by a preponderance of the evidence that although the evidence presented at trial was sufficient to prove Johnny Davis' guilt beyond a reasonable doubt, additional evidence, including DNA and other forensic evidence, which might have proved his guilt or innocence to an absolute certainty, was not available?

Number of jurors who so find: 12

(16) Do **any** of you find by a preponderance of the evidence that Johnny Davis has suffered from symptoms of Post-Traumatic Stress Disorder for many years, and will continue to suffer from mental illness?

Number of jurors who so find: 5

(17) Do **any** of you find by a preponderance of the evidence that Johnny Davis has suffered from symptoms of depression for many years, and will struggle with depression for the rest of his life in prison?

Number of jurors who so find: 8

(18) Do **any** of you find by a preponderance of the evidence that Johnny Davis has shown love and kindness towards his family?

Number of jurors who so find: 0

(19) Do **any** of you find by a preponderance of the evidence that Johnny Davis' daughters will be forever deprived of their father if he is executed?

Number of jurors who so find: 12

(20) Do **any** of you find by a preponderance of the evidence that although Johnny Davis has caused much pain and sorrow, his innocent family and friends love him deeply and will suffer if he is executed?

Number of jurors who so find: 12

(21) Do **any** of you find by a preponderance of the evidence that although Johnny Davis can distinguish right from wrong and deserves to be held accountable for his actions, he suffers from mild mental retardation?

Number of jurors who so find: 0

(22) Do **any** of you find by a preponderance of the evidence that although Johnny Davis can distinguish right from wrong and deserves to be held accountable for his actions, he suffers from borderline intellectual functioning?

Number of jurors who so find: 12

(23) Do **any** of you find by a preponderance of the evidence that the Louisiana juvenile justice system attempted to intervene in Johnny Davis's life, but was unsuccessful in part because of the lack of continuing family involvement, direction and support?

Number of jurors who so find: 12

(24) Do **any** of you find by a preponderance of the evidence that other factors in Johnny Davis' childhood, background or character mitigate against imposition of the death sentence?

Number of jurors who so find: 0

The following extra spaces are provided to write in additional mitigating factors, if any, found by any one or more jurors by a preponderance of the evidence. If none, write "NONE" and cross out the extra spaces with a large "X." If more space is needed, write "CONTINUED" and use the reverse side of this page.

Mitigating Factor

Number of Jurors Who So Find

~~NONE~~

~~NONE~~

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



3(F). Determination

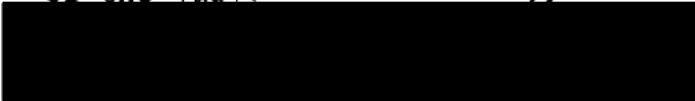
We, the Jury, unanimously determine that the sentence to be imposed on Johnny Davis as to Count 10 is:

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

Instruction: Proceed to Section IV.

Section IV:  
Certification

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



JURY FOREPERSON

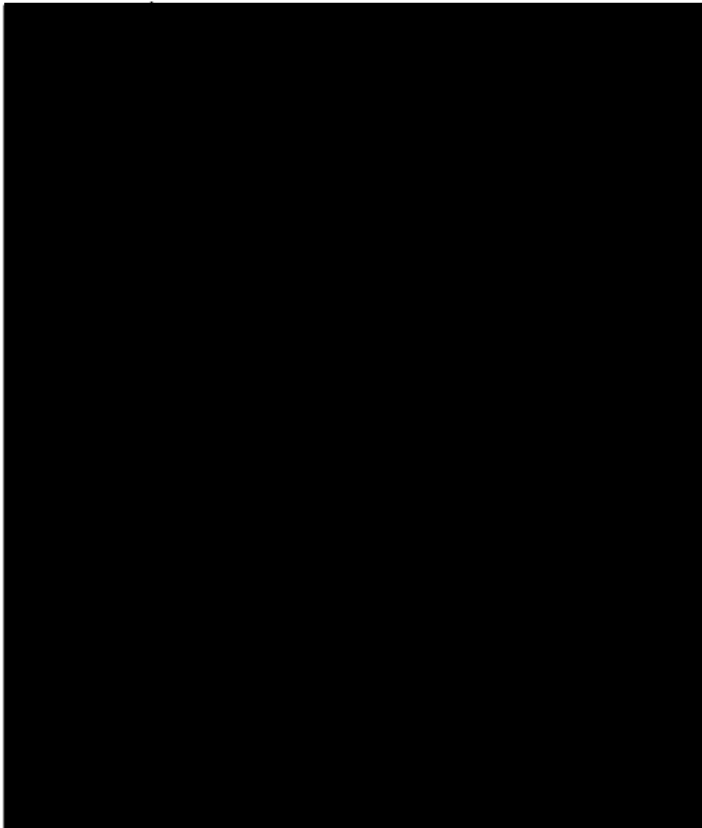
5-16-03

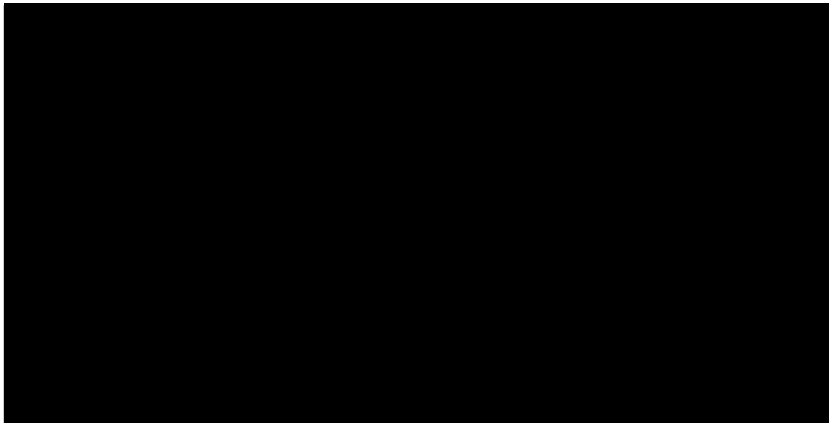
DATE

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(s) 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(s).

SIGNATURES OF ALL JURORS:





DATE: \_\_\_\_\_

DATE:

5/15/03