

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

FILED
AUG 6 1996
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

UNITED STATES OF AMERICA

v.

MARVIN LEE HOLLEY,

Defendant.

CASE NO. CR 96-B-0208-NE

SPECIAL VERDICT FORM

I. CATEGORY ONE - STATUTORY AGGRAVATING FACTOR

Instructions: Answer "YES" or "NO" as to whether you, the jury, unanimously find that the following factor has been proved beyond a reasonable doubt:

The defendant intentionally engaged in conduct intending that Ronald Avans be killed or that lethal force be employed against him, which resulted in the death of Ronald Avans.

YES _____
NO _____

Instructions: If you answered "YES", proceed to Section II.

If you answered "NO" with respect to this Category One Statutory Aggravating Factor, then stop your deliberations and sign Section VIII of this form, and advise the court that you have reached a decision.

II. CATEGORY TWO - STATUTORY AGGRAVATING FACTOR

Instructions: Answer "YES" or "NO" as to whether you, the jury, unanimously find that the following factor has been proved beyond a reasonable doubt:

The defendant committed the offense after substantial planning and premeditation.

YES _____
NO _____

Instructions: If you answered "YES", proceed to Section III.

If you answered "NO" with respect to this Category Two Statutory Aggravating Factor, then stop your deliberations and sign Section VIII of this form, and advise the court that you have reached a decision.

III. OTHER 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 aggravating factor beyond a reasonable doubt:

1. The defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to society.

YES _____
NO _____

2. The defendant murdered Ronald Avans to prevent him from testifying against Marvin Lee Holley in the state drug case.

YES _____
NO ✓

3. The family of Ronald Avans has suffered injury and loss as a result of his death.

YES ✓
NO _____

Instructions: Regardless of whether you answered "YES" or "NO" with respect to the Non-Statutory Aggravating Factors in Section III above, continue your deliberations in accordance with the court's instructions and proceed to Section IV which follows.

IV. MITIGATING FACTORS

Instructions: For each of the following 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 be proved by a preponderance of the evidence. If you choose not to make these written findings, cross out each page of Section IV with a large "X" and then continue your deliberations in accordance with the instructions of the court.

Regardless of whether or not you choose to make written findings, a finding with respect to a mitigating factor may be made by one or more of the 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.

- (1) Another person, equally culpable in the crime, will not be punished by death.

Number of jurors who so find _____

(2) Marvin Lee Holley was subjected to emotional and physical abuse, abandonment and neglect as a child, and was deprived of the parental guidance and protection which he needed.

Number of jurors who so find _____.

(3) Marvin Lee Holley grew up in abject poverty and deprivation.

Number of jurors who so find _____.

(4) Marvin Lee Holley was born with impaired mental functioning and ability to learn.

Number of jurors who so find _____.

(5) Marvin Lee Holley was deprived of basic education and training.

Number of jurors who so find _____.

(6) As a child, Marvin Lee Holley did not receive the care, protection and love that every child needs.

Number of jurors who so find _____.

(7) As a result of his poverty and inability to read, Marvin Lee Holley was shamed and isolated as a child.

Number of jurors who so find _____.

(8) Marvin Lee Holley loved and cared for his family.

Number of jurors who so find _____.

(9) Marvin Lee Holley has suffered a series of losses and setbacks throughout his life.

Number of jurors who so find _____.

(10) Marvin Lee Holley has responded well to structured environments, and would likely make an excellent adaptation to prison if he were sentenced to life imprisonment.

Number of jurors who so find _____.

(11) Marvin Lee Holley has been a good prisoner while serving two consecutive life sentences in the Alabama state prison system.

Number of jurors who so find _____.

(12) Despite his lack of formal education, Marvin Lee Holley has begun to learn to read and write in prison.

Number of jurors who so find _____.

(13) Marvin Lee Holley is not likely to commit any act of violence or pose a danger to others if sentenced to life in prison without the possibility of parole.

Number of jurors who so find _____.

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

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Number of jurors who so find _____.

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Number of jurors who so find _____.

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Number of jurors who so find _____.

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Number of jurors who so find _____.

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Number of jurors who so find _____.

()

Number of jurors who so find _____.

Instructions: Regardless of whether or not you chose to make written findings for the Mitigating Factors in Section IV above, continue your deliberations in accordance with the court's instructions and complete either Section V or Section VI, which follow, and Section VII.

V. RECOMMENDATION THAT THE COURT IMPOSE THE DEATH PENALTY

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.

All jurors and foreperson sign below:

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

FOREPERSON

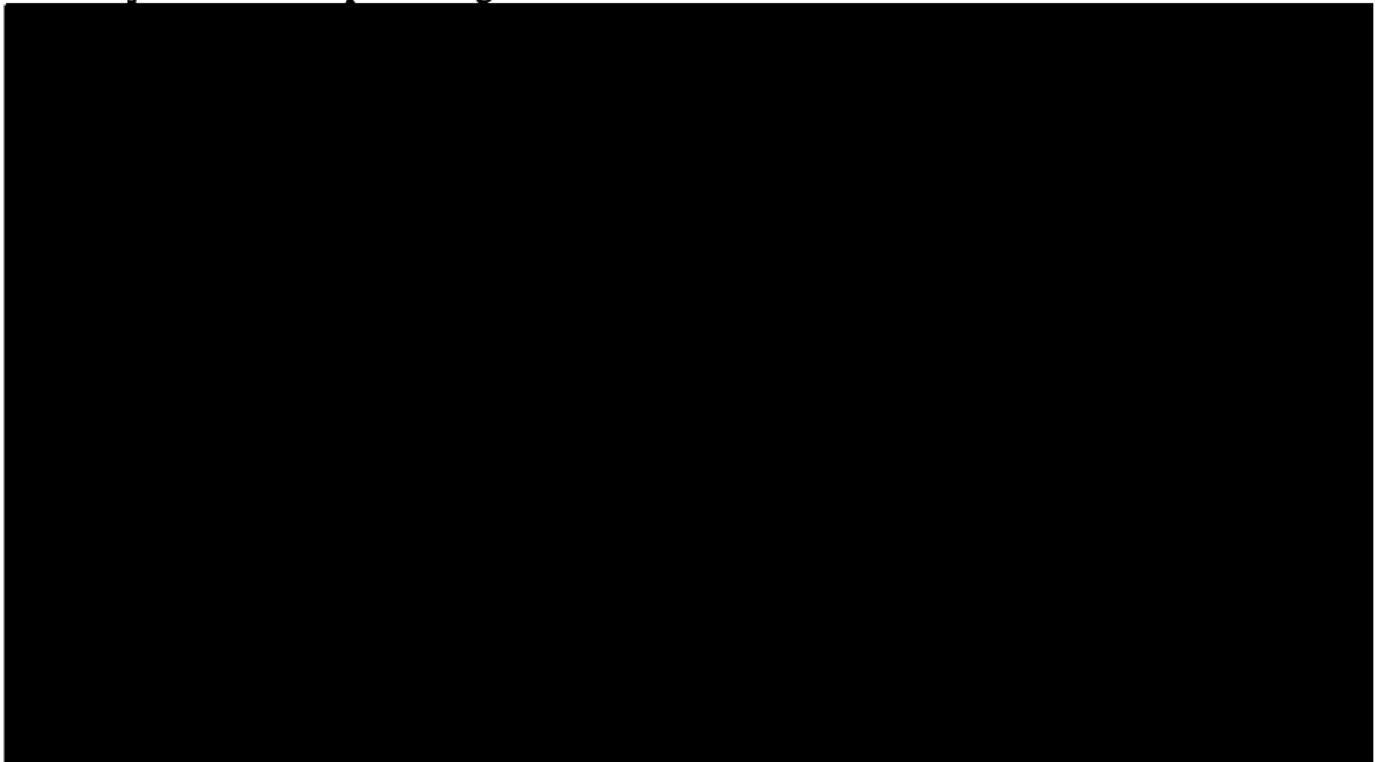
Date: _____, 1998

Instructions: If you completed Section V, proceed to Section VII.

VI. RECOMMENDATION AGAINST THE IMPOSITION OF THE DEATH PENALTY

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, there is not unanimous agreement that the court should impose a sentence of death.

All jurors and foreperson sign below:



FOREPERSON

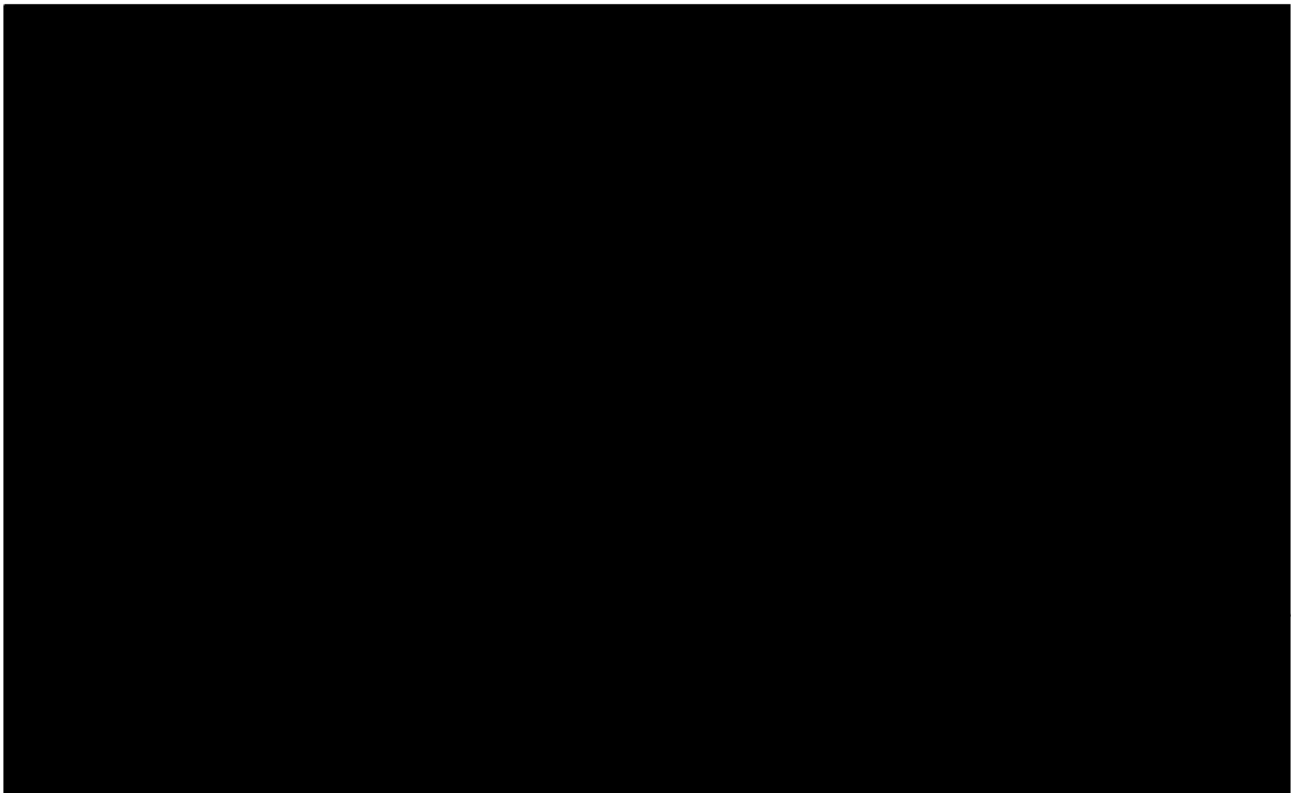
Date: Aug. 6th, 1998

Instructions: If you completed Section VI, proceed to Section VII.

VII. CERTIFICATION (If the Jury Completes Section V or Section VI)

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 crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant, or the victim.

All jurors and foreperson sign below:



FOREPERSON

Date: Aug 6th, 1998

VIII. CERTIFICATION (If Jury Does Not Unanimously Find the Existence of the Category One and/or Category Two Statutory Aggravating Factors)

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, with regard to the Category One and/or Category Two Statutory Aggravating Factors, and that the individual juror would have made the same decision regarding the Category One and/or Category Two Statutory Aggravating Factors no matter what the race, color, religious beliefs, national origin, or sex of the defendant, or the victim.

All jurors and foreperson sign below:

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

FOREPERSON

Date: _____, 1998