

OCT 27 2004

By: \_\_\_\_\_ *[Signature]*  
DEPUTY

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DUSTIN LEE HONKEN,

Defendant.

No. CR 01-3047-MWB

**“PENALTY PHASE”  
VERDICT FORM**

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As to defendant Dustin Lee Honken, on the “penalty phase” issues submitted for our determination, we, the Jury, find as follows:

Step 1: "Eligibility" Aggravating Factors	For each count, which one "Step One Aggravating Factor," if any, do you unanimously find the prosecution has proved beyond a reasonable doubt? "Step One Aggravating Factors" are identified and explained in Final "Penalty Phase" Instruction No. 2. (You must unanimously agree on one and only one of these factors as to a particular count to impose the death penalty for that count; do not find more than one of these factors for any count. Please put a <b>check mark</b> in the column for any count for which you find a particular aggravating factor has been proved.)	VICTIMS AND COUNTS										
		Gregory Nicholson		Lori Duncan		Amber Duncan		Kandi Duncan		Terry DeGeus		
		Count 8	Count 13	Count 9	Count 14	Count 10	Count 15	Count 11	Count 16	Count 12	Count 17	
	The defendant intentionally killed the victim identified in the count in question.	X	X	X	X	X	X	X	X	X	X	X
	The defendant intentionally engaged in conduct intending that the victim in question be killed or that lethal force be employed against the victim, which resulted in the death of the victim.											
	If you unanimously found one "Step One Aggravating Factor" for a particular count, you may consider that factor in <b>Step Five</b> , below. Also, go on to <b>Step Two</b> . However, if you did not find any "Step One Aggravating Factor" for a particular count, you cannot impose the death penalty on that count; therefore, do not consider any more Steps for that count. Instead, you must impose a sentence of "life imprisonment" for that count in <b>Step Five</b> .											

Step 2: "Statutory" Aggravating Factors	If you found one "Step One Aggravating Factor" for a particular count, which one or more of the "Step Two Aggravating Factors," if any, do you unanimously find the prosecution has proved beyond a reasonable doubt for that count? "Step Two Aggravating Factors" are identified and explained in Final "Penalty Phase" Instruction No. 3. (You must unanimously agree on one or more of these factors as to a particular count to impose the death penalty for that count. Please put a <b>check mark</b> in the column for any count for which you find a particular aggravating factor has been proved.)	VICTIMS AND COUNTS										
		Gregory Nicholson		Lori Duncan		Amber Duncan		Kandi Duncan		Terry DeGeus		
		Count 8	Count 13	Count 9	Count 14	Count 10	Count 15	Count 11	Count 16	Count 12	Count 17	
	The defendant committed the offense in question after substantial planning and premeditation.	X	X	X	X					X	X	
	The defendant committed the offense in question in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim. (You may find "torture," "serious physical abuse," both, or neither for any particular count.)	torture	X	X	X	X					X	X
			serious physical abuse	X	X	X	X					X
	The victim was particularly vulnerable due to her young age.					X	X	X	X			
	If you unanimously found at least one "Step Two Aggravating Factor" for a particular count, you may consider that factor or those factors in Step Five, below, for that count. Also, go on to Step Three for that count. However, if you did not find any "Step Two Aggravating Factor" for a particular count, then you cannot impose the death penalty for that count; therefore, do not consider any more Steps for that count. Instead, you must impose a sentence of "life imprisonment" for that count in Step Five.											

Step 3: "Non-statutory" Aggravating Factors	If you found one "Step One Aggravating Factor" and at least one "Step Two Aggravating Factor" for a particular count, which one or more of the "Step Three Aggravating Factors," if any, do you unanimously find the prosecution has proved beyond a reasonable doubt? "Step Three Aggravating Factors" are identified and explained in Final "Penalty Phase" Instruction No. 4. (Please put a check mark in the column for any count for which you find a particular aggravating factor has been proved.)	VICTIMS AND COUNTS									
		Gregory Nicholson		Lori Duncan		Amber Duncan		Kandi Duncan		Terry DeGeus	
		Count 8	Count 13	Count 9	Count 14	Count 10	Count 15	Count 11	Count 16	Count 12	Count 17
	The defendant would be a danger in the future to the lives and safety of other persons.	X	X	X	X	X	X	X	X	X	X
	The defendant obstructed justice by preventing the victim from providing testimony or information to law enforcement officers or by retaliating against the victim for cooperating with authorities.	X	X	X	X	X	X	X	X	X	X
	The defendant intentionally killed more than one person in a single criminal episode.	X	X	X	X	X	X	X	X		
	The effect of the crime upon the victim's family was injurious.	X	X	X	X	X	X	X	X	X	X
	If you unanimously found at least one "Step Three Aggravating Factor" for a particular count, you may consider that factor or those factors in Step Five, below, for that count. Whether or not you find any "Step Three Aggravating Factor," go on to Step Four.										

Step 4: "Mitigating" Factors	Which "Mitigating Factors," if any, do any of you find the defendant has proved by the greater weight of the evidence for a particular count? "Mitigating Factors" specifically asserted by the defendant are identified for you in Final "Penalty Phase" Instruction No. 5. You may also identify any further "Mitigating Factors" that any juror finds. (Please indicate the number of jurors finding any "Mitigating Factor" in the column for any count for which those jurors find that the "Mitigating Factor" applies.)	VICTIMS AND COUNTS									
		Gregory Nicholson		Lori Duncan		Amber Duncan		Kandi Duncan		Terry DeGeus	
"Mitigating Factor"		Count 8	Count 13	Count 9	Count 14	Count 10	Count 15	Count 11	Count 16	Count 12	Count 17
Dustin Honken does not have a history of significant criminal convictions prior to the offenses at issue here.		12	12	12	12	12	12	12	12	12	12
Dustin Honken does not have a history of violent or assaultive behavior prior to the offenses at issue here.		12	12	12	12	12	12	12	12	12	12
Dustin Honken loves his son, Ryan.		9	9	9	9	9	9	9	9	9	9
Dustin Honken is loved by his son, Ryan, and the execution of Dustin Honken would cause his innocent son extraordinary emotional harm.		7	7	7	7	7	7	7	7	7	7
Dustin Honken loves his daughter, Marvea.		9	9	9	9	9	9	9	9	9	9
Dustin Honken is loved by his daughter, Marvea, and the execution of Dustin Honken would cause his innocent daughter extraordinary emotional harm.		7	7	7	7	7	7	7	7	7	7
Dustin Honken loves Kathy Rick's son, Brandon, and has always treated Brandon as if he were Dustin Honken's biological son.		9	9	9	9	9	9	9	9	9	9

Step 4: "Mitigating" Factors (Continued)	VICTIMS AND COUNTS									
	Gregory Nicholson		Lori Duncan		Amber Duncan		Kandi Duncan		Terry DeGeus	
	Count 8	Count 13	Count 9	Count 14	Count 10	Count 15	Count 11	Count 16	Count 12	Count 17
"Mitigating Factor"										
Dustin Honken is loved by Kathy Rick's son, Brandon, and the execution of Dustin Honken would cause Kathy Rick's son, Brandon, extraordinary emotional harm.	7	7	7	7	7	7	7	7	7	7
Dustin Honken is loved by his mother and stepfather, Marvea and Ron Smidt, and the execution of Dustin Honken would cause them extraordinary emotional harm.	9	9	9	9	9	9	9	9	9	9
Dustin Honken is loved by his sister, Alyssa Nelson, and the execution of Dustin Honken would cause his sister, Alyssa Nelson, extraordinary emotional harm.	10	10	10	10	10	10	10	10	10	10
Dustin Honken's father, Jim Honken, was an alcoholic convict who was proud of his criminal lifestyle and who bragged to his sons about his crimes.	1	1	1	1	1	1	1	1	1	1
As an infant, Dustin Honken did not experience normal parental love and nurturing, because his mother, Marvea, was depressed and unhappy in her marriage to Jim Honken, Jim Honken worked out of town Monday through Friday, and Jim Honken was usually intoxicated all weekend.	1	1	1	1	1	1	1	1	1	1

Step 4: "Mitigating" Factors (Continued)	VICTIMS AND COUNTS									
	Gregory Nicholson		Lori Duncan		Amber Duncan		Kandi Duncan		Terry DeGeus	
	Count 8	Count 13	Count 9	Count 14	Count 10	Count 15	Count 11	Count 16	Count 12	Count 17
"Mitigating Factor"										
Dustin Honken's father, Jim, never participated in caring for Dustin by holding him, feeding him, or changing his diapers, never played ball with him, or participated in any one-on-one father-son activities with Dustin.	3	3	3	3	3	3	3	3	3	3
Dustin Honken's natural parents, Jim and Marvea Honken, were divorced when Dustin was only eight years old, and Dustin had only sporadic contact with Jim Honken between the ages of eight and fifteen.	12	12	12	12	12	12	12	12	12	12
Since being incarcerated in the Federal Bureau of Prisons, Dustin Honken has generally been a well-behaved inmate. He has received only three citations for disciplinary infractions in over seven years (two for possession of a home-made alcoholic beverage, and one for fighting without serious injury).	12	12	12	12	12	12	12	12	12	12
Residual or lingering doubts as to Dustin Honken's guilt or innocence or his role in the offenses, even though those doubts did not rise to the level of "reasonable doubts" during the "merits phase" of the trial.	0	0	0	0	0	0	0	0	0	0

Step 4: "Mitigating" Factors (Continued)	VICTIMS AND COUNTS									
	Gregory Nicholson		Lori Duncan		Amber Duncan		Kandi Duncan		Terry DeGeus	
"Mitigating Factor"	Count 8	Count 13	Count 9	Count 14	Count 10	Count 15	Count 11	Count 16	Count 12	Count 17
Additional mitigating factor, if any (please identify):										
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Additional mitigating factor, if any (please identify):										

In Step Five, for each count satisfying Steps One and Two, each of you must weigh any mitigating factor or factors that you individually found to exist in this Step. Each of you may also weigh any mitigating factor or factors that another or others of your fellow jurors found to exist.



Step 5: Weighing The Factors	After weighing the "aggravating factors" found in Steps One and Two, any "aggravating factors" found in Three, and any "mitigating factors" found in Step Four, as explained in Final "Penalty Phase" Instruction No. 6, what sentence do you impose for each eligible count? (Please put a check mark in the column for any count for which you find a particular sentence must be imposed.)	VICTIMS AND COUNTS									
		Gregory Nicholson		Lori Duncan		Amber Duncan		Kandi Duncan		Terry DeGeus	
		Count 8	Count 13	Count 9	Count 14	Count 10	Count 15	Count 11	Count 16	Count 12	Count 17
	A sentence of death					X	X	X	X		
	A sentence of life imprisonment without possibility of release	X	X	X	X					X	X
<b>Certification</b>	By signing below, by juror number, then by name, 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 or crimes in question regardless of the race, color, religious beliefs, national origin, or sex of the defendant, or the victim or victims. (See Final "Penalty Phase" Instruction No. 8)										

10-27-04  
Date

**JUROR NUMBERS**



