

THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,	)	
	)	CR No. 07-023-N-EJL
Plaintiff,	)	
	)	SPECIAL VERDICT FORM
vs.	)	
	)	COUNT ONE
JOSEPH EDWARD DUNCAN, III,	)	
	)	
Defendant.	)	
_____	)	

We the empaneled jury in the above entitled matter, do unanimously find as follows as to

Count One:

**COUNT ONE**

**KIDNAPPING RESULTING IN THE DEATH OF A CHILD**

**I. AGE OF THE DEFENDANT**

Instructions: Answer "YES" or "NO."

1. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, was eighteen years of age or older at the time of the offense.

YES X

NO \_\_\_\_\_

  
Foreperson

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

If you answered "NO" with respect to the determination in this Section I, then stop your deliberations and cross out Sections II and III of this form. Proceed to Section IV.

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 the Defendant, Joseph Edward Duncan, III, intentionally killed the Victim, D.G..

YES   X  

NO           

Foreperson

2. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, intentionally inflicted serious bodily injury which resulted in the death of the Victim, D.G..

YES   X  

NO           

Foreperson

3. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, 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, D.G., died as a direct result of the act.

YES X

NO \_\_\_\_\_

Foreperson 

4. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, 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, D.G., died as a direct result of the act.

YES X

NO \_\_\_\_\_

Foreperson 

Instructions: If you answered "YES" to one or more of the threshold intent factors in Section II, proceed to Section III which follows.

If you answered "NO" as to all of the threshold intent factors in Section II, then stop your deliberations and cross out Section III of this form. Proceed to Section IV.

III. STATUTORY AGGRAVATING FACTORS

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

1. Do you, the jury, unanimously find that the Government established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, caused the death of the Victim, D.G., during the commission of another crime, to wit: kidnapping, in violation of 18 U.S.C. § 1201.

YES X

NO \_\_\_\_\_

  
Foreperson

2. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, committed the offense after having been convicted of another federal or state offense resulting in the death of a person, for which a sentence of life imprisonment was authorized by statute, to wit: first-degree murder and first-degree kidnapping of Mark McKenzie, Brenda Groene, and S.I.G. in Case No. CR F05-13674, Kootenai County, State of Idaho.

YES X

NO \_\_\_\_\_

  
Foreperson

3. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, committed the offense in an especially heinous, cruel, or depraved manner in that the offense involved torture or serious physical abuse to the Victim, D.G..

YES AS TO TORTURE

X

NO AS TO TORTURE

\_\_\_\_\_

YES AS TO SERIOUS PHYSICAL ABUSE

X

NO AS TO SERIOUS PHYSICAL ABUSE

\_\_\_\_\_

Foreperson

4. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, committed the offense after substantial planning and premeditation to cause the death of the Victim, D.G..

YES

X

NO

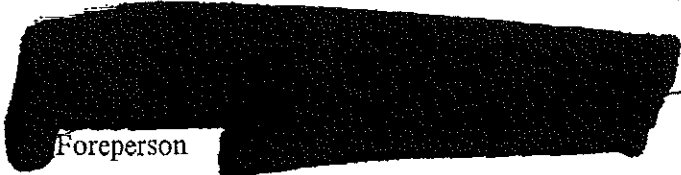
\_\_\_\_\_

Foreperson

5. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Victim, D.G., was particularly vulnerable due to his age of nine years.

YES X


NO \_\_\_\_\_

  
Foreperson

6. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, committed the offense after previously being convicted of another federal or state offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm against another person, to wit: rape in Case No. CR 57116, Pierce County, State of Washington.

YES X

NO \_\_\_\_\_

  
Foreperson

Instructions: Regardless of your answers in Section III, proceed to Section IV.

**IV. CERTIFICATION SECTION**

Instructions: Each juror should carefully read the certification statement below, 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 bailiff that you have reached a decision.

**Certification Statement**

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the Defendant, Joseph Edward Duncan, III, or the Victim, D.G., was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding the Defendant, Joseph Edward Duncan, III's, eligibility for a sentence of death for the crime or crimes in question regardless of the race, color, religious beliefs, national origin, or sex of the Defendant, Joseph Edward Duncan, III, or the Victim, D.G..

THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSEPH EDWARD DUNCAN, III,

Defendant.

---

)  
) CR No. 07-023-N-EJL  
)  
) **SPECIAL VERDICT FORM**  
)  
) **COUNT FIVE**  
)  
)  
)  
)  
)  
)

We the empaneled jury in the above entitled matter, do unanimously find as follows as to  
Count Five:

**COUNT FIVE**

**SEXUAL EXPLOITATION OF A CHILD RESULTING IN DEATH**

I. AGE OF THE DEFENDANT

Instructions: Answer "YES" or "NO."

1. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, was eighteen years of age or older at the time of the offense.

YES X

NO \_\_\_\_\_

  
Foreperson

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

If you answered "NO" with respect to the determination in this Section I, then stop your deliberations and cross out Sections II and III of this form. Proceed to Section IV.

**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 the Defendant, Joseph Edward Duncan, III, intentionally killed the Victim, D.G..

YES

NO

Foreperson

2. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, intentionally inflicted serious bodily injury which resulted in the death of the Victim, D.G..

YES


NO

Foreperson

3. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, 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, D.G., died as a direct result of the act.

YES   X  

NO           

  
Foreperson

4. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, 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, D.G., died as a direct result of the act.

YES   X  

NO           

  
Foreperson

Instructions: If you answered "YES" to one or more of the threshold intent factors in Section II, proceed to Section III which follows.

If you answered "NO" as to all of the threshold intent factors in Section II, then stop your deliberations and cross out Section III of this form. Proceed to Section IV.

**III. STATUTORY AGGRAVATING FACTORS**

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

1. Do you, the jury, unanimously find that the Government established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, caused the death of the Victim, D.G., during the commission of another crime, to wit: kidnapping, in violation of 18 U.S.C. § 1201.

YES X

NO \_\_\_\_\_

  
Foreperson

2. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, committed the offense after having been convicted of another federal or state offense resulting in the death of a person, for which a sentence of life imprisonment was authorized by statute, to wit: first-degree murder and first-degree kidnapping of Mark McKenzie, Brenda Groene, and S.I.G. in Case No. CR F05-13674, Kootenai County, State of Idaho.

YES X

NO \_\_\_\_\_

  
Foreperson

3. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, committed the offense in an especially heinous, cruel, or depraved manner in that the offense involved torture or serious physical abuse to the Victim, D.G..

YES AS TO TORTURE X

NO AS TO TORTURE \_\_\_\_\_

YES AS TO SERIOUS PHYSICAL ABUSE X

NO AS TO SERIOUS PHYSICAL ABUSE \_\_\_\_\_

  
Foreperson

4. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, committed the offense after substantial planning and premeditation to cause the death of the Victim, D.G..

YES X

NO \_\_\_\_\_

  
Foreperson

5. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Victim, D.G., was particularly vulnerable due to his age of nine years.

YES X

NO \_\_\_\_\_

  
Foreperson

17 & 13 Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, committed the offense using a firearm during and in relation to a crime of violence resulting in the Victim, D.G.'s, death having been previously convicted of a crime of sexual assault, to wit: rape in Case No. CR 57116, Pierce County, State of Washington.

YES X

NO \_\_\_\_\_

  
Foreperson

Instructions: Regardless of your answers in Section III, proceed to Section IV.

**IV. CERTIFICATION SECTION**

Instructions: Each juror should carefully read the certification statement below, 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 bailiff that you have reached a decision.

**Certification Statement**

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the Defendant, Joseph Edward Duncan, III, or the Victim, D.G., was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding the Defendant, Joseph Edward Duncan, III's, eligibility for a sentence of death for the crime or crimes in question regardless of the race, color, religious beliefs, national origin, or sex of the Defendant, Joseph Edward Duncan, III, or the Victim, D.G..

UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,	)	
	)	CR No. 07-023-N-EJL
Plaintiff,	)	
	)	SPECIAL VERDICT FORM
vs.	)	
	)	COUNT SEVEN
JOSEPH EDWARD DUNCAN, III,	)	
	)	
Defendant.	)	
_____	)	

We the empaneled jury in the above entitled matter, do unanimously find as follows as to  
Count Seven:

**COUNT SEVEN**  
**USING A FIREARM DURING AND IN RELATION TO A CRIME OF VIOLENCE**  
**RESULTING IN DEATH**

I. AGE OF THE DEFENDANT

Instructions: Answer "YES" or "NO."

1. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, was eighteen years of age or older at the time of the offense.

YES           

NO           

  
Foreperson

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

If you answered "NO" with respect to the determination in this Section I, then stop your deliberations and cross out Sections II and III of this form. Proceed to Section IV.

**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 the Defendant, Joseph Edward Duncan, III, intentionally killed the Victim, D.G..

YES X

NO \_\_\_\_\_

[REDACTED]

Foreperson /

2. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, intentionally inflicted serious bodily injury which resulted in the death of the Victim, D.G..

YES X

NO \_\_\_\_\_

[REDACTED]

Foreperson /

3. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, 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, D.G., died as a direct result of the act.

YES X

NO \_\_\_\_\_

  
Foreperson

4. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, 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, D.G., died as a direct result of the act.

YES X

NO \_\_\_\_\_

  
Foreperson

Instructions: If you answered "YES" to one or more of the threshold intent factors in Section II, proceed to Section III which follows.

If you answered "NO" to all of the threshold intent factors in Section II, then stop your deliberations and cross out Section III of this form. Proceed to Section IV.

**III. STATUTORY AGGRAVATING FACTORS**

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

1. Do you, the jury, unanimously find that the Government established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, caused the death of the Victim, D.G., during the commission of another crime, to wit: in violation of 18 U.S.C. § 1201.

YES X

NO \_\_\_\_\_

[REDACTED]  
Foreperson

2. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, committed the offense after having been convicted of another federal or state offense resulting in the death of a person, for which a sentence of life imprisonment was authorized by statute, to wit: first-degree murder and first-degree kidnapping of Mark McKenzie, Brenda Groene, and S.I.G. in Case No. CR F05-13674, Kootenai County, State of Idaho.

YES X

NO \_\_\_\_\_

[REDACTED]  
Foreperson

3. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, committed the offense in an especially heinous, cruel, or depraved manner in that the offense involved torture or serious physical abuse to the Victim, D.G..

YES AS TO TORTURE X

NO AS TO TORTURE \_\_\_\_\_

YES AS TO SERIOUS PHYSICAL ABUSE X

NO AS TO SERIOUS PHYSICAL ABUSE \_\_\_\_\_

  
Foreperson

4. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, committed the offense after substantial planning and premeditation to cause the death of the Victim, D.G..

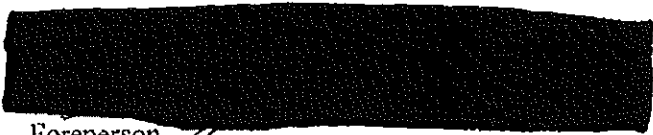
YES X

NO \_\_\_\_\_

  
Foreperson

5. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Victim, D.G., was particularly vulnerable due to his age of nine years.

YES X  
NO \_\_\_\_\_

  
Foreperson

6. Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, committed the offense after previously being convicted of another federal or state offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm against another person, to wit: rape in Case No. CR 57116, Pierce County, State of Washington.

YES X  
NO \_\_\_\_\_

  
Foreperson

Instructions: Regardless of your answers in Section III, proceed to Section IV.

**IV. CERTIFICATION SECTION**

Instructions: Each juror should carefully read the certification statement below, 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 bailiff that you have reached a decision.

**Certification Statement**

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the Defendant, Joseph Edward Duncan, III, or the Victim, D.G., was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding the Defendant, Joseph Edward Duncan, III's, eligibility for a sentence of death for the crime or crimes in question regardless of the race, color, religious beliefs, national origin, or sex of the Defendant, Joseph Edward Duncan, III, or the Victim, D.G..



**I. NON-STATUTORY AGGRAVATING FACTORS**

Instructions: For each of the following non-statutory aggravating factors, answer "YES" or "NO" to the numbered questions below.

1. Victim Impact: Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, in committing the offense of kidnapping resulting in the death of a child, caused injury and loss to the Victim D.G.'s family.

YES ☒

NO ☐

Foreperson

2. Future Dangerousness of the Defendant, Joseph Edward Duncan, III: Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, is likely to commit criminal acts of violence in the future that would constitute a continuing and serious threat to the lives and safety of others.

YES ☒

NO ☐

Foreperson

Instructions: Regardless of whether you answered "YES" or "NO" with respect to the non-statutory aggravating factors in this Section, proceed to Section II, which follows.

## II. MITIGATING FACTORS

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

The following spaces are provided to you to write in mitigating factors, if any, found to exist by one or more jurors by a preponderance of the evidence. If no additional mitigating factors are found, write "NONE." If more space is needed, write "CONTINUED" and use the reverse side of the page.

a. NONE

Number of jurors who so find: \_\_\_\_\_

b. NONE

Number of jurors who so find: \_\_\_\_\_

c. NONE

Number of jurors who so find: \_\_\_\_\_

Foreperson

Instruction: Regardless of your findings as to the mitigating factors above in this Section, proceed to Section III.

### III. DETERMINATION OF SENTENCE

Based upon consideration of whether the statutory and non-statutory aggravating factors found to exist 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, and whether death is therefore the appropriate sentence in this case:

#### 1. Death Sentence

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

YES, unanimous X

NO, not unanimous       

Instruction: If you answer "YES," the foreperson must sign and date here, and you must then proceed to Section IV. If you answer "NO," the foreperson must sign and date, and you must then proceed to answer question 2 below.

Date: August 27th, 2008.

Foreperson 

#### 2. 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, unanimous       

NO, not unanimous

Instruction: Regardless of your answer to question 2 above, the foreperson must sign and date below and you must proceed to Section IV.

Foreperson

Date: August 27, 2008.

**IV. CERTIFICATION AS TO THE DETERMINATION OF SENTENCE**

Each juror must sign his or her name below, indicating that the above sentence determination reflects the jury's unanimous decision:

1.           

2.           

3.           

4.           

5.           

6.           

7.           

8.           

9.           

10.           

11.           

12.           

Foreperson

Date: August 27, 2008.

Instruction: After you have completed your sentence determination in Section III and signed the certification as to the determination of sentence in Section IV, regardless of what the determination is, continue to the Certification Section V.

**V. CERTIFICATION SECTION**

Instructions: Each juror should carefully read the certification statement below, 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 bailiff that you have reached a decision.

**Certification Statement**

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the Defendant, Joseph Edward Duncan, III, or the Victim, D.G., was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding the Defendant, Joseph Edward Duncan, III's, eligibility for a sentence of death for the crime or crimes in question regardless of the race, color, religious beliefs, national origin, or sex of the Defendant, Joseph Edward Duncan, III, or the Victim, D.G..

1.           

2.           

3.           

4.           

5.           

6.

7. \_

8. \_

9. \_

10. \_

11. \_

12. \_

Representative /

Date: August 21, 2008.

THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSEPH EDWARD DUNCAN, III,

Defendant.

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)  
) CR No. 07-023-N-EJL  
)  
)  
)

) **SELECTION PHASE**  
) **SPECIAL VERDICT FORM**  
)

) **COUNT FIVE**  
)  
)

We, the empaneled jury in the above entitled matter, do find as follows as to Count Five:

**COUNT FIVE**

**SEXUAL EXPLOITATION OF A CHILD RESULTING IN DEATH**

**I. NON-STATUTORY AGGRAVATING FACTORS**

Instructions: For each of the following non-statutory aggravating factors, answer "YES" or "NO" to the numbered questions below.

1. Victim Impact: Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, in committing the offense of sexual exploitation of a child resulting in death, caused injury and loss to the Victim D.G.'s family.

YES

☒

NO

☐

  
Foreperson

2. Future Dangerousness of the Defendant, Joseph Edward Duncan, III: Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, is likely to commit criminal acts of violence in the future that would constitute a continuing and serious threat to the lives and safety of others.

YES

☒

NO

☐

  
Foreperson

Instructions: Regardless of whether you answered "YES" or "NO" with respect to the non-statutory aggravating factors in this Section, proceed to Section II, which follows.

## II. MITIGATING FACTORS

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

The following spaces are provided to you to write in mitigating factors, if any, found to exist by one or more jurors by a preponderance of the evidence. If no additional mitigating factors are found, write "NONE." If more space is needed, write "CONTINUED" and use the reverse side of the page.

a. NONE

Number of jurors who so find: \_\_\_\_\_

b. NONE

Number of jurors who so find: \_\_\_\_\_

c. NONE

Number of jurors who so find: \_\_\_\_\_

Foreperson

Instruction: Regardless of your findings as to the mitigating factors above in this Section, proceed to Section III.

**III. DETERMINATION OF SENTENCE**

Based upon consideration of whether the statutory and non-statutory aggravating factors found to exist 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, and whether death is therefore the appropriate sentence in this case:

**1. Death Sentence**

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

YES, unanimous   X  

NO, not unanimous           

Instruction: If you answer "YES," the foreperson must sign and date here, and you must then proceed to Section IV. If you answer "NO," the foreperson must sign and date, and you must then proceed to answer question 2 below.

Date: August 27th, 2008.

Foreperson 

**2. 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, unanimous           

NO, not unanimous

Instruction: Regardless of your answer to question 2 above, the foreperson must sign and date below and you must proceed to Section IV.

  
Foreperson

Date: August 27, 2008.

**IV. CERTIFICATION AS TO THE DETERMINATION OF SENTENCE**

Each juror must sign his or her name below, indicating that the above sentence determination reflects the jury's unanimous decision:

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

6. \_\_\_\_\_

7. \_\_\_\_\_

8. \_\_\_\_\_

9. \_\_\_\_\_

10. \_\_\_\_\_

11. \_\_\_\_\_

12. \_\_\_\_\_

Foreperson

Date: August 27, 2008.

Instruction: After you have completed your sentence determination in Section III and signed the certification as to the determination of sentence in Section IV, regardless of what the determination is, continue to the Certification Section V.

**V. CERTIFICATION SECTION**

Instructions: Each juror should carefully read the certification statement below, 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 bailiff that you have reached a decision.

**Certification Statement**

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the Defendant, Joseph Edward Duncan, III, or the Victim, D.G., was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding the Defendant, Joseph Edward Duncan, III's, eligibility for a sentence of death for the crime or crimes in question regardless of the race, color, religious beliefs, national origin, or sex of the Defendant, Joseph Edward Duncan, III, or the Victim, D.G..

8. \_

9. \_

~~10.~~

11. \_

12. \_

For person

Date: August 27, 2008.

THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,	)	
	)	CR No. 07-023-N-EJL
Plaintiff,	)	
	)	
vs.	)	SELECTION PHASE
	)	SPECIAL VERDICT FORM
JOSEPH EDWARD DUNCAN, III,	)	
	)	COUNT SEVEN
Defendant.	)	
	)	

---

We, the empaneled jury in the above entitled matter, do find as follows as to Count  
Seven:

**COUNT SEVEN**

**USING A FIREARM DURING AND IN RELATON TO A CRIME OF VIOLENCE  
RESULTING IN DEATH**

**I. NON-STATUTORY AGGRAVATING FACTORS**

Instructions: For each of the following non-statutory aggravating factors, answer "YES" or "NO" to the numbered questions below.

1. Victim Impact: Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, in committing the offense of using a firearm during and in relation to a crime of violence resulting in death, caused injury and loss to the Victim D.G.'s family.

YES ☒

NO ☐

  
Foreperson

2. Future Dangerousness of the Defendant, Joseph Edward Duncan, III: Do you, the jury, unanimously find that the Government has established beyond a reasonable doubt that the Defendant, Joseph Edward Duncan, III, is likely to commit criminal acts of violence in the future that would constitute a continuing and serious threat to the lives and safety of others.

YES ☒

NO ☐

  
Foreperson

Instructions: Regardless of whether you answered "YES" or "NO" with respect to the non-statutory aggravating factors in this Section, proceed to Section II, which follows.

## II. MITIGATING FACTORS

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

The following spaces are provided to you to write in mitigating factors, if any, found to exist by one or more jurors by a preponderance of the evidence. If no additional mitigating factors are found, write "NONE." If more space is needed, write "CONTINUED" and use the reverse side of the page.

a. NONE

Number of jurors who so find: \_\_\_\_\_

b. NONE

Number of jurors who so find: \_\_\_\_\_

c. NONE

Number of jurors who so find: \_\_\_\_\_

Foreperson

Instruction: Regardless of your findings as to the mitigating factors above in this Section, proceed to Section III.

**III. DETERMINATION OF SENTENCE**

Based upon consideration of whether the statutory and non-statutory aggravating factors found to exist 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, and whether death is therefore the appropriate sentence in this case:

**1. Death Sentence**

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

YES, unanimous           X          

NO, not unanimous                     

Instruction: If you answer "YES," the foreperson must sign and date here, and you must then proceed to Section IV. If you answer "NO," the foreperson must sign and date, and you must then proceed to answer question 2 below.

Foreperson 

Date: August 27<sup>th</sup>, 2008.

**2. 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, unanimous                     

NO, not unanimous

Instruction: Regardless of your answer to question 2 above, the foreperson must sign and date below and you must proceed to Section IV.

  
Foreperson

Date: August 27, 2008.

**IV. CERTIFICATION AS TO THE DETERMINATION OF SENTENCE**

Each juror must sign his or her name below, indicating that the above sentence determination reflects the jury's unanimous decision:

Foreperson

Date: August 27, 2008.

Instruction: After you have completed your sentence determination in Section III and signed the certification as to the determination of sentence in Section IV, regardless of what the determination is, continue to the Certification Section V.

**V. CERTIFICATION SECTION**

Instructions: Each juror should carefully read the certification statement below, 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 bailiff that you have reached a decision.

**Certification Statement**

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the Defendant, Joseph Edward Duncan, III, or the Victim, D.G., was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding the Defendant, Joseph Edward Duncan, III's, eligibility for a sentence of death for the crime or crimes in question regardless of the race, color, religious beliefs, national origin, or sex of the Defendant, Joseph Edward Duncan, III, or the Victim, D.G..

Date: August 27, 2008.