

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA

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versus

NO. 1:06-CR-51

DAVID LEE JACKSON

(Hon. Marcia Crohe)

FILED

P.M. 7/20/06 2006

SPECIAL VERDICT FORM—SECTION I
DEFENDANT'S AGE

DAVID J. MALAND, CLERK
U.S. DISTRICT COURT

By *mp*
DEPUTY

Instruction: Answer "YES" or "NO."

Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that:

The defendant, David Lee Jackson, was eighteen years of age or older at the time of the offense?

YES ✓
NO _____

Presiding Juror

Instructions: If you answered "NO" with respect to the determination in this section, then stop your deliberations, cross out Special Verdict Forms—Sections II, III, IV, V and VI, and proceed to Special Verdict Form—Section VII. Each juror should then carefully read the statement in Special Verdict Form—Section VII and sign in the appropriate place if the statement accurately reflects the manner in which he or she reached his or her decision. You should then advise the court that you have reached a decision.

If you answered "YES" with respect to the determination in Special Verdict Form—Section I, then proceed to Special Verdict Form—Section II, which follows.

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SPECIAL VERDICT FORM—SECTION II
REQUISITE MENTAL STATE

Instructions: For each of the following, answer “YES” or “NO.” You may consider and find more than one requisite mental state factor.

1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant, David Lee Jackson, intentionally killed the victim, Daryl Brown?

YES ✓
NO _____

Presiding Juror

2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant, David Lee Jackson, intentionally inflicted serious bodily injury that resulted in the death of Daryl Brown?

YES ✓
NO _____

Presiding Juror

3. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant, David Lee Jackson, 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 a participant in the offense, and the victim, Daryl Brown, died as a direct result of the act?

YES
NO

Presiding Juror

4. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant, David Lee Jackson, intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than a participant in the offense, such that participation in the act constituted a reckless disregard for human life and the victim, Daryl Brown, died as a direct result of the act?

YES
NO

Presiding Juror

Instructions: If you answered “NO” with respect to all of the determinations in this section, then stop your deliberations, cross out Special Verdict Forms—Sections III, IV, V and VI, and proceed to Special Verdict Form—Section VII. Each juror should carefully read the statement in Special Verdict Form—Section VII and sign in the appropriate place if the statement accurately reflects the manner in which he or she reached his or her decision. You should then advise the court that you have reached a decision.

If you answered “YES” with respect to one or more of these determinations in Special Verdict Form—Section II, then proceed to Special Verdict Form—Section III, which follows.

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SPECIAL VERDICT FORM—SECTION III
STATUTORY AGGRAVATING FACTOR

Instruction: Answer “YES” or “NO.”

Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant, David Lee Jackson, has previously been convicted of a federal offense punishable by a term of imprisonment of more than one year involving the use or attempted or threatened use of a firearm, as defined in 18 U.S.C. § 921, against another person?

YES ✓
NO

Presiding Juror

Instructions: If you answered “NO” with respect to the Statutory Aggravating Factor in this Special Verdict Form—Section III, then stop your deliberations, cross out Special Verdict Forms—Sections IV, V, and VI, and proceed to Special Verdict Form—Section VII. Each juror should then carefully read the statement in Special Verdict Form—Section VII and sign in the appropriate place if the statement accurately reflects the manner in which he or she reached his or her decision. You should then advise the court that you have reached a decision.

If you answered “YES” with respect to the Statutory Aggravating Factor in Special Verdict Form—Section III, then proceed to Special Verdict Form—Section IV, which follows.

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SPECIAL VERDICT FORM—SECTION IV
NON-STATUTORY AGGRAVATING FACTORS

Instructions: For each of the following, answer “YES” or “NO.” You may consider and find more than one non-statutory aggravating factor.

1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant, David Lee Jackson, poses a future danger to others based upon the probability that he would commit criminal acts of violence that would constitute a continuing threat to society and that this factor tends to support imposition of the death penalty?

YES 12 ✓
NO _____

Presiding Juror

2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant, David Lee Jackson, has a significant history of disciplinary violations while he has been incarcerated and that this factor tends to support imposition of the death penalty?

YES ✓
NO _____

Presiding Juror

Instructions: Regardless of whether you answered “YES” or “NO” with respect to the Non-Statutory Aggravating Factors in Special Verdict Form—Section IV, proceed to Special Verdict Form—Section V, which follows.

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SPECIAL VERDICT FORM—SECTION V
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. Individual jurors may find and consider more than one mitigating factor.

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 agree that the factor has been established. Further, any juror may also weigh a mitigating factor found by another juror, even if he or she did not also find that factor to be mitigating. Do any of you find any of the following factors by a preponderance of the evidence?

1. An equally culpable defendant, Arzell Gulley, did not receive a sentence of death as a result of the offense.

Number of jurors who so find 1 .

2. The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

Number of jurors who so find 0.

3. He was late in meeting developmental milestones and this factor is mitigating.

Number of jurors who so find 0.

4. He suffered a head injury from a crib fall when he was 8 months old and this factor is mitigating.

Number of jurors who so find 0.

5. He experienced persistent falling when trying to walk until he was 5 years old and this factor is mitigating.

Number of jurors who so find 0.

6. He used single word speech until after he was 3 years old and this factor is mitigating.

Number of jurors who so find 0.

7. He sucked his thumb until his teen years and this factor is mitigating.

Number of jurors who so find 0.

8. He was diagnosed in the mentally retarded range throughout school, with a full scale IQ score of 67 in the 4th grade, and this factor is mitigating.

Number of jurors who so find 0.

9. He was diagnosed with a full scale IQ score of 73 at age 24 while in Folsom Prison and this factor is mitigating.

Number of jurors who so find 0.

10. He was placed in special education classes and this factor is mitigating.

Number of jurors who so find 0.

11. His father beat him and his siblings at the slightest infraction and this factor is mitigating.

Number of jurors who so find 0.

12. His father called him "retard" and often referred to him as "your retarded ass" and this factor is mitigating.

Number of jurors who so find 0.

13. His father beat him and his siblings with bed slats, his fists, and other items and this factor is mitigating.

Number of jurors who so find ~~0~~ 4.

14. His father put him, his mother, and his siblings out in the cold without coats and this factor is mitigating.

Number of jurors who so find 0.

15. He had no positive role model in his life as a child and this factor is mitigating.

Number of jurors who so find 12.

16. He grew up in a house with little furniture or food because his father kept it for himself and his girlfriends and this factor is mitigating.

Number of jurors who so find 0.

17. His father's role was to introduce him into a life of crime and despair as a hustler and a criminal and this factor is mitigating.

Number of jurors who so find 0.

18. He did not inflict any bodily injury in the commission of any offense for which he was sent to prison and this factor is mitigating.

Number of jurors who so find 6.

19. He was under extreme stress as a result of his childhood, which extended into his prison life and this factor is mitigating.

Number of jurors who so find 0.

20. Regarding the allegation that the defendant possessed a homemade weapon in prison on April 5, 1995, he inflicted no physical injury or bodily harm in connection with the incident and this factor is mitigating.

Number of jurors who so find 0.

21. Regarding the allegation that the defendant was involved in fighting with inmate Acevedo in prison on February 29, 1996, he inflicted no physical injury or bodily harm in connection with the incident and this factor is mitigating.

Number of jurors who so find 0.

22. Regarding the allegation that the defendant assaulted another inmate with a belly chain on March 7, 1996, he inflicted no physical injury or bodily harm in connection with the incident and this factor is mitigating.

Number of jurors who so find 0.

23. Regarding the allegation that the defendant threw his food tray at Correctional Officer Lehman and threatened him on January 3, 1997, he inflicted no physical injury or bodily harm in connection with the incident and this factor is mitigating.

Number of jurors who so find 0.

24. Regarding the allegation that the defendant yelled and screamed and threw food on February 13, 1997, he inflicted no physical injury or bodily harm in connection with the incident and this factor is mitigating.

Number of jurors who so find 0.

25. Regarding the allegation that the defendant was involved in a fist fight with inmate Lee on February 22, 1997, he inflicted no physical injury or bodily harm in connection with the incident and this factor is mitigating.

Number of jurors who so find 0.

26. Regarding the allegation that the defendant threatened Correctional Officer Anthony on January 14, 2000, he inflicted no physical injury or bodily harm in connection with the incident and this factor is mitigating.

Number of jurors who so find 0.

27. Regarding the allegation that the defendant cursed and spit on Dr. Palmieri during a physical examination in prison on January 19, 2000, he inflicted no physical injury or bodily harm in connection with the incident and this factor is mitigating.

Number of jurors who so find 0.

28. Regarding the allegation that the defendant threw food trays out the bean slot and a tray struck Correctional Officer J. Chwaliszewski on April 23, 2000, he inflicted no physical injury or bodily harm in connection with the incident and this factor is mitigating.

Number of jurors who so find 0.

29. Regarding the allegation that the defendant possessed a homemade weapon in prison on August 8, 2000, he inflicted no physical injury or bodily harm in connection with the incident and this factor is mitigating.

Number of jurors who so find 0.

30. Regarding the allegation that the defendant pulled his handcuffs away from Correctional Officer T. Evans and threatened him on September 21, 1997, he inflicted no serious physical injury in connection with the incident and this factor is mitigating.

Number of jurors who so find 0.

31. In commission of the offense of conviction on December 16, 1999, the defendant believed he was defending himself by stabbing Daryl Brown, and he continues to hold this belief and this factor is mitigating.

Number of jurors who so find 0.

32. At the time of the offense of conviction, the defendant was under stress as a result of his background and adaptation to prison and this factor is mitigating.

Number of jurors who so find 0.

33. The defendant does not go around looking for someone to kill and this factor is mitigating.

Number of jurors who so find 10.

34. The fight between the defendant and Daryl Brown was a result of a sudden quarrel and this factor is mitigating.

Number of jurors who so find 0.

35. Daryl Brown was the first aggressor in the incident resulting in his death and this factor is mitigating.

Number of jurors who so find 9.

36. Daryl Brown had a lengthy disciplinary record in prison and this factor is mitigating.

Number of jurors who so find 0.

37. Daryl Brown had a violent disciplinary record in prison and this factor is mitigating.

Number of jurors who so find 0.

38. The defendant maintained successful employment in federal prisons other than ADX and this factor is mitigating.

Number of jurors who so find 0.

39. He was transferred to a more secure facility, ADX, in Florence, Colorado, in 2000 and this factor is mitigating.

Number of jurors who so find 0.

40. He was an orderly while at ADX and this factor is mitigating.

Number of jurors who so find 0.

41. He received no disciplinary reports in any prison after leaving the Beaumont facility in 2000 and this factor is mitigating.

Number of jurors who so find 0.

42. He had no problems while housed at ADX in Florence, Colorado, from 2000 through the time of his preparation for release from prison and this factor is mitigating.

Number of jurors who so find 0.

43. He has received low risk assessments in the majority of his prison reports and this factor is mitigating.

Number of jurors who so find 0.

44. In his risk assessments at ADX, prison officials rated him as "low risk" and this factor is mitigating.

Number of jurors who so find 0.

45. He was released from prison into the community in March 2004 and this factor is mitigating.

Number of jurors who so find 0.

46. Regarding the allegation that the defendant committed the offense of robbery of a Holiday Inn Express in Ohio on April 30, 2004, he inflicted no physical injury or bodily harm in connection with the incident and this factor is mitigating.

Number of jurors who so find 0.

47. Regarding the allegation that the defendant committed the offense of bank robbery of Union Planters Bank in Collinsville, Mississippi, on May 6, 2004, he inflicted no physical injury or bodily harm in connection with the incident and this factor is mitigating.

Number of jurors who so find 0.

48. He wrote a letter of apology for the robbery of the bank in Mississippi and this factor is mitigating.

Number of jurors who so find 0.

49. He suffers from Post Traumatic Stress Disorder as a result of his background and this factor is mitigating.

Number of jurors who so find 0.

50. He suffers from Antisocial Personality Disorder as a result of his background and this factor is mitigating.

Number of jurors who so find 0.

51. He suffers from Narcissistic Personality Disorder as a result of his background and this factor is mitigating.

Number of jurors who so find 0.

52. He suffers from Mixed Personality Disorder as a result of his background and this factor is mitigating.

Number of jurors who so find 0.

53. He is trying to write a book to counsel inmates on how to get along in prison and this factor is mitigating.

Number of jurors who so find 0.

54. He taught himself to read and write while in prison and this factor is mitigating.

Number of jurors who so find 0.

55. He earned his GED while in prison and this factor is mitigating.

Number of jurors who so find 0.

56. He availed himself of educational opportunities while in prison and this factor is mitigating.

Number of jurors who so find 0.

57. There are prisoners with worse criminal records and disciplinary records than his who are in the federal prison system and are not sentenced to death and this factor is mitigating.

Number of jurors who so find 8.

58. The Bureau of Prisons can designate a location in prison where the defendant can serve a life sentence where he will not have access to other inmates or guards and this factor is mitigating.

Number of jurors who so find 3.

59. The Bureau of Prisons has the capability and facilities to house the defendant safely if he is sentenced to life without the possibility of release and this factor is mitigating.

Number of jurors who so find 2.

60. Arzell Gulley was prosecuted and convicted for the identical offense of first degree capital murder for unlawfully killing Daryl Brown, the victim herein, with premeditation and malice aforethought, on December 16, 1999. The United States of America did not seek the death penalty against Arzell Gulley, and he was sentenced to life imprisonment for the offense and this factor is mitigating.

Number of jurors who so find 3.

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

Number of jurors who so find _____.

Number of jurors who so find _____.

Number of jurors who so find _____.

Presiding Juror

Instructions: Regardless of whether you chose to make written findings for the Mitigating Factors in Special Verdict Form—Section V above, proceed to Special Verdict Form—Section VI, which follows.

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SPECIAL VERDICT FORM—SECTION VI
DETERMINATION

Based upon our consideration of whether the aggravating factor or factors found to exist, which do not include the defendant’s intent, sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of any mitigating factors, whether the aggravating factor or factors alone are sufficient to justify a sentence of death, and whether death is therefore the appropriate sentence in this case:

We determine, by unanimous vote, that a sentence of death shall be imposed as to Count I of the First Superseding Indictment.

YES
NO

Presiding Juror

We determine, by unanimous vote, that a sentence of life without the possibility of release shall be imposed as to Count I of the First Superseding Indictment.

YES _____
NO _____

Presiding Juror

Instructions: After you complete Special Verdict Form—Section VI, proceed to Special Verdict Form—Section VII, which follows.

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SPECIAL VERDICT FORM—SECTION VII
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 that the individual juror would have made the same recommendation regarding a sentence for the crime in question regardless of the race, color, religious beliefs, national origin, or sex of the defendant or the victim.

PRESIDING JUROR

Date: 11-13-06