

ORIGINAL

FILED
U.S. DIST. COURT
SAVANNAH DIV

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

AUG 29 2 59 PM '00

CLERK *SP*
SO. DIST OF GA.

UNITED STATES OF AMERICA,)
)
)
VS.) Criminal Action Number: CR499-133
)
LAMOND GARRETT,)
)
Defendant.)
_____)

PENALTY PHASE SPECIAL VERDICT FORM

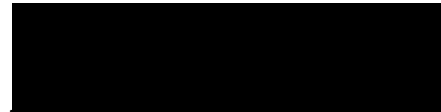
INSTRUCTIONS: AS MUCH AS POSSIBLE, YOU SHOULD PROCEED THROUGH THIS SPECIAL VERDICT FORM SECTION BY SECTION IN ORDER.

I. AGE OF THE DEFENDANT

INSTRUCTIONS: ANSWER "YES" OR "NO."

WE UNANIMOUSLY FIND THAT THE GOVERNMENT HAS ESTABLISHED BEYOND A REASONABLE DOUBT THAT THE DEFENDANT WAS EIGHTEEN YEARS OF AGE OR OLDER AT THE TIME OF THE OFFENSES ALLEGED IN THE THIRD SUPERSEDING INDICTMENT.

YES NO



FOREPERSON

DATE: AUGUST 29, 2000

INSTRUCTIONS: IF YOU ANSWERED "NO" TO THE AGE DETERMINATION, THEN YOU CANNOT CONSIDER THE SENTENCE OF DEATH FOR THIS DEFENDANT ON ANY COUNT, AND THE COURT WILL IMPOSE A SENTENCE OTHER THAN DEATH

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AS AUTHORIZED BY LAW. YOU SHOULD STOP YOUR DELIBERATIONS, CROSS OUT SECTIONS II, III, IV, V, AND VI, AND PROCEED TO SECTION VII OF THIS SPECIAL VERDICT FORM. IF YOU ANSWERED "YES" TO THE AGE DETERMINATION, THEN YOU SHOULD CONTINUE YOUR DELIBERATIONS IN ACCORDANCE WITH THE COURT'S INSTRUCTIONS AND PROCEED TO SECTION II WHICH FOLLOWS.

II. THRESHOLD ELIGIBILITY FACTORS

INSTRUCTIONS: IF YOU UNANIMOUSLY FIND THAT ONE OR MORE OF THESE TWO "THRESHOLD ELIGIBILITY FACTORS" HAS BEEN PROVEN BEYOND A REASONABLE DOUBT PLACE AN "X" NEXT TO "YES" AS TO THAT FACTOR AND MOVE ON TO THE STATUTORY AGGRAVATING FACTORS. DO THIS FOR EACH COUNT.

A. COUNT TEN (TAMPERING WITH A WITNESS, VICTIM OR INFORMANT BY KILLING)

1. THE DEFENDANT INTENTIONALLY KILLED JOSEPH "DOOBIE" SMART, SR.
YES NO

2. THE DEFENDANT INTENTIONALLY INFLICTED SERIOUS BODILY INJURY THAT RESULTED IN THE DEATH OF JOSEPH "DOOBIE" SMART, SR.
YES NO

3. THE DEFENDANT 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 JOSEPH SMART, SR. DIED AS A DIRECT RESULT OF THE ACT.
YES NO

4. THE DEFENDANT 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 JOSEPH SMART, SR. DIED AS A DIRECT RESULT OF THE ACT.
YES NO

B. COUNT ELEVEN (KILLING PERSON AIDING FEDERAL INVESTIGATION)

1. THE DEFENDANT INTENTIONALLY KILLED JOSEPH "DOOBIE" SMART, SR.

YES NO

2. THE DEFENDANT INTENTIONALLY INFLICTED SERIOUS BODILY INJURY THAT RESULTED IN THE DEATH OF JOSEPH "DOOBIE" SMART, SR.

YES NO

3. THE DEFENDANT 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 JOSEPH SMART, SR. DIED AS A DIRECT RESULT OF THE ACT.

YES NO

4. THE DEFENDANT 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 JOSEPH SMART, SR. DIED AS A DIRECT RESULT OF THE ACT.

YES NO

C. COUNT TWELVE (FIREARMS MURDER DURING OR IN RELATION TO DRUG TRAFFICKING CRIME)

1. THE DEFENDANT INTENTIONALLY KILLED JOSEPH "DOOBIE" SMART, SR.
YES _____ NO _____

2. THE DEFENDANT INTENTIONALLY INFLICTED SERIOUS BODILY INJURY THAT RESULTED IN THE DEATH OF JOSEPH "DOOBIE" SMART, SR.
YES _____ NO _____

3. THE DEFENDANT 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 JOSEPH SMART, SR. DIED AS A DIRECT RESULT OF THE ACT.
YES _____ NO _____

4. THE DEFENDANT 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 JOSEPH SMART, SR. DIED AS A DIRECT RESULT OF THE ACT.
YES _____ NO _____

INSTRUCTIONS:

IF YOU ANSWERED "NO" WITH RESPECT TO ALL FOUR OF THE "THRESHOLD ELIGIBILITY FACTORS" IN SECTION II OF THIS FORM AS TO ANY OF COUNTS TEN, ELEVEN, OR TWELVE THEN THAT ENDS YOUR CONSIDERATION OF THE DEATH PENALTY AS TO THAT COUNT. YOU MUST STOP YOUR DELIBERATIONS AS TO THAT PARTICULAR COUNT AND INDICATE IN THE SECTION VI RECOMMENDATION PORTION OF THIS FORM WITH

RESPECT TO THAT COUNT THAT THE JURY HAS BEEN UNABLE TO UNANIMOUSLY FIND BEYOND A REASONABLE DOUBT THAT ANY OF THE "THRESHOLD ELIGIBILITY FACTORS" EXIST.

IF YOU ANSWERED "NO" WITH RESPECT TO ALL FOUR "THRESHOLD ELIGIBILITY FACTORS" AS TO EACH OF COUNTS TEN, ELEVEN, AND TWELVE THAT ENDS YOUR CONSIDERATION OF THE DEATH PENALTY COMPLETELY. YOU SHOULD STOP YOUR DELIBERATIONS, CROSS OUT SECTIONS III, IV, V, AND INDICATE IN THE SECTION VI RECOMMENDATION PORTION OF THIS FORM WITH RESPECT TO ALL COUNTS THAT THE JURY HAS BEEN UNABLE TO UNANIMOUSLY FIND BEYOND A REASONABLE DOUBT THAT ANY OF THE "THRESHOLD ELIGIBILITY FACTORS" EXIST. THEN PROCEED TO SECTION VII OF THIS FORM.

IF YOU ANSWERED "YES" WITH RESPECT TO ONE OR MORE OF THE "THRESHOLD ELIGIBILITY FACTORS" IN SECTION II OF THIS FORM AS TO ANY OF COUNTS TEN, ELEVEN, OR TWELVE, OR ALL, THEN CONTINUE YOUR DELIBERATIONS IN ACCORDANCE WITH THE COURT'S INSTRUCTIONS AS TO THE COUNT OR COUNTS FOR WHICH YOU FOUND A "THRESHOLD ELIGIBILITY FACTOR" TO EXIST AND PROCEED TO SECTION III WHICH FOLLOWS.

III. STATUTORY AGGRAVATING FACTORS

INSTRUCTIONS: FOR EACH OF THE FOLLOWING, ANSWER "YES" OR "NO" AS TO WHETHER YOU, THE JURY, UNANIMOUSLY FIND THAT THE GOVERNMENT HAS ESTABLISHED THE EXISTENCE OF THAT STATUTORY AGGRAVATING FACTOR BEYOND A REASONABLE DOUBT AS TO EACH OF COUNTS TEN, ELEVEN, AND TWELVE.

A. COUNT TEN (TAMPERING WITH A WITNESS, VICTIM OR INFORMANT BY KILLING)

1. THE DEFENDANT, IN THE COMMISSION OF THE OFFENSE DESCRIBED IN COUNT TEN, OR IN ESCAPING APPREHENSION FOR THE OFFENSE, KNOWINGLY CREATED A GRAVE RISK OF DEATH TO ONE OR MORE PERSONS IN ADDITION TO THE VICTIM OF THE OFFENSE, JOSEPH SMART, SR.

YES NO

2. THE DEFENDANT COMMITTED THE OFFENSE DESCRIBED IN COUNT TEN AFTER SUBSTANTIAL PLANNING AND PREMEDITATION TO CAUSE THE DEATH OF A PERSON OR COMMIT AN ACT OF TERRORISM.

YES NO

B. COUNT ELEVEN (KILLING PERSON AIDING FEDERAL INVESTIGATION)

1. THE DEFENDANT, IN THE COMMISSION OF THE OFFENSE DESCRIBED IN COUNT ELEVEN, OR IN ESCAPING APPREHENSION FOR THE OFFENSE, KNOWINGLY CREATED A GRAVE RISK OF DEATH TO ONE OR MORE PERSONS IN ADDITION TO THE VICTIM OF THE OFFENSE, JOSEPH SMART, SR.

YES NO

2. THE DEFENDANT COMMITTED THE OFFENSE DESCRIBED IN COUNT ELEVEN AFTER SUBSTANTIAL PLANNING AND PREMEDITATION TO CAUSE THE DEATH OF A PERSON OR COMMIT AN ACT OF TERRORISM.

YES NO

C. COUNT TWELVE (FIREARMS MURDER DURING OR IN RELATION TO DRUG TRAFFICKING CRIME)

1. THE DEFENDANT, IN THE COMMISSION OF THE OFFENSE DESCRIBED IN COUNT TWELVE, OR IN ESCAPING APPREHENSION FOR THE OFFENSE, KNOWINGLY CREATED A GRAVE RISK OF DEATH TO ONE OR MORE PERSONS IN ADDITION TO THE VICTIM OF THE OFFENSE, JOSEPH SMART, SR.

YES NO

2. THE DEFENDANT COMMITTED THE OFFENSE DESCRIBED IN COUNT TWELVE AFTER SUBSTANTIAL PLANNING AND PREMEDITATION TO CAUSE THE DEATH OF A PERSON OR COMMIT AN ACT OF TERRORISM.

YES NO

INSTRUCTIONS:

IF YOU ANSWERED "NO" WITH RESPECT TO ALL OF THE STATUTORY AGGRAVATING FACTORS IN SECTION III OF THIS FORM AS TO ANY OF COUNTS TEN, ELEVEN, OR TWELVE, THEN THAT ENDS YOUR CONSIDERATION OF THE DEATH PENALTY AS TO THAT COUNT. YOU MUST STOP YOUR DELIBERATIONS AS TO THAT PARTICULAR COUNT AND INDICATE IN THE SECTION VI RECOMMENDATION PORTION OF THIS FORM WITH RESPECT TO THAT COUNT THAT THE JURY HAS BEEN UNABLE TO UNANIMOUSLY FIND BEYOND A REASONABLE DOUBT THAT ANY OF THE STATUTORY AGGRAVATING FACTORS EXIST.

IF YOU ANSWERED "NO" WITH RESPECT TO ALL STATUTORY AGGRAVATING FACTORS AS TO COUNTS TEN, ELEVEN, AND TWELVE, THAT ENDS YOUR CONSIDERATION OF THE DEATH PENALTY AS TO THIS DEFENDANT. YOU SHOULD STOP YOUR DELIBERATIONS, CROSS OUT SECTIONS IV AND V, AND INDICATE IN THE SECTION VI RECOMMENDATION PORTION OF THIS FORM WITH RESPECT TO ALL COUNTS THAT THE JURY HAS BEEN UNABLE TO UNANIMOUSLY FIND BEYOND A REASONABLE DOUBT THAT ANY OF THE STATUTORY AGGRAVATING FACTORS EXIST. THEN PROCEED TO

SECTION VII OF THIS FORM.

IF YOU ANSWERED "YES" WITH RESPECT TO ANY ONE OR MORE OF THE STATUTORY AGGRAVATING FACTORS ALLEGED AS TO COUNTS TEN, ELEVEN, OR TWELVE IN SECTION III OF THIS FORM, THEN YOU MAY CONTINUE YOUR DELIBERATIONS ONLY IF YOU ALSO FOUND A "THRESHOLD ELIGIBILITY FACTOR" IN SECTION II AS TO THAT PARTICULAR COUNT. IF YOU FOUND ONE "THRESHOLD ELIGIBILITY FACTOR" IN SECTION II AND AT LEAST ONE STATUTORY AGGRAVATING FACTOR IN SECTION III THAT RELATE TO THE DEFENDANT IN COUNTS TEN, ELEVEN OR TWELVE, OR ALL, THEN YOU MUST CONTINUE YOUR DELIBERATIONS IN ACCORDANCE WITH THE COURT'S INSTRUCTIONS AND PROCEED TO SECTION IV WHICH FOLLOWS. YOU MUST HAVE UNANIMOUSLY FOUND ONE FACTOR FROM THE "THRESHOLD ELIGIBILITY FACTORS" (SECTION II) AND AT LEAST ONE STATUTORY AGGRAVATING FACTOR (SECTION III) TO EXIST AS TO THE SAME COUNT. OTHERWISE, YOU SHOULD STOP YOUR DELIBERATIONS, CROSS OUT SECTIONS IV AND V, AND INDICATE IN THE SECTION VI RECOMMENDATION PORTION OF THIS FORM WITH RESPECT TO EACH COUNT THAT THE JURY HAS BEEN UNABLE TO UNANIMOUSLY FIND BEYOND A REASONABLE DOUBT THAT THE RESPECTIVE "THRESHOLD ELIGIBILITY FACTORS" OR STATUTORY AGGRAVATING FACTORS EXIST

IV. NON-STATUTORY AGGRAVATING FACTORS

INSTRUCTIONS: FOR EACH OF THE FOLLOWING, ANSWER "YES" OR "NO" AS TO WHETHER YOU, THE JURY, UNANIMOUSLY FIND THAT THE GOVERNMENT HAS ESTABLISHED THE EXISTENCE OF THAT NON-STATUTORY AGGRAVATING FACTOR BEYOND A REASONABLE DOUBT.

COUNT TEN (TAMPERING WITH A WITNESS, VICTIM OR INFORMANT BY KILLING)

1. THE DEFENDANT CAUSED INJURY, HARM, AND LOSS TO THE VICTIM'S FAMILY BECAUSE OF THE VICTIM'S PERSONAL CHARACTERISTICS AS AN INDIVIDUAL HUMAN BEING AND THE IMPACT OF THE DEATH UPON THE VICTIM'S FAMILY.

YES NO

2. THE DEFENDANT COMMITTED THE OFFENSE FOR THE PURPOSE OF PREVENTING THE VICTIM FROM, OR RETALIATING AGAINST THE VICTIM FOR, PROVIDING INFORMATION AND ASSISTANCE TO LAW ENFORCEMENT AUTHORITIES IN REGARD TO THE INVESTIGATION OR PROSECUTION OF THE COMMISSION OR POSSIBLE COMMISSION OF ANOTHER OFFENSE.

YES NO

COUNT ELEVEN (KILLING PERSON AIDING FEDERAL INVESTIGATION)

1. THE DEFENDANT CAUSED INJURY, HARM, AND LOSS TO THE VICTIM'S FAMILY BECAUSE OF THE VICTIM'S PERSONAL CHARACTERISTICS AS AN INDIVIDUAL HUMAN BEING AND THE IMPACT OF THE DEATH UPON THE VICTIM'S FAMILY.

YES NO

2. THE DEFENDANT COMMITTED THE OFFENSE FOR THE PURPOSE OF PREVENTING THE VICTIM FROM, OR RETALIATING AGAINST THE VICTIM FOR, PROVIDING INFORMATION AND ASSISTANCE TO LAW ENFORCEMENT AUTHORITIES IN REGARD TO THE INVESTIGATION OR PROSECUTION OF THE COMMISSION OR POSSIBLE COMMISSION OF ANOTHER OFFENSE.

YES NO

COUNT TWELVE (FIREARMS MURDER DURING OR IN RELATION TO A DRUG TRAFFICKING CRIME)

1. THE DEFENDANT CAUSED INJURY, HARM, AND LOSS TO THE VICTIM'S FAMILY BECAUSE OF THE VICTIM'S PERSONAL CHARACTERISTICS AS AN INDIVIDUAL HUMAN BEING AND THE IMPACT OF THE DEATH UPON THE VICTIM'S FAMILY.

YES ✓ NO _____

2. THE DEFENDANT COMMITTED THE OFFENSE FOR THE PURPOSE OF PREVENTING THE VICTIM FROM, OR RETALIATING AGAINST THE VICTIM FOR, PROVIDING INFORMATION AND ASSISTANCE TO LAW ENFORCEMENT AUTHORITIES IN REGARD TO THE INVESTIGATION OR PROSECUTION OF THE COMMISSION OR POSSIBLE COMMISSION OF ANOTHER OFFENSE.

YES ✓ NO _____

INSTRUCTIONS:

REGARDLESS OF WHETHER YOU ANSWERED "YES" OR "NO" WITH RESPECT TO THE NON-STATUTORY AGGRAVATING FACTORS IN SECTION IV OF THIS FORM, CONTINUE YOUR DELIBERATIONS IN ACCORDANCE WITH THE COURT'S INSTRUCTIONS AND PROCEED TO SECTION V WHICH FOLLOWS. YOU MUST, HOWEVER, HAVE UNANIMOUSLY FOUND PROVEN BEYOND A REASONABLE DOUBT THE EXISTENCE OF ONE "THRESHOLD ELIGIBILITY FACTOR" IN SECTION II OF THIS FORM AND AT LEAST ONE STATUTORY AGGRAVATING FACTOR IN SECTION III OF THIS FORM AS TO AT LEAST ONE COUNT.

V. MITIGATING FACTORS

INSTRUCTIONS:

FOR EACH OF THE FOLLOWING MITIGATING FACTORS, YOU SHOULD INDICATE, IN THE SPACE PROVIDED, THE NUMBER OF JURORS, IF ANY, WHO HAVE FOUND THE EXISTENCE OF THAT MITIGATING FACTOR TO BE PROVEN BY A PREPONDERANCE OF THE EVIDENCE. IF NO JUROR FINDS A PARTICULAR MITIGATING FACTOR, YOU SHOULD WRITE "ZERO" IN THE SPACE PROVIDED.

A FINDING THAT A MITIGATING FACTOR HAS BEEN PROVEN BY A PREPONDERANCE OF THE EVIDENCE MAY BE MADE BY ONE OR MORE OF THE INDIVIDUAL 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 CONCUR THAT THE FACTOR HAS BEEN ESTABLISHED.

IN ADDITION TO THE MITIGATING FACTORS OUTLINED BY THE COURT, THIS SECTION ALSO CONTAINS BLANK LINES IN WHICH YOU MAY WRITE ANY ADDITIONAL MITIGATING FACTORS THAT ANY MEMBER OR MEMBERS OF THE JURY MAY HAVE FOUND. YOU MAY WRITE THESE ADDITIONAL MITIGATING FACTORS ON THE BLANK LINES. IF YOU NEED ADDITIONAL SPACE, SIMPLY WRITE "CONTINUED" AT THE END OF THE BLANK LIST AND WRITE ADDITIONAL FACTORS ON THE BACK SIDE OF THE PAPER.

A. COUNT TEN (TO TAMPERING WITH A WITNESS, VICTIM OR INFORMANT BY KILLING)

1) LAMOND GARRETT'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 TO THE CHARGE.

NUMBER OF JURORS WHO SO FIND 0.

2) LAMOND GARRETT WAS UNDER DURESS, REGARDLESS OF WHETHER THE DURESS WAS OF SUCH A DEGREE AS TO CONSTITUTE A DEFENSE TO THE CHARGE.

NUMBER OF JURORS WHO SO FIND 0.

3) LAMOND GARRETT DOES NOT HAVE A SIGNIFICANT PRIOR CRIMINAL RECORD.

NUMBER OF JURORS WHO SO FIND 5.

4) OTHER PERSONS, EQUALLY CULPABLE IN THE CRIMES, WILL NOT BE PUNISHED BY DEATH.

NUMBER OF JURORS WHO SO FIND 3.

5) SHOULD THE JURY SO DIRECT, LAMOND GARRETT WILL BE SENTENCED TO LIFE IN PRISON WITHOUT ANY POSSIBILITY OF RELEASE.

NUMBER OF JURORS WHO SO FIND 0.

6) LAMOND GARRETT WAS SUBJECTED TO EMOTIONAL AND PHYSICAL ABUSE, ABANDONMENT AND NEGLECT AS A CHILD, AND WAS DEPRIVED OF PARENTAL GUIDANCE AND PROTECTION.

NUMBER OF JURORS WHO SO FIND 8.

7) LAMOND GARRETT SUFFERS FROM BRAIN DYSFUNCTION WHICH HAS IMPAIRED HIS ABILITY TO FUNCTION IN THE ABSENCE OF STRONG SUPPORT AND GUIDANCE.

NUMBER OF JURORS WHO SO FIND 0.

8) LAMOND GARRETT GREW UP IN AN IMPOVERISHED, VIOLENT AND BRUTAL ENVIRONMENT, AND WAS EXPOSED TO EXTREME VIOLENCE AS A CHILD AND THROUGHOUT HIS LIFE.

NUMBER OF JURORS WHO SO FIND 1.

9) LAMOND GARRETT COMMITTED THE KILLING UNDER A MENTAL AND/OR EMOTIONAL DISTURBANCE.

NUMBER OF JURORS WHO SO FIND 0.

10) LAMOND GARRETT SUFFERS FROM NEUROLOGICAL IMPAIRMENTS WHICH WERE IDENTIFIED AND WHICH COULD HAVE BEEN TREATED WHEN HE WAS A CHILD AND ADOLESCENT.

NUMBER OF JURORS WHO SO FIND 1.

11) LAMOND GARRETT HAS RESPONDED INVARIABLY WELL TO STRUCTURED ENVIRONMENTS, AND WOULD LIKELY MAKE AN EXCELLENT ADAPTION TO PRISON IF HE WERE SENTENCED TO LIFE IN PRISON.

NUMBER OF JURORS WHO SO FIND 0.

12) THAT OTHER FACTORS IN LAMOND GARRETT'S CHILDHOOD, BACKGROUND OR CHARACTER MITIGATE AGAINST IMPOSITION OF THE DEATH SENTENCE.

NUMBER OF JURORS WHO SO FIND 0.

13) ADDITIONAL MITIGATING FACTORS:

low IQ

NUMBER OF JURORS WHO SO FIND 2.

Lack of parental guidance

NUMBER OF JURORS WHO SO FIND 6.

NUMBER OF JURORS WHO SO FIND _____.

NUMBER OF JURORS WHO SO FIND _____.

NUMBER OF JURORS WHO SO FIND _____.

B. COUNT ELEVEN (TO KILLING PERSON AIDING FEDERAL INVESTIGATION)

1) LAMOND GARRETT'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 TO THE CHARGE.

NUMBER OF JURORS WHO SO FIND 0.

2) LAMOND GARRETT WAS UNDER DURESS, REGARDLESS OF WHETHER THE DURESS WAS OF SUCH A DEGREE AS TO CONSTITUTE A DEFENSE TO THE CHARGE.

NUMBER OF JURORS WHO SO FIND 0.

3) LAMOND GARRETT DOES NOT HAVE A SIGNIFICANT PRIOR CRIMINAL RECORD.

NUMBER OF JURORS WHO SO FIND 5.

4) OTHER PERSONS, EQUALLY CULPABLE IN THE CRIMES, WILL NOT BE PUNISHED BY DEATH.

NUMBER OF JURORS WHO SO FIND 3.

5) SHOULD THE JURY SO DIRECT, LAMOND GARRETT WILL BE SENTENCED TO LIFE IN PRISON WITHOUT ANY POSSIBILITY OF RELEASE.

NUMBER OF JURORS WHO SO FIND 0.

6) LAMOND GARRETT WAS SUBJECTED TO EMOTIONAL AND PHYSICAL ABUSE, ABANDONMENT AND NEGLECT AS A CHILD, AND WAS DEPRIVED OF PARENTAL GUIDANCE AND PROTECTION.

NUMBER OF JURORS WHO SO FIND 8.

7) LAMOND GARRETT SUFFERS FROM BRAIN DYSFUNCTION WHICH HAS IMPAIRED HIS ABILITY TO FUNCTION IN THE ABSENCE OF STRONG SUPPORT AND GUIDANCE.

NUMBER OF JURORS WHO SO FIND 0.

8) LAMOND GARRETT GREW UP IN AN IMPOVERISHED, VIOLENT AND BRUTAL ENVIRONMENT, AND WAS EXPOSED TO EXTREME VIOLENCE AS A CHILD AND THROUGHOUT HIS LIFE.

NUMBER OF JURORS WHO SO FIND 1.

9) LAMOND GARRETT COMMITTED THE KILLING UNDER A MENTAL AND/OR EMOTIONAL DISTURBANCE.

NUMBER OF JURORS WHO SO FIND 0.

10) LAMOND GARRETT SUFFERS FROM NEUROLOGICAL IMPAIRMENTS WHICH WERE IDENTIFIED AND WHICH COULD HAVE BEEN TREATED WHEN HE WAS A CHILD AND ADOLESCENT.

NUMBER OF JURORS WHO SO FIND 1.

11) LAMOND GARRETT HAS RESPONDED INVARIABLY WELL TO STRUCTURED ENVIRONMENTS, AND WOULD LIKELY MAKE AN EXCELLENT ADAPTION TO PRISON IF HE WERE SENTENCED TO LIFE IN PRISON.

NUMBER OF JURORS WHO SO FIND 0.

12) THAT OTHER FACTORS IN LAMOND GARRETT'S CHILDHOOD, BACKGROUND OR CHARACTER MITIGATE AGAINST IMPOSITION OF THE DEATH SENTENCE.

NUMBER OF JURORS WHO SO FIND 0.

13) ADDITIONAL MITIGATING FACTORS:

low IQ

NUMBER OF JURORS WHO SO FIND 2.

lack of parental guidance

NUMBER OF JURORS WHO SO FIND 6.

NUMBER OF JURORS WHO SO FIND _____.

NUMBER OF JURORS WHO SO FIND _____.

NUMBER OF JURORS WHO SO FIND _____.

C. COUNT TWELVE (FIREARMS MURDER DURING OR IN RELATION TO DRUG TRAFFICKING CRIME)

1) LAMOND GARRETT'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 TO THE CHARGE.

NUMBER OF JURORS WHO SO FIND 0.

2) LAMOND GARRETT WAS UNDER DURESS, REGARDLESS OF WHETHER THE DURESS WAS OF SUCH A DEGREE AS TO CONSTITUTE A DEFENSE TO THE CHARGE.

NUMBER OF JURORS WHO SO FIND 0.

3) LAMOND GARRETT DOES NOT HAVE A SIGNIFICANT PRIOR CRIMINAL RECORD.

NUMBER OF JURORS WHO SO FIND 5.

4) OTHER PERSONS, EQUALLY CULPABLE IN THE CRIMES, WILL NOT BE PUNISHED BY DEATH.

NUMBER OF JURORS WHO SO FIND 3.

5) SHOULD THE JURY SO DIRECT, LAMOND GARRETT WILL BE SENTENCED TO LIFE IN PRISON WITHOUT ANY POSSIBILITY OF RELEASE.

NUMBER OF JURORS WHO SO FIND 0.

6) LAMOND GARRETT WAS SUBJECTED TO EMOTIONAL AND PHYSICAL ABUSE, ABANDONMENT AND NEGLECT AS A CHILD, AND WAS DEPRIVED OF PARENTAL GUIDANCE AND PROTECTION.

NUMBER OF JURORS WHO SO FIND 8.

7) LAMOND GARRETT SUFFERS FROM BRAIN DYSFUNCTION WHICH HAS IMPAIRED HIS ABILITY TO FUNCTION IN THE ABSENCE OF STRONG SUPPORT AND GUIDANCE.

NUMBER OF JURORS WHO SO FIND 0.

8) LAMOND GARRETT GREW UP IN AN IMPOVERISHED, VIOLENT AND BRUTAL ENVIRONMENT, AND WAS EXPOSED TO EXTREME VIOLENCE AS A CHILD AND THROUGHOUT HIS LIFE.

NUMBER OF JURORS WHO SO FIND 1.

9) LAMOND GARRETT COMMITTED THE KILLING UNDER A MENTAL AND/OR EMOTIONAL DISTURBANCE.

NUMBER OF JURORS WHO SO FIND 0.

10) LAMOND GARRETT SUFFERS FROM NEUROLOGICAL IMPAIRMENTS WHICH WERE IDENTIFIED AND WHICH COULD HAVE BEEN TREATED WHEN HE WAS A CHILD AND ADOLESCENT.

NUMBER OF JURORS WHO SO FIND 1.

11) LAMOND GARRETT HAS RESPONDED INVARIABLY WELL TO STRUCTURED ENVIRONMENTS, AND WOULD LIKELY MAKE AN EXCELLENT ADAPTION TO PRISON IF HE WERE SENTENCED TO LIFE IN PRISON.

NUMBER OF JURORS WHO SO FIND 0.

12) THAT OTHER FACTORS IN LAMOND GARRETT'S CHILDHOOD, BACKGROUND OR CHARACTER MITIGATE AGAINST IMPOSITION OF THE DEATH SENTENCE.

NUMBER OF JURORS WHO SO FIND 0.

13) ADDITIONAL MITIGATING FACTORS:

low IQ

NUMBER OF JURORS WHO SO FIND 2.

Lack of parental guidance

NUMBER OF JURORS WHO SO FIND 6.

NUMBER OF JURORS WHO SO FIND _____.

NUMBER OF JURORS WHO SO FIND _____.

NUMBER OF JURORS WHO SO FIND _____.

INSTRUCTIONS:

REGARDLESS OF WHETHER OR NOT YOU FIND ANY MITIGATING FACTORS IN SECTION V OF THIS FORM, CONTINUE YOUR DELIBERATIONS IN ACCORDANCE WITH THE COURT'S INSTRUCTIONS AND PROCEED TO SECTION VI AND SECTION VII WHICH FOLLOW.

VI. RECOMMENDATION

A. COUNT TEN (TAMPERING WITH A WITNESS, VICTIM OR INFORMANT BY KILLING)

1. IF NO "THRESHOLD ELIGIBILITY FACTORS" AND/OR STATUTORY AGGRAVATING FACTORS ARE FOUND TO EXIST AS TO COUNT TEN.

INSTRUCTIONS:

IF YOU HAVE BEEN UNABLE TO UNANIMOUSLY FIND BEYOND A REASONABLE DOUBT THAT ANY FACTORS EXIST IN EITHER THE "THRESHOLD ELIGIBILITY FACTORS" (SECTION II OF THIS FORM) AND/OR THE STATUTORY AGGRAVATING FACTORS (SECTION III OF THIS FORM) AS TO COUNT TEN, THEN SO INDICATE BELOW.

WE, THE JURY, DO NOT UNANIMOUSLY FIND PROVEN, BEYOND A REASONABLE DOUBT, THE EXISTENCE OF ANY OF THE "THRESHOLD ELIGIBILITY FACTORS" AND/OR STATUTORY AGGRAVATING FACTORS REQUIRED BY LAW AS PREREQUISITES FOR THE IMPOSITION OF CAPITAL PUNISHMENT, AND THEREFORE DO NOT CONSIDER THE DEATH PENALTY AS TO THE KILLING OF JOSEPH SMART, SR., FOR WHICH THE DEFENDANT HAS BEEN CONVICTED IN COUNT TEN.

FOREPERSON

DATE: AUGUST _____, 2000.

INSTRUCTIONS: IF YOU HAVE BEEN UNABLE TO UNANIMOUSLY FIND BEYOND A REASONABLE DOUBT THAT ANY "THRESHOLD ELIGIBILITY FACTOR" OR STATUTORY AGGRAVATING FACTOR EXISTS AS TO COUNT TEN, THEN AFTER THE FOREMAN SO INDICATES ABOVE, YOU SHOULD PROCEED TO COUNT ELEVEN IN SECTION VI.B. OF THIS FORM. IF YOU HAVE UNANIMOUSLY

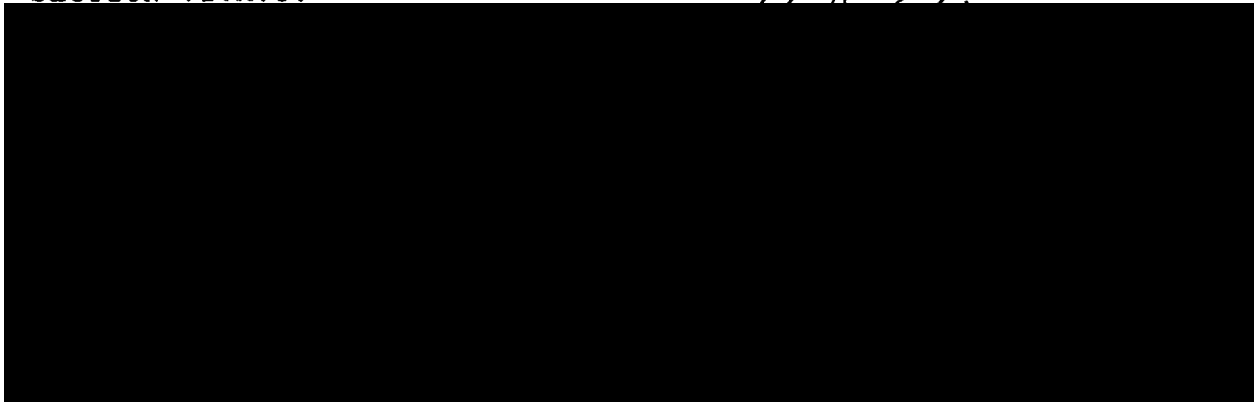
FOUND BEYOND A REASONABLE DOUBT THAT AT LEAST ONE "THRESHOLD
ELIGIBILITY FACTOR" AND ONE STATUTORY AGGRAVATING FACTOR EXISTS
AS TO COUNT TEN, THEN YOU SHOULD PROCEED TO RECOMMEND AN
APPROPRIATE PUNISHMENT AS SET FORTH BELOW.

2. SENTENCE OF LIFE IN PRISON WITHOUT POSSIBILITY OF RELEASE:

BASED UPON CONSIDERATION OF WHETHER THE 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, WE RECOMMEND, BY UNANIMOUS VOTE, THAT A SENTENCE OF LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE SHALL BE IMPOSED UPON THE DEFENDANT FOR THE KILLING OF JOSEPH SMART, SR. AS DESCRIBED IN COUNT TEN OF THE THIRD SUPERSEDING INDICTMENT.

YES NO

IF YOU ANSWER "YES," SIGN YOUR NAMES HERE, AND THEN PROCEED TO COUNT ELEVEN IN SECTION VI.B. OF THIS FORM. IF YOU ANSWER "NO," THE FOREPERSON ALONE SHOULD SIGN, AND YOU SHOULD PROCEED TO SECTION VI.A.3.



FOREPERSON

DATE: AUGUST 29, 2000.

3. DEATH SENTENCE:

BASED UPON CONSIDERATION OF WHETHER THE 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, WE RECOMMEND, BY UNANIMOUS VOTE, THAT A SENTENCE OF DEATH SHALL BE IMPOSED UPON THE DEFENDANT FOR THE KILLING OF JOSEPH SMART, SR. AS DESCRIBED IN COUNT TEN OF THE THIRD SUPERSEDING INDICTMENT.

YES _____ NO _____

IF YOU ANSWER "YES," SIGN YOUR NAMES HERE, AND THEN PROCEED TO COUNT ELEVEN SECTION VI.B. IF YOU ANSWER "NO," THE FOREPERSON ALONE SHOULD SIGN, AND YOU SHOULD PROCEED TO COUNT ELEVEN IN SECTION VI.B.

FOREPERSON

DATE: AUGUST ____, 2000.

VI. RECOMMENDATION

B. COUNT ELEVEN (KILLING PERSON AIDING FEDERAL INVESTIGATION)

1. IF NO "THRESHOLD ELIGIBILITY FACTORS" OR STATUTORY AGGRAVATING FACTORS ARE FOUND TO EXIST AS TO COUNT ELEVEN.

INSTRUCTIONS: IF YOU HAVE BEEN UNABLE TO UNANIMOUSLY FIND BEYOND A REASONABLE DOUBT THAT ANY "THRESHOLD ELIGIBILITY FACTORS" (SECTION II OF THIS FORM) AND/OR STATUTORY AGGRAVATING FACTORS (SECTION III OF THIS FORM) EXIST AS TO COUNT ELEVEN, THEN SO INDICATE BELOW.

WE, THE JURY, DO NOT UNANIMOUSLY FIND PROVEN, BEYOND A REASONABLE DOUBT, THE EXISTENCE OF ANY OF THE "THRESHOLD ELIGIBILITY FACTORS" AND/OR STATUTORY AGGRAVATING FACTORS REQUIRED BY LAW AS PREREQUISITES FOR THE IMPOSITION OF CAPITAL PUNISHMENT, AND THEREFORE DO NOT CONSIDER THE DEATH PENALTY AS TO THE MURDER OF JOSEPH SMART, SR., FOR WHICH THE DEFENDANT HAS BEEN CONVICTED IN COUNT ELEVEN.

FOREPERSON

DATE: AUGUST 29, 2000.

INSTRUCTIONS: IF YOU HAVE BEEN UNABLE TO UNANIMOUSLY FIND BEYOND A REASONABLE DOUBT THAT ANY "THRESHOLD ELIGIBILITY FACTOR" (SECTION II OF THIS FORM) OR STATUTORY AGGRAVATING FACTOR (SECTION III OF THIS FORM) EXISTS AS TO COUNT ELEVEN, THEN AFTER THE FOREMAN SO INDICATES ABOVE, YOU SHOULD PROCEED TO COUNT TWELVE IN SECTION VI.C.

IF YOU HAVE UNANIMOUSLY FOUND BEYOND A REASONABLE DOUBT THAT

AT LEAST ONE "THRESHOLD ELIGIBILITY FACTOR" AND ONE STATUTORY AGGRAVATING FACTOR EXISTS AS TO COUNT ELEVEN, THEN YOU SHOULD PROCEED TO RECOMMEND AN APPROPRIATE PUNISHMENT AS SET FORTH BELOW.

2. SENTENCE OF LIFE IN PRISON WITHOUT POSSIBILITY OF RELEASE:

BASED UPON CONSIDERATION OF WHETHER THE 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, WE RECOMMEND, BY UNANIMOUS VOTE, THAT A SENTENCE OF LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE SHALL BE IMPOSED UPON THE DEFENDANT FOR THE MURDER OF JOSEPH SMART, SR. AS DESCRIBED IN COUNT ELEVEN OF THE THIRD SUPERSEDING INDICTMENT.

YES NO

IF YOU ANSWER "YES," SIGN YOUR NAMES HERE, AND THEN PROCEED TO COUNT TWELVE IN SECTION VI.C. IF YOU ANSWER "NO," THE FOREPERSON ALONE SHOULD SIGN, AND YOU SHOULD PROCEED TO SECTION VI.B.3.



FOREPERSON

DATE: AUGUST 29, 2000.

3. DEATH SENTENCE:

BASED UPON CONSIDERATION OF WHETHER THE 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, WE RECOMMEND, BY UNANIMOUS VOTE, THAT A SENTENCE OF DEATH SHALL BE IMPOSED UPON THE DEFENDANT FOR THE MURDER OF JOSEPH SMART, SR. AS DESCRIBED IN COUNT ELEVEN OF THE THIRD SUPERSEDING INDICTMENT.

YES _____ NO _____

IF YOU ANSWER "YES," SIGN YOUR NAMES HERE, AND THEN PROCEED TO COUNT TWELVE IN SECTION VI.C. IF YOU ANSWER "NO," THE FOREPERSON ALONE SHOULD SIGN, AND YOU SHOULD PROCEED TO COUNT TWELVE IN SECTION VI.C.

FOREPERSON

DATE: AUGUST ____, 2000.

VI. RECOMMENDATION

C. COUNT TWELVE (FIREARMS MURDER DURING OR IN RELATION TO DRUG TRAFFICKING CRIME)

1. IF NO "THRESHOLD ELIGIBILITY FACTORS" OR STATUTORY AGGRAVATING FACTORS ARE FOUND TO EXIST AS TO COUNT TWELVE.

INSTRUCTIONS: IF YOU HAVE BEEN UNABLE TO UNANIMOUSLY FIND BEYOND A REASONABLE DOUBT THAT ANY "THRESHOLD ELIGIBILITY FACTORS" (SECTION II OF THIS FORM) AND/OR STATUTORY AGGRAVATING FACTORS (SECTION III OF THIS FORM) EXIST AS TO COUNT TWELVE, THEN SO INDICATE BELOW.

WE, THE JURY, DO NOT UNANIMOUSLY FIND PROVEN, BEYOND A REASONABLE DOUBT, THE EXISTENCE OF ANY OF THE "THRESHOLD ELIGIBILITY FACTORS" AND/OR STATUTORY AGGRAVATING FACTORS REQUIRED BY LAW AS PREREQUISITES FOR THE IMPOSITION OF CAPITAL PUNISHMENT, AND THEREFORE DO NOT CONSIDER THE DEATH PENALTY AS TO THE MURDER OF JOSEPH SMART, SR., FOR WHICH THE DEFENDANT HAS BEEN CONVICTED IN COUNT TWELVE.

FOREPERSON

DATE: AUGUST ____, 2000.

INSTRUCTIONS: IF YOU HAVE BEEN UNABLE TO UNANIMOUSLY FIND BEYOND A REASONABLE DOUBT THAT ANY "THRESHOLD ELIGIBILITY FACTOR" (SECTION II OF THIS FORM) OR STATUTORY AGGRAVATING FACTOR (SECTION III OF THIS FORM) EXISTS AS TO COUNT TWELVE, THEN AFTER THE FOREMAN SO INDICATES ABOVE, YOU SHOULD PROCEED TO SECTION VII.

IF YOU HAVE UNANIMOUSLY FOUND BEYOND A REASONABLE DOUBT THAT AT LEAST ONE "THRESHOLD ELIGIBILITY FACTOR" AND ONE STATUTORY AGGRAVATING FACTOR EXIST AS TO COUNT TWELVE, THEN YOU SHOULD PROCEED TO RECOMMEND AN APPROPRIATE PUNISHMENT AS SET FORTH BELOW.

2. SENTENCE OF LIFE IN PRISON WITHOUT POSSIBILITY OF RELEASE:

BASED UPON CONSIDERATION OF WHETHER THE 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, WE RECOMMEND, BY UNANIMOUS VOTE, THAT A SENTENCE OF LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE SHALL BE IMPOSED UPON THE DEFENDANT FOR THE MURDER OF JOSEPH SMART, SR. AS DESCRIBED IN COUNT TWELVE OF THE THIRD SUPERSEDING INDICTMENT.

YES NO

IF YOU ANSWER "YES," SIGN YOUR NAMES HERE, AND THEN PROCEED TO SECTION VII. IF YOU ANSWER "NO," THE FOREPERSON ALONE SHOULD SIGN, AND YOU SHOULD PROCEED TO SECTION VI.C.3.



FOREPERSON

DATE: AUGUST 29, 2000.

3. LESSER SENTENCE:

BASED UPON CONSIDERATION OF WHETHER THE 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, WE RECOMMEND, BY UNANIMOUS VOTE, THAT A SENTENCE LESSE THAN DEATH OR LIFE IN PRISON WITHOUT POSSIBILITY OF RELEASE SHALL BE IMPOSED UPON THE DEFENDANT FOR THE MURDER OF JOSEPH SMART, SR. AS DESCRIBED IN COUNT TWELVE OF THE THIRD SUPERSEDING INDICTMENT.

YES _____ NO _____

IF YOU ANSWER "YES," SIGN YOUR NAMES HERE, AND THEN PROCEED TO SECTION VII. IF YOU ANSWER "NO," THE FOREPERSON ALONE SHOULD SIGN, AND YOU SHOULD PROCEED TO SECTION VII.

FOREPERSON

DATE: AUGUST ____, 2000.

4. DEATH SENTENCE:

BASED UPON CONSIDERATION OF WHETHER THE 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, WE RECOMMEND, BY UNANIMOUS VOTE, THAT A SENTENCE OF DEATH SHALL BE IMPOSED UPON THE DEFENDANT FOR THE MURDER OF JOSEPH SMART, SR. AS DESCRIBED IN COUNT TWELVE OF THE THIRD SUPERSEDING INDICTMENT.

YES _____ NO _____

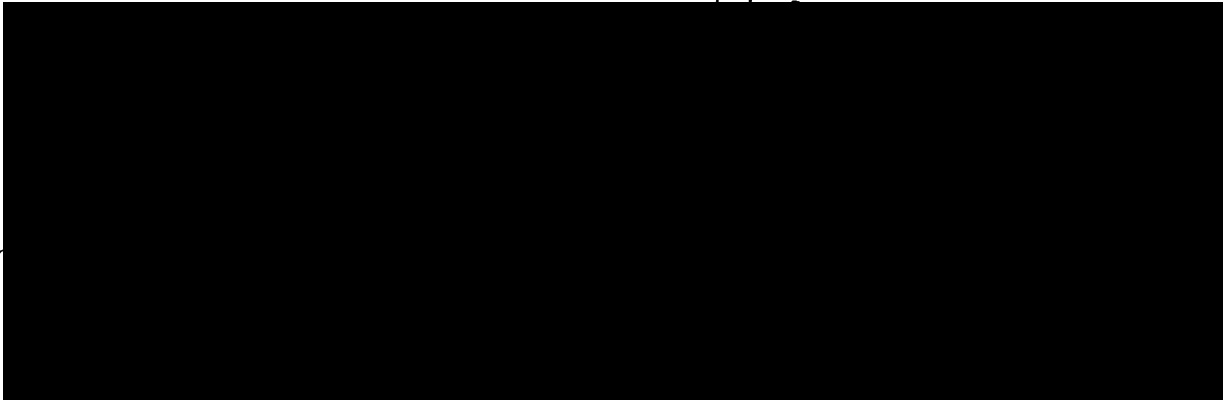
IF YOU ANSWER "YES," SIGN YOUR NAMES HERE, AND THEN PROCEED TO SECTION VII. IF YOU ANSWER "NO," THE FOREPERSON ALONE SHOULD SIGN, AND YOU SHOULD PROCEED TO SECTION VII.

FOREPERSON

DATE: AUGUST ____, 2000.

VII. CERTIFICATION

BY SIGNING BELOW, EACH JUROR CERTIFIES THAT CONSIDERATION OF THE RACE, COLOR, RELIGIOUS BELIEFS, NATIONAL ORIGIN, OR SEX OF THE DEFENDANT OR THE VICTIM 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 DEFENDANT FOR THE MURDER OF JOSEPH SMART, SR. AS DESCRIBED IN COUNTS TEN, ELEVEN AND TWELVE OF THE THIRD SUPERSEDING INDICTMENT NO MATTER WHAT THE RACE, COLOR, RELIGIOUS BELIEFS, NATIONAL ORIGIN, OR SEX OF THE DEFENDANT, OR THE VICTIM, WOULD HAVE BEEN. ALL JURORS AND FOREPERSON SIGN BELOW: / c



FOREPERSON

DATE: AUGUST 29, 2000.