

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 03-20192-CM
)	
DEMETRIUS HARGROVE,)	
)	
Defendant.)	
_____)	

SPECIAL FINDINGS FORM
FOR COUNT 1, REGARDING THE DEATH OF ELMER BERG

I. Findings Regarding Defendant's Eligibility for a Death Sentence

A. Defendant's Age at Time of Offense

Do you unanimously find that the government proved beyond a reasonable doubt that the defendant was eighteen (18) years of age at the time he committed the offense for which a sentence is to be imposed?

YES

NO

If you answered "yes," proceed to the next section (I-B) of this Form. If you answered "no," then stop your deliberations on this Count, sign the section of this Form indicating a verdict of life imprisonment (III-B), and certify your decision as described in section IV.

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B. Defendant's Intent in Commission of Offense

For each type of intent specified below, answer "yes" or "no" according to whether you unanimously find that the government proved beyond a reasonable doubt that the defendant acted with the specified intent:

1. The defendant intentionally killed Elmer Berg;
YES
NO

2. The defendant intentionally inflicted serious bodily injury that resulted in Elmer Berg's death;
YES
NO

3. The defendant intentionally participated in an act, contemplating that a person's life would be taken or intending that lethal force would be used in connection with a person other than himself, and Elmer Berg died as a 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 himself, such that participation in the act constituted a reckless disregard for human life and Elmer Berg died as a direct result of the act.
YES
NO

If you answered "yes" to one or more of these alternatives, proceed to the next section (I-C) of this Form. If you answered "no" to all of them, then stop your deliberations on this Count, sign the section of this Form indicating a verdict of life

imprisonment (III-B), and certify your decision as described in section IV.

C. Statutory Aggravating Factors

The government has alleged that the following statutory aggravating factors are present in this case. For each factor, answer "yes" or "no" according to whether you unanimously find that the government proved the existence of the factor beyond a reasonable doubt:

1. The defendant committed the offense in Count 1 after substantial planning and premeditation to cause the death of Elmer Berg.

YES

NO

2. The defendant intentionally killed, or attempted to kill, more than one person in a single criminal episode, that being Elmer Berg and Misty Castor.

YES

NO

If you answered "yes" to one or both of these statutory aggravating factors, you have found the defendant eligible for a death sentence and you should proceed to the next section (II) of this Form to consider whether such a sentence is justified under the circumstances of the case. If you answered "no" to both of these factors, then you have found the defendant ineligible for a death sentence and you should stop your deliberations on this Count, sign the section of this Form indicating a verdict of life imprisonment (III-B), and certify your decision as described in section IV.

II. Findings Regarding Justification for a Death Sentence

A. Non-Statutory Aggravating Factors

The government has alleged that the following non-statutory aggravating factors are present in this case. For each factor, answer "yes" or "no" according to whether you unanimously find that the government proved the existence of the factor beyond a reasonable doubt:

1. The defendant caused severe and irreparable loss, injury, and harm to Elmer Berg and his family.

YES

NO

2. The defendant attempted to obstruct justice and killed a witness against him and conspired to kill another witness against him.

YES

NO

3. The defendant is likely to commit criminal acts of violence in the future and would be a continuing and serious threat to the lives and safety of others.

YES

NO

Regardless of your findings on these non-statutory factors, you must proceed to the next section (II-B) of this Form.

B. Mitigating Factors

The defendant has alleged that the following mitigating factors are present in this case. For each of these factors, answer "yes" or "no" according to whether any juror (or

jurors) finds that the defendant has proved the existence of the factor by a preponderance of the evidence. As I instructed you, the answers to these questions do not have to be unanimous.

1. The defendant has a close, loving, nurturing relationship with his children, his parents, his grandparents, and all of his extended family.

YES

NO

2. Particularly in his relationships with his children, and his mother, the defendant provides important advice, guidance and emotional support.

YES

NO

3. If the defendant is sentenced to life imprisonment without possibility of release, he would continue the loving, caring, nurturing relationships with his children, parents and other family members.

YES

NO

4. During his previous sentences of incarceration, the defendant has served his time peaceably.

YES

NO

5. If the defendant is sentenced to life imprisonment without release, he will serve his time peaceably.

YES

NO

6. There is lingering doubt, though not reasonable doubt, concerning the defendant's guilt.

YES

NO

As explained in the Court's instructions, the law permits you to consider any other relevant mitigating information, in addition to the specific mitigating factors alleged by the defendant listed above, so long as you find that it was proved by a preponderance of the evidence. As with specific mitigating factors, your findings in this regard need not be unanimous.

Did one or more jurors find that other relevant mitigating information was proved?

YES

NO

If you answered "yes," list the additional mitigation information you found to be present in the space provided immediately below:

When you have completed your findings regarding mitigation, you must weigh the aggravating factor(s) with the mitigating factor(s), if any, that you have found to be present in this case. Based upon consideration of whether the aggravating factor(s) found to exist sufficiently outweigh any mitigating factor(s) found to exist, or in the absence of any mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death, you should make determinations whether the death penalty is justified, and whether the death penalty should be imposed on this Count. You should then sign the appropriate verdict form for your ultimate decision.

III-A. VERDICT – SENTENCE OF DEATH

Based upon consideration of whether the aggravating factor(s) found to exist sufficiently outweigh any mitigating factor(s) 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 find by unanimous vote that a sentence of death shall be imposed on the defendant.

Foreperson

Date:

III-B. VERDICT – LIFE IMPRISONMENT

Based upon our consideration of the evidence and in accordance with the court's instructions, we find that a sentence of life imprisonment without release shall be imposed on the defendant.

Date: *November 22, 2005*

IV. Certification

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or gender 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 decision regarding the appropriate sentence for the offense in question regardless of the race, color, religious beliefs, national origin, or gender of the defendant or the victim.

Date: *November 22, 2005*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
DEMETRIUS HARGROVE,)
)
Defendant.)
_____)

Case No. 03-20192-CM

SPECIAL FINDINGS FORM
FOR COUNT 2, REGARDING THE DEATH OF MISTY CASTOR

I. Findings Regarding Defendant's Eligibility for a Death Sentence

A. Defendant's Age at Time of Offense

Do you unanimously find that the government proved beyond a reasonable doubt that the defendant was eighteen (18) years of age at the time he committed the offense for which a sentence is to be imposed?

YES
NO

If you answered "yes," proceed to the next section (I-B) of this Form. If you answered "no," then stop your deliberations on this Count, sign the section of this Form indicating a verdict of life imprisonment (III-B), and certify your decision as described in section IV.

B. Defendant's Intent in Commission of Offense

For each type of intent specified below, answer "yes" or "no" according to whether you unanimously find that the government proved beyond a reasonable doubt that the defendant acted with the specified intent:

1. The defendant intentionally killed Misty Castor.

YES

NO

2. The defendant intentionally inflicted serious bodily injury that resulted in the Misty Castor's death.

YES

NO

3. The defendant intentionally participated in an act, contemplating that a person's life would be taken or intending that lethal force would be used in connection with a person other than himself, and Misty Castor died as a 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 himself, such that participation in the act constituted a reckless disregard for human life and Misty Castor died as a direct result of the act.

YES

NO

If you answered "yes" to one or more of these alternatives, proceed to the next section (I-C) of this Form. If you answered "no" to all of them, then stop your deliberations on this Count, sign the section of this Form indicating a verdict of life

imprisonment (III-B), and certify your decision as described in section IV.

C. Statutory Aggravating Factors

The government has alleged that the following statutory aggravating factor is present in this case. Answer "yes" or "no" according to whether you unanimously find that the government proved the existence of the factor beyond a reasonable doubt:

The defendant intentionally killed, or attempted to kill, more than one person in a single criminal episode, that being Elmer Berg and Misty Castor.

YES

NO

If you answered "yes," you have found the defendant eligible for a death sentence and you should proceed to the next section (II) of this Form to consider whether such a sentence is justified under the circumstances of the case. If you answered "no," then you have found the defendant ineligible for a death sentence and you should stop your deliberations on this Count, sign the section of this Form indicating a verdict of life imprisonment (III-B), and certify your decision as described in section IV.

II. Findings Regarding Justification for a Death Sentence

A. Non-Statutory Aggravating Factors

The government has alleged that the following non-statutory aggravating factors are present in this case. For each factor, answer "yes" or "no" according to whether you unanimously find that the government proved the existence of the factor beyond a reasonable doubt:

1. The defendant caused severe and irreparable loss, injury, and harm to Misty Castor and her family.

YES

NO

2. The defendant attempted to obstruct justice and killed a witness against him and conspired to kill another witness against him.

YES

NO

3. The defendant is likely to commit criminal acts of violence in the future and would be a continuing and serious threat to the lives and safety of others.

YES

NO

Regardless of your findings on these non-statutory factors, you must proceed to the next section (II-B) of this Form.

B. Mitigating Factors

The defendant has alleged that the following mitigating factors are present in this case. For each of these factors, answer "yes" or "no" according to whether any juror (or jurors) finds that the defendant has proved the existence of the factor by a preponderance of the evidence. As I instructed you, the answers to these questions do not have to be unanimous.

1. The defendant has a close, loving, nurturing relationship with his children, his parents, his grandparents, and all of his extended family.

YES

NO

2. Particularly in his relationships with his children, and his mother, the defendant provides important advice, guidance and emotional support.

YES

NO

3. If the defendant is sentenced to life imprisonment without possibility of release, he would continue the loving, caring, nurturing relationships with his children, parents and other family members.

YES

NO

4. During his previous sentences of incarceration, the defendant has served his time peaceably.

YES

NO

5. If the defendant is sentenced to life imprisonment without release, he will serve his time peaceably.

YES

NO

6. There is lingering doubt, though not reasonable doubt, concerning the defendant's guilt.

YES

NO

As explained in the Court's instructions, the law permits you to consider any other

relevant mitigating information, in addition to the specific mitigating factors alleged by the defendant listed above, so long as you find that it was proved by a preponderance of the evidence. As with specific mitigating factors, your findings in this regard need not be unanimous.

Did one or more jurors find that other relevant mitigating information was proved?

YES _____

NO

If you answered "yes," list the additional mitigation information you found to be present in the space provided immediately below:

When you have completed your findings regarding mitigation, you must weigh the aggravating factor(s) with the mitigating factor(s), if any, that you have found to be present in this case. Based upon consideration of whether the aggravating factor(s) found to exist sufficiently outweigh any mitigating factor(s) found to exist, or in the absence of any mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death, you should make determinations whether the death penalty is justified, and whether the death penalty should be imposed on this Count. You should then sign the appropriate verdict form for your ultimate decision.

III-A. VERDICT – SENTENCE OF DEATH

Based upon consideration of whether the aggravating factor(s) found to exist sufficiently outweigh any mitigating factor(s) 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 find by unanimous vote that a sentence of death shall be imposed on the defendant.

Foreperson

Date:

III-B. VERDICT – LIFE IMPRISONMENT

Based upon our consideration of the evidence and in accordance with the court's instructions, we find that a sentence of life imprisonment without release shall be imposed on the defendant.

Date: *November 22, 2005*

IV. Certification

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or gender 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 decision regarding the appropriate sentence for the offense in question regardless of the race, color, religious beliefs, national origin, or gender of the defendant or the victim.

Date: *November 22, 2005*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 03-20192-CM
)	
DEMETRIUS HARGROVE,)	
)	
Defendant.)	
_____)	

SPECIAL FINDINGS FORM
FOR COUNT 3, REGARDING THE DEATH OF TYRONE RICHARDS

I. Findings Regarding Defendant's Eligibility for a Death Sentence

A. Defendant's Age at Time of Offense

Do you unanimously find that the government proved beyond a reasonable doubt that the defendant was eighteen (18) years of age at the time he committed the offense for which a sentence is to be imposed?

YES
NO

If you answered "yes," proceed to the next section (I-B) of this Form. If you answered "no," then stop your deliberations on this Count, sign the section of this Form indicating a verdict of life imprisonment (III-B), and certify your decision as described in section IV.

B. Defendant's Intent in Commission of Offense

For each type of intent specified below, answer "yes" or "no" according to whether you unanimously find that the government proved beyond a reasonable doubt that the defendant acted with the specified intent:

1. The defendant intentionally killed Tyrone Richards.

YES

NO

2. The defendant intentionally inflicted serious bodily injury that resulted in Tyrone Richards's death.

YES

NO

3. The defendant intentionally participated in an act, contemplating that a person's life would be taken or intending that lethal force would be used in connection with a person other than himself, and Tyrone Richards died as a 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 himself, such that participation in the act constituted a reckless disregard for human life and Tyrone Richards died as a direct result of the act.

YES

NO

If you answered "yes" to one or more of these alternatives, proceed to the next section (I-C) of this Form. If you answered "no" to all of them, then stop your deliberations on this Count, sign the section of this Form indicating a verdict of life

imprisonment (III-B), and certify your decision as described in section IV.

C. Statutory Aggravating Factors

The government has alleged that the following statutory aggravating factor is present in this case. Answer "yes" or "no" according to whether you unanimously find that the government proved the existence of the factor beyond a reasonable doubt:

The defendant committed the offense in Count 1 after substantial planning and premeditation to cause the death of Tyrone Richards.

YES

NO

If you answered "yes" to this statutory aggravating factor, you have found the defendant eligible for a death sentence and you should proceed to the next section (II) of this Form to consider whether such a sentence is justified under the circumstances of the case. If you answered "no" to this factor, then you have found the defendant ineligible for a death sentence and you should stop your deliberations on this Count, sign the section of this Form indicating a verdict of life imprisonment (III-B), and certify your decision as described in section IV.

II. Findings Regarding Justification for a Death Sentence

A. Non-Statutory Aggravating Factors

The government has alleged that the following non-statutory aggravating factors are present in this case. For each factor, answer "yes" or "no" according to whether you unanimously find that the government proved the existence of the factor beyond a

reasonable doubt:

1. The defendant caused severe and irreparable loss, injury, and harm to Tyrone Richards and his family.

YES

NO

2. The defendant attempted to obstruct justice by conspiring to kill a witness against him.

YES

NO

3. The defendant is likely to commit criminal acts of violence in the future and would be a continuing and serious threat to the lives and safety of others.

YES

NO

Regardless of your findings on these non-statutory factors, you must proceed to the next section (II-B) of this Form.

B. Mitigating Factors

The defendant has alleged that the following mitigating factors are present in this case. For each of these factors, answer "yes" or "no" according to whether any juror (or jurors) finds that the defendant has proved the existence of the factor by a preponderance of the evidence. As I instructed you, the answers to these questions do not have to be unanimous.

1. The defendant has a close, loving, nurturing relationship with his children, his parents, his grandparents, and all of his extended family.

YES

NO

2. Particularly in his relationships with his children, and his mother, the defendant provides important advice, guidance and emotional support.

YES

NO

3. If the defendant is sentenced to life imprisonment without possibility of release, he would continue the loving, caring, nurturing relationships with his children, parents and other family members.

YES

NO

4. During his previous sentences of incarceration, the defendant has served his time peaceably.

YES

NO

5. If the defendant is sentenced to life imprisonment without release, he will serve his time peaceably.

YES

NO

6. There is lingering doubt, though not reasonable doubt, concerning the defendant's guilt.

YES

NO

As explained in the Court's instructions, the law permits you to consider any other relevant mitigating information, in addition to the specific mitigating factors alleged by the defendant listed above, so long as you find that it was proved by a preponderance of

the evidence. As with specific mitigating factors, your findings in this regard need not be unanimous.

Did one or more jurors find that other relevant mitigating information was proved?

YES _____

NO

If you answered "yes," list the additional mitigation information you found to be present in the space provided immediately below:

When you have completed your findings regarding mitigation, you must weigh the aggravating factor(s) with the mitigating factor(s), if any, that you have found to be present in this case. Based upon consideration of whether the aggravating factor(s) found to exist sufficiently outweigh any mitigating factor(s) found to exist, or in the absence of any mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death, you should make determinations whether the death penalty is justified, and whether the death penalty should be imposed on this Count. You should then sign the appropriate verdict form for your ultimate decision.

III-A. VERDICT – SENTENCE OF DEATH

Based upon consideration of whether the aggravating factor(s) found to exist sufficiently outweigh any mitigating factor(s) 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 find by unanimous vote that a sentence of death shall be imposed on the defendant.

Foreperson

Date:

III-B. VERDICT – LIFE IMPRISONMENT

Based upon our consideration of the evidence and in accordance with the court's instructions, we find that a sentence of life imprisonment without release shall be imposed on the defendant.

Date: *November 22, 2005*

IV. Certification

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or gender 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 decision regarding the appropriate sentence for the offense in question regardless of the race, color, religious beliefs, national origin, or gender of the defendant or the victim.

Date: *November 22, 2005*