

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

FILED IN THE COURT
NOV - 1 2007
CLERK, U.S. DISTRICT COURT AT ALEXANDRIA, VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA

v.

THOMAS MOROCCO HAGER

)
)
) No. 1:05cr264 (TSE)
)
)

**SELECTION PHASE
SPECIAL VERDICT FORM**

You should proceed through this Selection Phase Special Verdict Form section by section in order, beginning with Section I, consistent with the Court's oral instructions and the instructions on this form.

SECTION I

NON-STATUTORY AGGRAVATING FACTORS

Instructions:

In the Eligibility Phase, you unanimously found that the following six statutory aggravating factors had been proved beyond a reasonable doubt in this case:

The defendant, Thomas Moracco Hager:

- (1) has been convicted of another offense resulting in the death of a person, for which a sentence of life imprisonment was authorized by statute.
- (2) has been convicted of two other offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.
- (3) knowingly created a grave risk of death to a person in addition to Barbara White in the commission of the offense and in escaping apprehension for the offense.
- (4) committed the offense charged after substantial planning and premeditation.
- (5) distributed a controlled substance, namely, crack cocaine, to a juvenile.
- (6) committed the offense charged herein in an especially heinous, cruel, or depraved manner in that it involved torture and serious physical abuse to Barbara White.

You must now determine whether, in addition to these statutory aggravating factors, any non-statutory aggravating factors have been proved in this case. For each of the following alleged non-statutory aggravating factors, answer **YES** or **NO** as to whether you unanimously find by proof beyond a reasonable doubt the existence of that factor. You should consider and make written findings as to each of the alleged non-statutory aggravating factors.

We the jury, unanimously find by proof beyond a reasonable doubt the following:

- (1) On or about April 23, 1990, the defendant, a juvenile at the time, possessed with the intent to distribute cocaine. He was found guilty by an adjudication on or about September 18, 1990.

YES
 NO

- (2) From in or about 1992, and continuing until at least in or about 1997, the defendant repeatedly bought and sold cocaine and crack cocaine in and around Washington, D.C., and directed others to buy and sell cocaine and crack cocaine. The defendant illegally obtained, possessed, used, and carried numerous firearms in relation to and in furtherance of his drug trafficking activities. The defendant regularly used violence and threats of violence to further and protect his drug business.

YES
 NO

- (3) On or about October 22, 1993, the defendant shot and severely wounded Christopher Fletcher and Ric Pearson, two rival drug dealers, in Washington, D.C.

YES
 NO

- (4) On or about March 30, 1995, the defendant killed Jerome Robinson.

YES
 NO

- (5) On or about February 26, 1996, the defendant directed Loneldon Windsor, his cousin, to kill Cornell Coplin. Coplin died as a result of the shooting.

 X YES

 NO

- (6) On or about October 20, 1996, the defendant killed Londell Duvall.

 X YES

 NO

- (7) On or about March 15, 2003, while incarcerated at U.S.P. Pollock, a penitentiary, the defendant was observed hitting another inmate during a large scale prison fight, which resulted in a prison lock down.

 X YES

 NO

- (8) On or about April 27, 2004, while incarcerated at U.S.P. Pollock, the defendant was disciplined for possession of a dangerous weapon, an eight-inch long metal shank with a sharpened point on one end.

 X YES

 NO

- (9) On or about June 29, 2004, while incarcerated at U.S.P. Pollock, a penitentiary, the defendant was observed hitting and kicking another inmate during a prison fight, which resulted in a prison lock down.

 X YES

 NO

(10) The defendant's statements and actions following the murder of Barbara White reflect a lack of remorse.

~~_____~~ YES
_____ NO

(11) The defendant poses a future danger to others in that he is likely to commit, and to direct others to commit, additional acts of violence in any setting.

~~_____~~ YES
_____ NO

(12) The defendant caused injury, harm and loss to the victim and the victim's family and friends, as evidenced by the victim's personal characteristics and by the impact of her death upon the victim's family and friends.

~~_____~~ YES
_____ NO

Instructions:

After making findings with respect to these alleged non-statutory aggravating factors, proceed to **Section II**, which follows.

SECTION II

MITIGATING FACTORS

Instructions:

You must now determine whether any mitigating factors have been proved in this case. For each of the following alleged mitigating factors, you have the option to indicate, in the space provided, the number of jurors who have found the existence of that mitigating factor to have been proven by a preponderance of the evidence. If you choose not to make these written findings, cross out each page of Section II with a large X and continue your deliberations in accordance with the instructions of the Court.

Regardless of whether or not you choose to make written findings, a finding that a mitigating factor has been proved by a preponderance of the evidence may be made by one or more of the members of the jury. Any member of the jury who finds the existence of a mitigating factor may consider such a factor established in considering whether a sentence of death or a sentence of life imprisonment shall be imposed, regardless of the number of other jurors who concur that the mitigating factor has been established.

A. Statutory Mitigating Factors:

- (1) Thomas Morocco Hager was youthful, although not under the age of 18.

0 Number of jurors who so find

- (2) Others, equally culpable in the crime, will not be punished by death because their age at the time of the offense renders them statutorily ineligible for the crime.

0 Number of jurors who so find

- (3) Factors in Thomas Morocco Hager 's background or character mitigate against imposition of the death sentence.

2 Number of jurors who so find

B. Non-Statutory Mitigating Factors

- (1) If not sentenced to death, Thomas Morocco Hager will be punished by a sentence of life imprisonment with no possibility of release.

5 Number of jurors who so find

- (2) Arlington Johnson will not be sentenced to death for his role in the murder of Barbara White, because his age at the time of the offense renders him statutorily ineligible for the death penalty.

0 Number of jurors who so find

- (3) Lonnie Barnett will not be sentenced to death for his role in the murder of Barbara White, because his age at the time of the offense renders him statutorily ineligible for the death penalty.

0 Number of jurors who so find

- (4) Shenita King will not be sentenced to death for her role in the murder of Barbara White.

0 Number of jurors who so find

- (5) The fact that Lonnie Barnett's plea agreement includes the possibility that the government will ask the Court to reduce his sentence is something that weighs against imposition of a sentence of death for Thomas Morocco Hager.

0 Number of jurors who so find

- (6) The fact that Arlington Johnson's plea agreement includes the possibility that the government will ask the Court to reduce his sentence is something that weighs against imposition of a sentence of death for Thomas Morocco Hager.

0 Number of jurors who so find

- (7) The offer of immunity for Shenita King in this case is something that weighs against imposition of a sentence of death for Thomas Morocco Hager.

0 Number of jurors who so find

- (8) Whether the fact that William Seals kept guns and money in a safe at Barbara White's apartment constitutes a mitigating factor.

1 Number of jurors who so find

- (9) Whether the evidence fails to establish Thomas Morocco Hager's guilt of the capital crime with sufficient certainty to justify imposition of a sentence of death.

0 Number of jurors who so find

- (10) Whether the evidence establishes that it was Thomas Morocco Hager's belief that William Seals was out to kill him and that fact constitutes a mitigating factor.

0 Number of jurors who so find

- (11) The Bureau of Prisons has facilities adequate to monitor and prevent any future assaultive and violent conduct by Thomas Morocco Hager.

0 Number of jurors who so find

- (12) A sentence of life imprisonment without the possibility of release is severe and exacts both significant physical restraint and hardship as well as great psychological pain, particularly because Thomas Morocco Hager is left for years to contemplate his wrongdoing and to feel the loss of his children, friends and family.

2 Number of jurors who so find

- (13) A sentence of life imprisonment without the possibility of release is severe because Thomas Morocco Hager is a young man who, based upon his life expectancy, reasonably can expect to serve decades of confinement.

1 Number of jurors who so find

- (14) If incarcerated, Thomas Morocco Hager is unlikely to represent a continuing danger to society, as he already is showing signs of "aging out."

0 Number of jurors who so find

- (15) Demonstrated factors in Thomas Morocco Hager's childhood, background and character recommend against the imposition of the death sentence and recommend in favor of life imprisonment without the possibility of release.

7 Number of jurors who so find

- (16) The imposition of a life sentence without the possibility of release would preserve the opportunity for Thomas Morocco Hager to remain available to his daughters through their adolescent years and beyond.

11 Number of jurors who so find

- (17) Thomas Morocco Hager has proven himself to be capable of having a positive relationship with his daughters.

0 Number of jurors who so find

- (18) Thomas Morocco Hager's childhood experiences include being prematurely sexualized by his uncle.

0 Number of jurors who so find

- (19) Thomas Morocco Hager's childhood circumstances led to his leaving school when he was a young adolescent.

0 Number of jurors who so find

- (20) Thomas Morocco Hager's parents offered no supervision or guidance when he was a young child.

10

Number of jurors who so find

- (21) At the time of Barbara White's death, Thomas Morocco Hager had no prior adult convictions.

0

Number of jurors who so find

- (22) Thomas Morocco Hager's childhood was filled with risk factors.

9

Number of jurors who so find

- (23) Thomas Morocco Hager's childhood enjoyed few protective factors.

8

Number of jurors who so find

Instructions:

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

C. Additional Mitigating Factors

 ~~X~~ NONE

(1) ~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
Number of jurors who so find

(2) ~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
Number of jurors who so find

(3) ~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
~~_____~~
Number of jurors who so find

 12 Number of jurors who so find

(4)

~~_____~~
~~_____~~
~~_____~~

12

Number of jurors who so find

Instructions:

Regardless of whether or not you chose to make written findings for the mitigating factors in this section, after your deliberations regarding mitigating factors, you should proceed to **Section III**, which follows.

SECTION III

SENTENCING RECOMMENDATION

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, Thomas Morocco Hager, for the intentional killing of Barbara White while engaged in drug trafficking, as charged in the indictment.

 X YES
 NO

Sign your names below and proceed to Section IV.

REDACTED

Foreperson Juror #

Date: November 1, 2007

SECTION IV

REDACTED

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 the individual juror would have made the same findings regarding the sentencing recommendation for the killing of Barbara White no matter what the race, color, religious beliefs, national origin, or sex of the defendant or the victim would have been.

 Foreperson Juror #

Date: November 1, 2007