

**SECTION III: MELVIN GILBERT'S CONVICTION FOR THE MURDER OF JOHN DOWERY**


**A. AGE OF THE DEFENDANT GILBERT**

**Instructions:** Answer "YES" or "NO" to the following and indicate your answer by placing an "X" in the space provided.

**Age of the Defendant.** We, the jury, unanimously find proven beyond a reasonable doubt that the defendant Melvin Gilbert was eighteen (18) years of age or older at the time of the offense.

YES

NO

  
(Signature of Foreperson)

Date: June 30, 2009

**Instructions:**

If you answered "NO" regarding the age of the defendant Gilbert, then you are not to continue deliberations on the defendant's sentence. You should stop your deliberations, cross out Subsections B – F, and proceed to Section IV of this form.

If you answered "YES" regarding the age of the defendant, then you are to continue deliberations on the defendant's sentence. You should continue your deliberations on the defendant's sentence for the murder of John Dowery and proceed to Subsection B of this Section.

**B. GATEWAY FACTORS**

**Instructions:** Answer "YES" or "NO" to the following and indicate your answer by

placing an "X" in the space provided. We the jury unanimously find beyond a reasonable doubt as follows:

**1. Intentionally Killed the Victim.**

The defendant intentionally killed John Dowery.

YES

NO

**2. Intentionally Inflicted Serious Bodily Injury.**

The defendant intentionally inflicted serious bodily injury that resulted in the death of John Dowery.

YES  

NO

**3. Intentional Act to Take Life or Use Lethal Force.**

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 John Dowery died as a direct result of the act.

YES

NO

**4. Intentional Act in Reckless Disregard for Life.**

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 John Dowery died as a direct result of the act.

YES X

NO



(Signature of Foreperson)

Date: June 30, 2009

**Instructions:**

If you answered “NO” regarding ALL of the statutory proportionality factors, then you are not to continue deliberations on the defendant’s sentence. You should stop your deliberations, cross out Subsections C – F, and proceed to Section IV of this form.

If you answered “YES” regarding ONE OR MORE of the statutory proportionality factors, then you are to continue deliberations on the defendant’s sentence. You should continue your deliberations in accordance with the court’s instructions and proceed to Subsection C of this Section.

**C. STATUTORY AGGRAVATING FACTORS**

**Instructions:** Answer “YES” or “NO” to the following and indicate your answer by placing an “X” in the space provided.

1. **Grave Risk of Death to Additional Persons.** We, the jury, unanimously find proven beyond a reasonable doubt that, during the commission of the charged offenses resulting in the death of John Dowery, the defendant created a grave risk of death to an person who was seated near the victim at the time of his shooting.

YES

NO

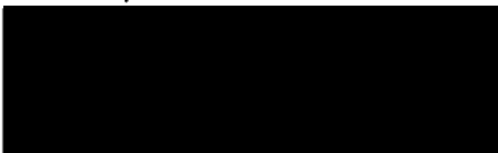
2. **Substantial Planning and Premeditation.** We, the jury, unanimously find proven beyond a reasonable doubt that the defendant committed the charged offenses resulting in the death of John Dowery after substantial planning and premeditation to cause the death of a person.

YES

NO

3. **Previous Conviction of Violent Felony Involving a Firearm.** Gilbert has stipulated that he has a previous conviction of violent felony involving a firearm. We, the jury, unanimously find proven beyond a reasonable doubt that the defendant has previously been convicted of a violent felony involving a firearm.

YES



(Signature of Foreperson)

Date: June 30, 2009

**Instructions**

If you answered "NO" regarding ALL of the statutory aggravating factors, then you are not to continue deliberations on the defendant's sentence for the murder of John Dowery. You should stop your deliberations, cross out Subsections D – F, and proceed to Section IV of this form.

If you answered “YES” regarding ONE OR MORE of the statutory aggravating factors, then you are to continue deliberations on the defendant’s sentence. You should continue your deliberations in accordance with the court’s instructions and proceed to Subsection D of this Section.

**D. NON-STATUTORY AGGRAVATING FACTORS**

**Instructions:** Answer “YES” or “NO” to the following and indicate your answer by placing an “X” in the space provided.

1. **Victim Impact Evidence.** We, the jury, unanimously find proven beyond a reasonable doubt that, as evidenced by the victim’s personal characteristics as an individual human being and the impact of the death upon the victim’s family and friends, the defendant caused injury, harm and loss to the victim and the victim’s family and friends..

YES

NO

2. **Obstruction of Justice.** We, the jury, unanimously find proven beyond a reasonable doubt that the victim, John Dowery, was killed in an effort by the defendant to obstruct justice, tamper with a witness, or in retaliation for cooperating with authorities, that John Dowery was killed to prevent Dowery’s testimony in the federal prosecution of Gilbert’s drug organization.

YES

NO

3. **Pattern of Prior Convictions For Serious and Violent Offenses.** Gilbert has stipulated that he engaged in a pattern of prior convictions for serious and violent offenses. We, the jury, unanimously find proven beyond a reasonable doubt that the defendant has engaged in a pattern

of serious and violent offenses.

YES

4. **Contemporaneous Convictions.** We, the jury, unanimously find proven beyond a reasonable doubt that the defendant faces contemporaneous convictions for multiple murders and other serious offenses.

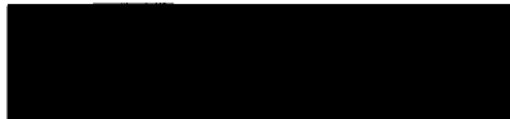
YES

NO

5. **Lack of Remorse.** We, the jury, unanimously find proven beyond a reasonable doubt that the defendant has demonstrated a lack of remorse for his victims.

YES

NO



(Signature of Foreperson)

Date: June 30, 2009

**Instructions:** Regardless of whether you answered “YES” or “NO” regarding ANY or ALL of the non-statutory aggravating factors, you are to continue deliberations on the defendant’s sentence. You should continue your deliberations in accordance with the court’s instructions and proceed to Subsection E of this Section.

**E. MITIGATING FACTORS**

**Instructions:** You are to record your findings of the number of jurors who find each factor

proven by a preponderance of the evidence in the space provided. Extra spaces are provided to write in additional mitigating factors, if any, found by any juror(s). If no additional mitigating factors are found, write "NONE" above the first of the extra spaces and then cross out the extra spaces with a large "X". If more extra spaces are needed, write "CONTINUED" below the last of the extra spaces and then use the reverse side of that page.

**1. MITIGATING FACTORS ASSERTED BY THE DEFENDANT**

- 1. No one else involved in the murder of John Dowery, namely Darron Goods, will be punished by death.

Number of jurors who so find 12

- 2. Melvin Gilbert witnessed physical and emotional abuse during his childhood.

Number of jurors who so find 4.

- 3. Melvin Gilbert was deprived of sufficient parental protection that he needed.

Number of jurors who so find 4.

- 4. During his formative years, Melvin Gilbert's environment was marked by many harmful factors that have been shown to increase the likelihood of violent behavior later in life, including;

a. disorganized family structure                      Number of jurors who so find 5.

b. high unemployment                                      Number of jurors who so find 6.

c. early exposure to criminal activity                      Number of jurors who so find 12.

d. rampant drug trafficking                      Number of jurors who so find 12.

e. corrupt male role models, including biological father  
Number of jurors who so find 12.

f. distrust of police and the judicial system      Number of jurors who so find 3.

g. pervasive community violence.                      Number of jurors who so find 12.

5. Although Melvin Gilbert was identified as a child at risk and a Juvenile Offender, the services provided by the legal system and social services were inadequate for him.

Number of jurors who so find NONE.

6. Other persons who committed murders in furtherance of the drug conspiracy will not be punished by death.

Number of jurors who so find 5.

7. Any one juror may also find mitigating factors that weigh in favor of punishing Melvin Gilbert with a sentence of life imprisonment without the possibility of release rather than death. If any, please list below and list the number of jurors who so find.

(A) Impact of death sentence on Gilbert's family

Number of jurors who find: 4

(B) \_\_\_\_\_

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

(C) \_\_\_\_\_

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



(D) \_\_\_\_\_

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

(E) \_\_\_\_\_

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

(F) \_\_\_\_\_

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

(G) \_\_\_\_\_

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

(H) \_\_\_\_\_

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

(I) \_\_\_\_\_

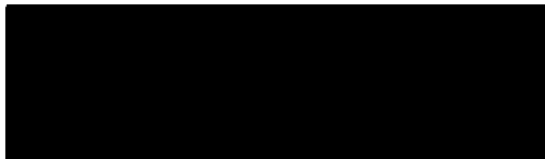
Number of jurors who find: \_\_\_\_\_

(J) \_\_\_\_\_

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

(K) \_\_\_\_\_

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



(Signature of Foreperson)

Date: June 30, 2009

**Instructions:** Regardless of whether any one or more juror(s) find(s) any one or more mitigating factors, you are to continue deliberations on the defendant's sentence. You should continue your

deliberations in accordance with the court's instructions and proceed to Subsection F of this Section.

**F. DETERMINATION OF SENTENCE AS TO MELVIN GILBERT FOR THE MURDER OF JOHN DOWERY AS CHARGED IN COUNTS TEN AND TWELVE**

We, the jury, by unanimous vote, have determined that on **Count Ten** (John Dowery - Murder in Furtherance of Witness Tampering) the defendant should be sentenced to:

\_\_\_\_\_ DEATH

\_\_\_\_\_ LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE

We, the jury, by unanimous vote, have determined that on **Count Twelve** (John Dowery - Possession and Discharge of a Firearm in Furtherance of a Drug Trafficking Crime Resulting in Death) the defendant should be sentenced to:

\_\_\_\_\_ DEATH

\_\_\_\_\_ LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE

**Instructions:** If you unanimously determined that the defendant should be sentenced to death on either Count Ten or Count Twelve, then all of you are to sign your names in the following space. If you unanimously determined that the defendant should be sentenced to life imprisonment without possibility of release for this offense, then the foreperson alone is to sign his or her name in the following space.

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FOREPERSON

Date: \_\_\_\_\_

**SECTION IV: MELVIN GILBERT'S CONVICTION FOR THE MURDER OF SHANNON JEMMISON**

**A. AGE OF THE DEFENDANT GILBERT**

**Instructions:** Answer "YES" or "NO" to the following and indicate your answer by placing an "X" in the space provided.

**Age of the Defendant.** We, the jury, unanimously find proven beyond a reasonable doubt that the defendant Melvin Gilbert was eighteen (18) years of age or older at the time of the offenses.

YES

NO



Date: June 30, 2009

**Instructions:**

If you answered "NO" regarding the age of the defendant Gilbert, then you are not to continue deliberations on the defendant's sentence. You should stop your deliberations, cross out Subsections B – F, and proceed to Section V of this form.

If you answered "YES" regarding the age of the defendant, then you are to continue deliberations on the defendant's sentence. You should continue your deliberations on the defendant's sentence for the murder of Shannon Jemmison and proceed to Subsection B of this Section.

**B. GATEWAY FACTORS**

**Instructions:** Answer "YES" or "NO" to the following and indicate your answer by placing an "X" in the space provided. We the jury unanimously find beyond a reasonable doubt as follows:

**1. Intentional Acts to Take Life or Use Lethal Force.**

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 the victim, Shannon Jemmison, died as a direct result of the act.

YES   X  

NO       

**2. Intentional Act in Reckless Disregard for Life.**

The defendant intentionally 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, Shannon Jemmison, died as a direct result of the act.

YES   X  

NO       



Date: June 30, 2009

**Instructions:**

If you answered "NO" regarding ALL of the statutory proportionality factors, then you are not to continue deliberations on the defendant's sentence. You should stop your deliberations, cross out Subsections C – F, and proceed to Section V of this form.

If you answered "YES" regarding ONE OR MORE of the statutory proportionality factors, then you are to continue deliberations on the defendant's sentence. You should continue your deliberations in accordance with the court's instructions and proceed to Subsection C of this Section.

**C. STATUTORY AGGRAVATING FACTORS**

**Instructions:** Answer "YES" or "NO" to the following and indicate your answer by placing an "X" in the space provided.

1. **Grave Risk of Death to Additional Persons.** We, the jury, unanimously find proven beyond a reasonable doubt that, during the commission of the charged offense resulting in the death of Shannon Jemmison, the defendant created a grave risk of death to several people who were seated near the victim at the time of his shooting.

YES	<u>X</u>	
NO	<del>_____</del>	

2. **Procurement of Offense By Payment.** We, the jury, unanimously find proven beyond a reasonable doubt that the defendant procured the commission of the offense resulting in the death of Shannon Jemmison, by payment, or promise of payment, of anything of pecuniary value.

YES \_\_\_\_\_

NO

3. **Substantial Planning and Premeditation.** We, the jury, unanimously find proven beyond a reasonable doubt that the defendant committed the charged offenses resulting in the death of Shannon Jemmison after substantial planning and premeditation to cause the death of a person

YES

NO



Date: July 1, 2009

**Instructions**

If you answered “NO” regarding ALL of the statutory aggravating factors, then you are not to continue deliberations on the defendant’s sentence for the murder of Shannon Jemmison. You should stop your deliberations, cross out Subsections D – F, and proceed to Section V of this form.

If you answered “YES” regarding ONE OR MORE of the statutory aggravating factors, then you are to continue deliberations on the defendant’s sentence. You should continue your deliberations in accordance with the court’s instructions and proceed to Subsection D of this Section.

**D. NON-STATUTORY AGGRAVATING FACTORS**

**Instructions:** Answer “YES” or “NO” to the following and indicate your answer by placing an “X” in the space provided.

1. **Victim Impact Evidence.** We, the jury, unanimously find proven beyond a reasonable

doubt that, as evidenced by the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family and friends, the defendant caused injury, harm and loss to the victim and the victim's family and friends.

YES

NO

2. **Pattern of Prior Convictions For Serious and Violent Offenses.** Gilbert stipulates that he engaged in a pattern of prior convictions for serious and violent offenses. We, the jury, unanimously find proven beyond a reasonable doubt that the defendant has engaged in a pattern of prior convictions for serious and violent offenses.

YES

3. **Contemporaneous Convictions.** We, the jury, unanimously find proven beyond a reasonable doubt that the defendant faces contemporaneous convictions for multiple murders and other serious offenses.

YES

NO

4. **Lack of Remorse.** We, the jury, unanimously find proven beyond a reasonable doubt that the defendant has demonstrated a lack of remorse for his victims.

YES

NO



Date: July 1, 2009

**Instructions:** Regardless of whether you answered "YES" or "NO" regarding ANY or ALL of the non-statutory aggravating factors, you are to continue deliberations on the defendant's sentence. You should continue your deliberations in accordance with the court's instructions and proceed to Subsection E of this section.

**E. MITIGATING FACTORS ASSERTED BY THE DEFENDANT**

1. Another person involved in the murder of Shannon Jemmison, namely Frank Batts, will not be punished by death.

Number of jurors who so find 12

2. Melvin Gilbert witnessed physical and emotional abuse during his childhood.

Number of jurors who so find 4.

3. Melvin Gilbert was deprived of sufficient parental protection that he needed.

Number of jurors who so find 4.

4. During his formative years, Melvin Gilbert's environment was marked by many harmful factors that have been shown to increase the likelihood of violent behavior later in life, including;

a. disorganized family structure                      Number of jurors who so find 5.

b. high unemployment                                      Number of jurors who so find 6.

c. early exposure to criminal activity              Number of jurors who so find 12.

d. rampant drug trafficking                              Number of jurors who so find 12.



e. corrupt male role models, including biological father

Number of jurors who so find 12.

f. distrust of police and the judicial system

Number of jurors who so find 3.

g. pervasive community violence

Number of jurors who so find 12.

5. Although Melvin Gilbert was identified as a child at risk and a Juvenile Offender, the services provided by the legal system and social services were inadequate for him.

Number of jurors who so find NONE

6. Other persons who committed murders in furtherance of the drug conspiracy will not be punished by death.

Number of jurors who so find 5.

7. Any one juror may also find mitigating factors that weigh in favor of punishing Melvin Gilbert with a sentence a sentence of life imprisonment without the possibility of release rather than death. If any, please list below and list the number of jurors who so find.

(A) While Gilbert did aid & abet in the murder of James Dennis was the actual shooter.

Number of jurors who find: 5

(B) Impact of death sentence on dependent's family

Number of jurors who find: 4

(C) \_\_\_\_\_

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

(D) \_\_\_\_\_

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

(E) \_\_\_\_\_

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

(F) \_\_\_\_\_

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

(G) \_\_\_\_\_

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

(H) \_\_\_\_\_

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

(I) \_\_\_\_\_

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

(J) \_\_\_\_\_

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

(K) \_\_\_\_\_

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



Date: July 1, 2009

**Instructions:** Regardless of whether any one or more juror(s) find(s) any one or more mitigating factors, you are to continue deliberations on the defendant's sentence. You should continue your

deliberations in accordance with the court's instructions and proceed to Subsection F of this section.

**F. DETERMINATION OF SENTENCE AS TO MELVIN GILBERT FOR THE MURDER OF SHANNON JEMMISON AS CHARGED IN COUNT FOUR**

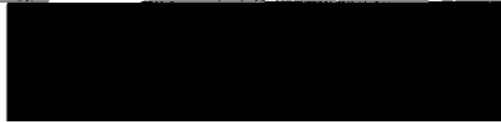
We, the jury, by unanimous vote, have determined that on Count Four the defendant should be sentenced to:

DEATH

LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE

**Instructions:** If you unanimously determined that the defendant should be sentenced to death, then all of you are to sign your names in the following space. If you unanimously determined that the defendant should be sentenced to life imprisonment without possibility of release for this offense, then the foreperson alone is to sign his or her name in the following space.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____



Date: July 1, 2009

**SECTION V. CERTIFICATION**

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same determination regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

\_\_\_\_\_  
(Signature of Foreperson)

Date: \_\_\_\_\_