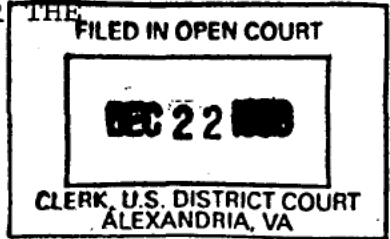


IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA )

v. )

RAHEEM JOHNSON, )

Defendant. )

Criminal No. 97-314-A

SPECIAL VERDICT FORM

Section I. THRESHOLD FACTORS

Instructions: For the following threshold factors, you need find only one factor each as it relates to the intentional killings alleged in Counts Five through Eleven. You must unanimously find that the Government has established the existence of that one threshold factor beyond a reasonable doubt:

Count Five -- Procuring Murder of Richard Villa

1. RAHEEM JOHNSON intentionally participated in an act, contemplating that the life of a person would be taken and intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Richard Villa died as a direct result of the act.

YES   ✓  

NO   [scribble]

2. RAHEEM JOHNSON intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Richard Villa died as a direct result of the act.

YES \_\_\_\_\_  
NO   ✓  

Count Six -- Racketeering Murder of Antonio Stevens

1. RAHEEM JOHNSON intentionally killed Antonio Stevens.

YES   ✓    
NO \_\_\_\_\_

2. RAHEEM JOHNSON intentionally inflicted serious bodily injury that resulted in the death of Antonio Stevens.

YES   ✓    
NO \_\_\_\_\_

3. RAHEEM JOHNSON intentionally participated in an act, contemplating that the life of a person would be taken and intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Antonio Stevens died as a direct result of the act.

YES   ✓    
NO \_\_\_\_\_

4. RAHEEM JOHNSON intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Antonio Stevens died as a direct result of the act.

YES   ✓  

NO           

Count Seven -- Killing Antonio Stevens During Drug Conspiracy

1. RAHEEM JOHNSON intentionally killed Antonio Stevens.

YES   ✓  

NO           

2. RAHEEM JOHNSON intentionally inflicted serious bodily injury that resulted in the death of Antonio Stevens.

YES   ✓  

NO           

3. RAHEEM JOHNSON intentionally participated in an act, contemplating that the life of a person would be taken and intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Antonio Stevens died as a direct result of the act.

YES   ✓  

NO

4. RAHEEM JOHNSON intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Antonio Stevens died as a direct result of the act.

YES   ✓  

NO           

Count Eight -- Racketeering Murder of Shawn Thomas

1. RAHEEM JOHNSON intentionally killed Shawn Thomas.

YES   ✓  

NO           

2. RAHEEM JOHNSON intentionally inflicted serious bodily injury that resulted in the death of Shawn Thomas.

YES   ✓  

NO           

3. RAHEEM JOHNSON intentionally participated in an act, contemplating that the life of a person would be taken and intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Shawn Thomas died as a direct result of the act.

YES   ✓  

NO

4. RAHEEM JOHNSON intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Shawn Thomas died as a direct result of the act.

YES

NO

Count Nine -- Killing Shawn Thomas During Drug Conspiracy

1. RAHEEM JOHNSON intentionally killed Shawn Thomas.

YES

NO

2. RAHEEM JOHNSON intentionally inflicted serious bodily injury that resulted in the death of Shawn Thomas.

YES

NO

3. RAHEEM JOHNSON intentionally participated in an act, contemplating that the life of a person would be taken and intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Shawn Thomas died as a direct result of the act.

YES

NO

4. RAHEEM JOHNSON intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Shawn Thomas died as a direct result of the act.

YES   ✓  

NO

Count Ten -- Racketeering Murder of Tracy Morgan

1. RAHEEM JOHNSON intentionally killed Tracy Morgan.

YES \_\_\_\_\_  
NO   ✓  

2. RAHEEM JOHNSON intentionally inflicted serious bodily injury that resulted in the death of Tracy Morgan.

YES \_\_\_\_\_  
NO   ✓  

3. RAHEEM JOHNSON intentionally participated in an act, contemplating that the life of a person would be taken and intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Tracy Morgan died as a direct result of the act.

YES   ✓    
NO \_\_\_\_\_

4. RAHEEM JOHNSON intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Tracy Morgan died as a direct result of the act.

YES   ✓    
NO \_\_\_\_\_

Count Eleven -- Killing Tracy Morgan During Drug Conspiracy

1. RAHEEM JOHNSON intentionally killed Tracy Morgan.

YES \_\_\_\_\_  
NO   ✓

2. RAHEEM JOHNSON intentionally inflicted serious bodily injury that resulted in the death of Tracy Morgan.

YES \_\_\_\_\_

NO       ✓      

3. RAHEEM JOHNSON intentionally participated in an act, contemplating that the life of a person would be taken and intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Tracy Morgan died as a direct result of the act.

YES       ✓      

NO \_\_\_\_\_

4. RAHEEM JOHNSON intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and Tracy Morgan died as a direct result of the act.

YES       ✓      

NO \_\_\_\_\_

Instructions: If you answered "NO" with respect to all four of the Threshold Factors in Section I above as to Counts Five, Six, Seven, Eight, Nine, Ten, or Eleven then that ends your consideration of the death penalty as to that Count. You must stop your deliberations as to that particular Count and indicate in the Section V RECOMMENDATION portion of this form with respect to that Count that the Jury has been unable to unanimously find beyond a reasonable doubt that any of the threshold factors exist. If you answered "NO" with respect to all four Threshold Factors as to Counts Five, Six, Seven, Eight, Nine, Ten, and Eleven that ends your consideration of the death penalty as to this defendant. You should indicate in the Section V RECOMMENDATION portion of this form with respect to all counts that the Jury has been unable to unanimously find beyond a reasonable doubt that any of the



threshold factors exist. Then proceed to Section VI of this form.

If you answered "YES" with respect to one or more of the Threshold Factors in Section I above as to Counts Five, Six, Seven, Eight, Nine, Ten, or Eleven or all seven, then continue your deliberations in accordance with the Court's instructions as to the Count or Counts for which you found a Threshold Factor and proceed to Section II which follows.

Section II. 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 Statutory Aggravating Factor beyond a reasonable doubt as to each of Counts Five through Eleven.

Count Five -- Procuring Murder of Richard Villa

1. RAHEEM JOHNSON procured the commission of the offense by payment and promise of payment of something of pecuniary value.

YES \_\_\_\_\_  
NO   ✓  

2. RAHEEM JOHNSON committed the offense after substantial planning and premeditation to cause the death of Richard Villa.

YES \_\_\_\_\_  
NO   ✓  

Count Six -- Racketeering Murder of Antonio Stevens

1. RAHEEM JOHNSON committed the offense after substantial planning and premeditation to cause the death of Antonio Stevens.

YES   ✓    
NO \_\_\_\_\_

Count Seven -- Killing Antonio Stevens During Drug Conspiracy

1. RAHEEM JOHNSON committed the offense after substantial planning and premeditation to cause the death of Antonio Stevens.

YES   ✓    
NO \_\_\_\_\_

Count Eight -- Racketeering Murder of Shawn Thomas

1. RAHEEM JOHNSON committed the offense after substantial planning and premeditation to cause the death of Shawn Thomas.

YES

NO

2. RAHEEM JOHNSON intentionally killed more than one person in a single criminal episode alleged in Counts Eight, Nine, Ten, and Eleven.

YES

NO

Count Nine -- Killing Shawn Thomas During Drug Conspiracy

1. RAHEEM JOHNSON committed the offense after substantial planning and premeditation to cause the death of Shawn Thomas.

YES

NO

2. RAHEEM JOHNSON intentionally killed more than one person in a single criminal episode alleged in Counts Eight, Nine, Ten, and Eleven.

YES

NO

Count Ten -- Racketeering Murder of Tracy Morgan

1. RAHEEM JOHNSON intentionally killed more than one person in a single criminal episode alleged in Counts Eight, Nine, Ten, and Eleven.

YES

NO

Count Eleven -- Killing Tracy Morgan During Drug Conspiracy

1. RAHEEM JOHNSON intentionally killed more than one person in a single criminal episode alleged in Counts Eight, Nine, Ten, and Eleven.

YES \_\_\_\_\_  
NO       √      

Instructions: If you answered "NO" with respect to all of the Statutory Aggravating Factors in Section II above as to Counts Five, Six, Seven, Eight, Nine, Ten or Eleven then that ends your consideration of the death penalty as to that Count. You must stop your deliberations as to that particular Count and indicate in the Section V RECOMMENDATION portion of this form with respect to that Count that the Jury has been unable to unanimously find beyond a reasonable doubt that any of the statutory factors exist. If you answered "NO" with respect to all of the Statutory Aggravating Factors as to Counts Five, Six, Seven, Eight, Nine, Ten, and Eleven that ends your consideration of the death penalty as to this defendant. You should indicate in the Section V RECOMMENDATION portion of this form with respect to all of the Counts that the Jury has been unable to unanimously find beyond a reasonable doubt that any of the statutory factors exist. Then proceed to Section VI of this form.

If you answered "YES" with respect to any one or more of the Statutory Aggravating Factors alleged as to Counts Five, Six, Seven, Eight, Nine, Ten, or Eleven against the defendant RAHEEM JOHNSON in Section II above, then you may continue your deliberations only if you also found a Threshold Factor in Section I as to that particular Count.

If you found one Threshold Factor in Section I and at least one statutory aggravating factor in Section II that relate to the defendant RAHEEM JOHNSON in Counts Five, Six, Seven, Eight, Nine, Ten, or Eleven then you must continue your deliberations in accordance with the Court's instructions and proceed to Section III which follows. You must have unanimously found one Threshold Factor from Section I and at least one Aggravating Factor from Section II as to the same Count. Otherwise you should indicate in the Section V RECOMMENDATION portion of this form with respect to each Count that the Jury has been unable to unanimously find beyond a reasonable doubt that respective Threshold or Statutory Aggravating Factors exist.

Section 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 non-statutory aggravating factor beyond a reasonable doubt.

As to Count Five, the Government has alleged the following non-statutory aggravating factors as it relates to the killing of Richard Villa:

1. That the victim, Richard Villa, was killed in an effort by RAHEEM JOHNSON to obstruct justice by silencing a potential witness against him.

YES  \_\_\_\_\_  
NO  \_\_\_\_\_

2. That RAHEEM JOHNSON, in committing the offense and in furtherance of a continuing criminal enterprise of which the offense was a part, used a firearm and knowingly directed, advised, authorized, and assisted others to use firearms.

YES \_\_\_\_\_  
NO \_\_\_\_\_

3. That RAHEEM JOHNSON participated in the additional second degree murder of Bernard Franklin, as charged in Counts Three and Four of the Indictment.

YES \_\_\_\_\_  
NO \_\_\_\_\_

4. That RAHEEM JOHNSON participated in the additional murder of Antonio Stevens, as charged in Counts Six and Seven of this Indictment.

YES \_\_\_\_\_  
NO \_\_\_\_\_

5. That RAHEEM JOHNSON participated in the additional murder of Shawn Thomas, as charged in Counts Eight and Nine of this Indictment.

YES \_\_\_\_\_

NO \_\_\_\_\_

6. That RAHEEM JOHNSON participated in the additional murder of Tracy Morgan, as charged in Counts Ten and Eleven of this Indictment.

YES \_\_\_\_\_

NO \_\_\_\_\_

7. That RAHEEM JOHNSON has previously been convicted in the State of Maryland of an offense punishable by a term of imprisonment of more than one year, involving the Possession with Intent to Distribute Cocaine.

YES \_\_\_\_\_

NO \_\_\_\_\_

8. That RAHEEM JOHNSON is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. In addition to the capital offenses charged in the Indictment and the statutory and non-statutory aggravating factors listed above, the defendant, RAHEEM JOHNSON, poses a future danger to others in that: (a) he has engaged in a continuing pattern of violent conduct; (b) he has engaged in a continuing pattern of lawless conduct; (c) he has threatened others with violence; (d) he has willingly hired others to commit acts of violence for him; (e) he has demonstrated low rehabilitation potential; (f) he has demonstrated a lack of remorse for the acts of violence he has committed against others.

YES \_\_\_\_\_

NO \_\_\_\_\_

As to Counts Six and Seven, the Government has alleged the following non-statutory aggravating factors as it relates to the killing of Antonio Stevens:

1. That RAHEEM JOHNSON, in committing the murder of Antonio Stevens and in furtherance of a criminal enterprise of which the offense was a part, used a firearm and knowingly directed, advised, authorized, and assisted others to use firearms.

YES  \_\_\_\_\_  
NO  \_\_\_\_\_

2. That the victim, Antonio Stevens, was killed in an effort by the defendant to obstruct justice by silencing a potential witness against him.

YES \_\_\_\_\_  
NO   ✓  

3. That RAHEEM JOHNSON participated in the additional second degree murder of Bernard Franklin, as charged in Counts Three and Four of this Indictment.

YES   ✓    
NO \_\_\_\_\_

4. That RAHEEM JOHNSON, participated in the additional murder of Richard Villa, as charged in Count Five of this Indictment.

YES   ✓    
NO \_\_\_\_\_

5. That RAHEEM JOHNSON participated in the additional murder of Shawn Thomas, as charged in Counts Eight and Nine of this Indictment.

YES   ✓    
NO \_\_\_\_\_

6. That RAHEEM JOHNSON participated in the additional murder of Tracy Morgan, as charged in Counts Ten and Eleven of this Indictment.

YES   ✓    
NO   ✗   [REDACTED]

7. That RAHEEM JOHNSON has previously been convicted in the State of Maryland of an offense punishable by a term of imprisonment of more than one year, involving the Possession with Intent to Distribute Cocaine.

YES   ✓    
NO \_\_\_\_\_



8. That RAHEEM JOHNSON is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. In addition to the capital offenses charged in the Indictment and the statutory and non-statutory aggravating factors listed above, the defendant, RAHEEM JOHNSON, poses a future danger to others in that: (a) he has engaged in a continuing pattern of violent conduct; (b) he has engaged in a continuing pattern of lawless conduct; (c) he has threatened others with violence; (d) he has willingly hired others to commit acts of violence for him; (e) he has demonstrated low rehabilitation potential; (f) he has demonstrated a lack of remorse for the acts of violence he has committed against others.

YES \_\_\_\_\_  
NO       ✓      

As to Counts Eight and Nine, the Government has alleged the following non-statutory aggravating factors as it relates to the killing of Shawn Thomas:

1. That RAHEEM JOHNSON, in committing the offense and in furtherance of a continuing criminal enterprise of which the offense was a part, used a firearm and knowingly directed, advised, authorized, and assisted others to use firearms.

YES       ✓        
NO \_\_\_\_\_

2. That the victim, Shawn Thomas, was killed in an effort by RAHEEM JOHNSON to obstruct justice by silencing a potential witness against him.

YES       ✓        
NO \_\_\_\_\_

3. That RAHEEM JOHNSON participated in the additional second degree murder of Bernard Franklin, as charged in Counts Three and Four of the Indictment.

YES

NO

4. That RAHEEM JOHNSON participated in the additional murder of Richard Villa, as charged in Count Five of this Indictment.

YES

NO

5. That RAHEEM JOHNSON participated in the additional murder of Antonio Stevens, as charged in Counts Six and Seven of this Indictment.

YES

NO

6. That RAHEEM JOHNSON has previously been convicted in the State of Maryland of an offense punishable by a term of imprisonment of more than one year, involving the Possession with Intent to Distribute Cocaine.

YES

NO

7. That RAHEEM JOHNSON is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. In addition to the capital offenses charged in the Indictment and the statutory and non-statutory aggravating factors listed above, the defendant, RAHEEM JOHNSON, poses a future danger to others in that: (a) he has engaged in a continuing pattern of violent conduct; (b) he has engaged in a continuing pattern of lawless conduct; (c) he has threatened others with violence; (d) he has willingly hired others to commit acts of violence for him; (e) he has demonstrated low rehabilitation potential; (f) he has demonstrated a lack of remorse for the acts of violence he has committed against others.

YES \_\_\_\_\_

NO   ✓  

As to Counts Ten and Eleven, the Government has alleged the following non-statutory aggravating factors as it relates to the killing of Tracy Morgan:

1. That RAHEEM JOHNSON, in committing the offense and in furtherance of a continuing criminal enterprise of which the offense was a part, used a firearm and knowingly directed, advised, authorized, and assisted others to use firearms.

YES   ✓  

NO \_\_\_\_\_

2. That the victim, Tracy Morgan, was killed in an effort by RAHEEM JOHNSON to obstruct justice by silencing a potential witness against him.

YES   ✓  

NO \_\_\_\_\_

3. That RAHEEM JOHNSON participated in the additional second degree murder of Bernard Franklin, as charged in Counts Three and Four of the Indictment.

YES

NO

4. That RAHEEM JOHNSON participated in the additional murder of Richard Villa, as charged in Count Five of this Indictment.

YES

NO

5. That RAHEEM JOHNSON participated in the additional murder of Antonio Stevens, as charged in Counts Six and Seven of this Indictment.

YES

NO

6. That the murder of Tracy Morgan has had a profound and damaging impact on Tracy Morgan's family.

YES

NO

7. That RAHEEM JOHNSON has previously been convicted in the State of Maryland of an offense punishable by a term of imprisonment of more than one year, involving the Possession with Intent to Distribute Cocaine.

YES

NO

8. That RAHEEM JOHNSON is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. In addition to the capital offenses charged in the Indictment and the statutory and non-statutory aggravating factors listed above, the defendant, RAHEEM JOHNSON, poses a future danger to others in

that: (a) he has engaged in a continuing pattern of violent conduct; (b) he has engaged in a continuing pattern of lawless conduct; (c) he has threatened others with violence; (d) he has willingly hired others to commit acts of violence for him; (e) he has demonstrated low rehabilitation potential; (f) he has demonstrated a lack of remorse for the acts of violence he has committed against others.

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. You must however, have unanimously found proven beyond a reasonable doubt the existence of one Threshold Factor in Section I above and at least one Statutory Aggravating Factor in Section II above as to one or all of the Counts.

Section 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 proven 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 that a mitigating factor has been proven by a preponderance of the evidence 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 Jurors who concur that the factor has been established.

Count Five -- Mitigating Factors as to Procuring Murder of Richard Villa

1. The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

Number of Jurors who so find 12.

2. Another defendant or defendants, equally culpable in the crime, will not be punished by death.

Number of Jurors who so find 12.

3. The victim consented to the criminal conduct that resulted in the victim's death.

Number of Jurors who so find 12.

4. The defendant is a father of three children and is an active participant in their lives.

Number of Jurors who so find 12.

5. The defendant was gainfully employed and was seeking to extricate himself from involvement in drugs.

Number of Jurors who so find 7.

6. The defendant poses no risk of future dangerousness because, if he is not sentenced to death, he will be sentenced to life imprisonment without possibility of release.

Number of Jurors who so find 12.

7. The defendant had incredibly negative family circumstances during critical stages of his development which rendered him vulnerable to influences which led him to criminal activity.

Number of Jurors who so find 12.

8. The defendant's mother was involved in the drug culture and exposed the defendant to the drug culture during his formative years.

Number of Jurors who so find 12.

9. The defendant's life has considerable value to members of his family and extended family.

Number of Jurors who so find 12.

10. Other factors in the defendant's childhood, background, or character mitigate against imposition of a sentence of death.

Number of Jurors who so find 12.

Count Six -- Mitigating Factors as to the Racketeering Murder of Antonio Stevens

1. The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

Number of Jurors who so find 0.

2. Another defendant or defendants, equally culpable in the crime, will not be punished by death.

Number of Jurors who so find 0.

3. The victim consented to the criminal conduct that resulted in the victim's death.

Number of Jurors who so find 17.

4. The defendant is a father of three children and is an active participant in their lives.

Number of Jurors who so find 12.

5. The defendant was gainfully employed and was seeking to extricate himself from involvement in drugs.

Number of Jurors who so find 7.

6. The defendant poses no risk of future dangerousness because, if he is not sentenced to death, he will be sentenced to life imprisonment without possibility of release.

Number of Jurors who so find 12.

7. The defendant had incredibly negative family circumstances during critical stages of his development which rendered him vulnerable to influences which led him to criminal activity.

Number of Jurors who so find 12.

8. The defendant's mother was involved in the drug culture and exposed the defendant to the drug culture during his formative years.

Number of Jurors who so find 12.

9. The defendant's life has considerable value to members of his family and extended family.

Number of Jurors who so find 12.



10. Other factors in the defendant's childhood, background, or character mitigate against imposition of a sentence of death.

Number of Jurors who so find 12.

Count Seven -- Mitigating Factors as to Killing Antonio Stevens During Drug Conspiracy

1. The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

Number of Jurors who so find 0.

2. Another defendant or defendants, equally culpable in the crime, will not be punished by death.

Number of Jurors who so find 0.

3. The victim consented to the criminal conduct that resulted in the victim's death.

Number of Jurors who so find 12.

4. The defendant is a father of three children and is an active participant in their lives.

Number of Jurors who so find 12.

5. The defendant was gainfully employed and was seeking to extricate himself from involvement in drugs.

Number of Jurors who so find 7.

6. The defendant poses no risk of future dangerousness because, if he is not sentenced to death, he will be sentenced to life imprisonment without possibility of release.

Number of Jurors who so find 12.

7. The defendant had incredibly negative family circumstances during critical stages of his development which rendered him vulnerable to influences which led him to criminal activity.

Number of Jurors who so find 12.

8. The defendant's mother was involved in the drug culture and exposed the defendant to the drug culture during his formative years.

Number of Jurors who so find 12.

9. The defendant's life has considerable value to members of his family and extended family.

Number of Jurors who so find 12.

10. Other factors in the defendant's childhood, background, or character mitigate against imposition of a sentence of death.

Number of Jurors who so find 12.

Count Eight-- Mitigating Factors as to Racketeering Murder of Shawn Thomas

1. The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

Number of Jurors who so find 6.

2. Another defendant or defendants, equally culpable in the crime, will not be punished by death.

Number of Jurors who so find 12.

3. The victim consented to the criminal conduct that resulted in the victim's death.

Number of Jurors who so find 12.

4. The defendant is a father of three children and is an active participant in their lives.

Number of Jurors who so find 12.

5. The defendant was gainfully employed and was seeking to extricate himself from involvement in drugs.

Number of Jurors who so find 7.

6. The defendant poses no risk of future dangerousness because, if he is not sentenced to death, he will be sentenced to life imprisonment without possibility of release.

Number of Jurors who so find 12.

7. The defendant had incredibly negative family circumstances during critical stages of his development which rendered him vulnerable to influences which led him to criminal activity.

Number of Jurors who so find 12.

8. The defendant's mother was involved in the drug culture and exposed the defendant to the drug culture during his formative years.

Number of Jurors who so find 6.

9. The defendant's life has considerable value to members of his family and extended family.

Number of Jurors who so find 12.

10. Other factors in the defendant's childhood, background, or character mitigate against imposition of a sentence of death.

Number of Jurors who so find 12.

Count Nine -- Mitigating Factors as to Killing Shawn Thomas  
During Drug Conspiracy

1. The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

Number of Jurors who so find 0.

2. Another defendant or defendants, equally culpable in the crime, will not be punished by death.

Number of Jurors who so find 12.

3. The victim consented to the criminal conduct that resulted in the victim's death.

Number of Jurors who so find 12.

4. The defendant is a father of three children and is an active participant in their lives.

Number of Jurors who so find 12.

5. The defendant was gainfully employed and was seeking to extricate himself from involvement in drugs.

Number of Jurors who so find ?.

6. The defendant poses no risk of future dangerousness because, if he is not sentenced to death, he will be sentenced to life imprisonment without possibility of release.

Number of Jurors who so find 12.

7. The defendant had incredibly negative family circumstances during critical stages of his development which rendered him vulnerable to influences which led him to criminal activity.

Number of Jurors who so find 12.

8. The defendant's mother was involved in the drug culture and exposed the defendant to the drug culture during his formative years.

Number of Jurors who so find 12.

9. The defendant's life has considerable value to members of his family and extended family.

Number of Jurors who so find 12.

10. Other factors in the defendant's childhood, background, or character mitigate against imposition of a sentence of death.

Number of Jurors who so find 12.

Count Ten - Mitigating Factors as to Racketeering Murder  
Tracy Morgan

1. The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

Number of Jurors who so find 2.

2. Another defendant or defendants, equally culpable in the crime, will not be punished by death.

Number of Jurors who so find 12.

3. The victim consented to the criminal conduct that resulted in the victim's death.

Number of Jurors who so find 0.

4. The defendant is a father of three children and is an active participant in their lives.

Number of Jurors who so find 12.

5. The defendant was gainfully employed and was seeking to extricate himself from involvement in drugs.

Number of Jurors who so find 7.

6. The defendant poses no risk of future dangerousness because, if he is not sentenced to death, he will be sentenced to life imprisonment without possibility of release.

Number of Jurors who so find 12.

7. The defendant had incredibly negative family circumstances during critical stages of his development which rendered him vulnerable to influences which led him to criminal activity.

Number of Jurors who so find 12.

8. The defendant's mother was involved in the drug culture and exposed the defendant to the drug culture during his formative years.

Number of Jurors who so find 12.

9. The defendant's life has considerable value to members of his family and extended family.

Number of Jurors who so find 12.

10. Other factors in the defendant's childhood, background, or character mitigate against imposition of a sentence of death.

Number of Jurors who so find 12.

Count Eleven -- Mitigating Factors as to Killing Tracy Morgan During Drug Conspiracy

1. The defendant is punishable as a principal in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

Number of Jurors who so find 9.

2. Another defendant or defendants, equally culpable in the crime, will not be punished by death.

Number of Jurors who so find 12.

3. The victim consented to the criminal conduct that resulted in the victim's death.

Number of Jurors who so find 0.

4. The defendant is a father of three children and is an active participant in their lives.

Number of Jurors who so find 12.

5. The defendant was gainfully employed and was seeking to extricate himself from involvement in drugs.

Number of Jurors who so find 7.

6. The defendant poses no risk of future dangerousness because, if he is not sentenced to death, he will be sentenced to life imprisonment without possibility of release.

Number of Jurors who so find 12.

7. The defendant had incredibly negative family circumstances during critical stages of his development which rendered him vulnerable to influences which led him to criminal activity.

Number of Jurors who so find 12.

8. The defendant's mother was involved in the drug culture and exposed the defendant to the drug culture during his formative years.

Number of Jurors who so find 12.

9. The defendant's life has considerable value to members of his family and extended family.

Number of Jurors who so find 12.

10. Other factors in the defendant's childhood, background, or character mitigate against imposition of a sentence of death.

Number of Jurors who so find 12.



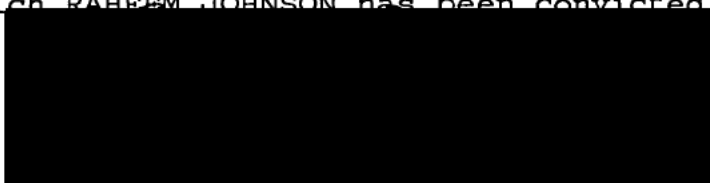
Section V. RECOMMENDATION

A. Count Five -- Procuring Murder of Richard Villa

1. NO THRESHOLD OR STATUTORY AGGRAVATING FACTORS FOUND TO EXIST AS TO COUNT FIVE.

Instructions: If you have been unable to unanimously find beyond a reasonable doubt that any Threshold Factors exist (Section I of this form) or Statutory Aggravating Factors exist (Section II of this form) as to Count Five, then so indicate below.

We, the Jury, do not unanimously find proven, beyond a reasonable doubt, the existence of any of the Threshold Factors and/or Statutory Aggravating Factors required by law as prerequisites for the imposition of capital punishment, and therefore do not consider the death penalty as to the killing of Richard Villa, for which RAHEEM JOHNSON has been convicted in Count Five.



Date: 12 22, 1998

Instructions: If you have been unable to unanimously find beyond a reasonable doubt that any threshold or statutory aggravating factor exists as to Count Five, then after the Foreperson so indicates above, you should proceed to Count Six in Section V.B. of this form.

If you have unanimously found beyond a reasonable doubt that at least one Threshold and Statutory Aggravating Factor exists as to Count Five, then you should proceed to recommend an appropriate punishment as set forth below.

2. 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 RAHEEM JOHNSON for the killing of Richard Villa as described in Count Five.

YES \_\_\_\_\_  
NO  \_\_\_\_\_

If you answer "YES", sign your names here, and then proceed to Count Six in Section V.D. If you answer "NO", the Foreperson alone should sign, and you should proceed to Section V.C.3.

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FOREPERSON

Date: \_\_\_\_\_, 19\_\_\_\_

3. SENTENCE OF LIFE IN PRISON WITHOUT POSSIBILITY OF RELEASE

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 life imprisonment without possibility of release shall be imposed upon the defendant RAHEEM JOHNSON for the killing of Richard Villa as described in Count Five.

YES \_\_\_\_\_

NO \_\_\_\_\_

If you answer "YES", sign your names here, and then proceed to Count Six in Section V.D. of this form. If you answer "NO", the Foreperson alone should sign, and you should proceed to Section V.C.4.

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FOREPERSON

Date: \_\_\_\_\_, 19\_\_

D. Count Six -- Racketeering Murder of Antonio Stevens

1. NO THRESHOLD OR STATUTORY AGGRAVATING FACTORS FOUND TO EXIST AS TO COUNT SIX.

Instructions: If you have been unable to unanimously find beyond a reasonable doubt that any Threshold Factors exist (Section I of this form) or Statutory Aggravating Factors exist (Section II of this form) as to Count Six, then so indicate below.

We, the Jury, do not unanimously find proven, beyond a reasonable doubt, the existence of any of the Threshold Factors and/or Statutory Aggravating Factors required by law as prerequisites for the imposition of capital punishment, and therefore do not consider the death penalty as to the killing of Antonio Stevens, for which RAHEEM JOHNSON has been convicted in Count Six.

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Foreperson

Date: \_\_\_\_\_, 19\_\_\_\_

Instructions: If you have been unable to unanimously find beyond a reasonable doubt that any threshold or statutory aggravating factor exists as to Count Six, then after the Foreperson so indicates above, you should proceed to Count Seven in Section V.B. of this form.

If you have unanimously found beyond a reasonable doubt that at least one Threshold and Statutory Aggravating Factor exists as to Count Six, then you should proceed to recommend an appropriate punishment as set forth below.

2. 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 RAHEEM JOHNSON for the killing of Antonio Stevens as described in Count Six.

YES \_\_\_\_\_

NO \_\_\_\_\_

If you answer "YES", sign your names here, and then proceed to Count Seven in Section V.E. If you answer "NO", the Foreperson alone should sign, and you should proceed to Section V.D.3.

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Date: 12 20 1998

3. SENTENCE OF LIFE IN PRISON WITHOUT POSSIBILITY OF RELEASE

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 life imprisonment without possibility of release shall be imposed upon the defendant RAHEEM JOHNSON for the killing of Antonio Stevens as described in Count Six.

YES

NO

If you answer "YES", sign your names here, and then proceed to Count Seven in Section V.E. of this form. If you answer "NO", the Foreperson alone should sign, and you should proceed to Section V.D.4.

Date: 12 20, 1998

E. Count Seven -- Killing Antonio Stevens During Drug Conspiracy

1. NO THRESHOLD OR STATUTORY AGGRAVATING FACTORS FOUND TO EXIST AS TO COUNT SEVEN.

Instructions: If you have been unable to unanimously find beyond a reasonable doubt that any Threshold Factors exist (Section I of this form) or Statutory Aggravating Factors exist (Section II of this form) as to Count Seven, then so indicate below.

We, the Jury, do not unanimously find proven, beyond a reasonable doubt, the existence of any of the Threshold Factors and/or Statutory Aggravating Factors required by law as prerequisites for the imposition of capital punishment, and therefore do not consider the death penalty as to the killing of Antonio Stevens, for which RAHEEM JOHNSON has been convicted in Count Seven.

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Foreperson

Date: \_\_\_\_\_, 19\_\_\_\_

Instructions: If you have been unable to unanimously find beyond a reasonable doubt that any threshold or statutory aggravating factor exists as to Count Seven, then after the Foreperson so indicates above, you should proceed to Count Eight in Section V.B. of this form.

If you have unanimously found beyond a reasonable doubt that at least one Threshold and Statutory Aggravating Factor exists as to Count Seven, then you should proceed to recommend an appropriate punishment as set forth below.

2. 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 RAHEEM JOHNSON for the killing of Antonio Stevens as described in Count Seven.

YES \_\_\_\_\_

NO ✓

If you answer "YES", sign your names here, and then proceed to Count Eight in Section V.F. If you answer "NO", the Foreperson alone should sign, and you should proceed to Section V.E.3.

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FOREPERSON

Date: 12 22, 1998



3. SENTENCE OF LIFE IN PRISON WITHOUT POSSIBILITY OF RELEASE

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 life imprisonment without possibility of release shall be imposed upon the defendant RAHEEM JOHNSON for the killing of Antonio Stevens as described in Count Seven.

YES   ✓  

NO           

If you answer "YES", sign your names here, and then proceed to Count Eight in Section V.F. of this form. If you answer "NO", the Foreperson alone should sign, and you should proceed to Section V.E.4.

Date:   12     22  , 19   98

F. Count Eight -- Racketeering Murder of Shawn Thomas

1. NO THRESHOLD OR STATUTORY AGGRAVATING FACTORS FOUND TO EXIST AS TO COUNT EIGHT.

Instructions: If you have been unable to unanimously find beyond a reasonable doubt that any Threshold Factors exist (Section I of this form) or Statutory Aggravating Factors exist (Section II of this form) as to Count Eight, then so indicate below.

We, the Jury, do not unanimously find proven, beyond a reasonable doubt, the existence of any of the Threshold Factors and/or Statutory Aggravating Factors required by law as prerequisites for the imposition of capital punishment, and therefore do not consider the death penalty as to the killing of Shawn Thomas, for which RAHEEM JOHNSON has been convicted in Count Eight.

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Foreperson

Date: \_\_\_\_\_, 19\_\_

Instructions: If you have been unable to unanimously find beyond a reasonable doubt that any threshold or statutory aggravating factor exists as to Count Eight, then after the Foreperson so indicates above, you should proceed to Count Nine in Section V.B. of this form.

If you have unanimously found beyond a reasonable doubt that at least one Threshold and Statutory Aggravating Factor exists as to Count Eight, then you should proceed to recommend an appropriate punishment as set forth below.

2. 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 RAHEEM JOHNSON for the killing of Shawn Thomas as described in Count Eight.

YES \_\_\_\_\_  
NO   ✓  

If you answer "YES", sign your names here, and then proceed to Count Ten of Section V.G. If you answer "NO", the Foreperson alone should sign, and you should proceed to Section V.F.3.

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Date: 12 27, 1998

3. SENTENCE OF LIFE IN PRISON WITHOUT POSSIBILITY OF RELEASE

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 life imprisonment without possibility of release shall be imposed upon the defendant RAHEEM JOHNSON for the killing of Shawn Thomas as described in Count Eight.

YES

NO

If you answer "YES", sign your names here, and then proceed to Count Nine in Section V.G. of this form. If you answer "NO", the Foreperson alone should sign, and you should proceed to Section V.F.4.

Date: 12 22, 1998

G. Count Nine -- Killing Shawn Thomas During Drug Conspiracy

1. NO THRESHOLD OR STATUTORY AGGRAVATING FACTORS FOUND TO EXIST AS TO COUNT NINE.

Instructions: If you have been unable to unanimously find beyond a reasonable doubt that any Threshold Factors exist (Section I of this form) or Statutory Aggravating Factors exist (Section II of this form) as to Count Nine, then so indicate below.

We, the Jury, do not unanimously find proven, beyond a reasonable doubt, the existence of any of the Threshold Factors and/or Statutory Aggravating Factors required by law as prerequisites for the imposition of capital punishment, and therefore do not consider the death penalty as to the killing of Shawn Thomas, for which RAHEEM JOHNSON has been convicted in Count Nine.

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Foreperson

Date: \_\_\_\_\_, 19\_\_\_\_

Instructions: If you have been unable to unanimously find beyond a reasonable doubt that any threshold or statutory aggravating factor exists as to Count Nine, then after the Foreperson so indicates above, you should proceed to Count Ten in Section V.B. of this form.

If you have unanimously found beyond a reasonable doubt that at least one Threshold and Statutory Aggravating Factor exists as to Count Nine, then you should proceed to recommend an appropriate punishment as set forth below.

2. 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 RAHEEM JOHNSON for the killing of Shawn Thomas as described in Count Nine.

YES \_\_\_\_\_  
NO   ✓  

If you answer "YES", sign your names here, and then proceed to Count Ten in Section V.H. If you answer "NO", the Foreperson alone should sign, and you should proceed to Section V.G.3.

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Date:   12     22  , 19  98

3. SENTENCE OF LIFE IN PRISON WITHOUT POSSIBILITY OF RELEASE

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 life imprisonment without possibility of release shall be imposed upon the defendant RAHEEM JOHNSON for the killing of Shawn Thomas as described in Count Nine.

YES ✓

NO \_\_\_\_\_

If you answer "YES", sign your names here, and then proceed to Count Ten in Section V.H. of this form. If you answer "NO", the Foreperson alone should sign, and you should proceed to Section V.G.4.


Date: 12 22, 1998

H. Count Ten -- Racketeering Murder of Tracy Morgan

1. NO THRESHOLD OR STATUTORY AGGRAVATING FACTORS FOUND TO EXIST AS TO COUNT TEN.

Instructions: If you have been unable to unanimously find beyond a reasonable doubt that any Threshold Factors exist (Section I of this form) or Statutory Aggravating Factors exist (Section II of this form) as to Count Ten, then so indicate below.

We, the Jury, do not unanimously find proven, beyond a reasonable doubt, the existence of any of the Threshold Factors and/or Statutory Aggravating Factors required by law as prerequisites for the imposition of capital punishment, and therefore do not consider the death penalty as to the killing of Tracy Morgan, for which RAHEEM JOHNSON has been convicted in Count Ten.



Date: 12 22, 1998

Instructions: If you have been unable to unanimously find beyond a reasonable doubt that any threshold or statutory aggravating factor exists as to Count Ten, then after the Foreperson so indicates above, you should proceed to Count Eleven in Section V.B. of this form.

If you have unanimously found beyond a reasonable doubt that at least one Threshold and Statutory Aggravating Factor exists as to Count Ten, then you should proceed to recommend an appropriate punishment as set forth below.



2. 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 RAHEEM JOHNSON for the killing of Tracy Morgan as described in Count Ten.

YES \_\_\_\_\_

NO \_\_\_\_\_

If you answer "YES", sign your names here, and then proceed to Count Eleven in Section V.I. If you answer "NO", the Foreperson alone should sign, and you should proceed to Section V.H.3.

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FOREPERSON

Date: \_\_\_\_\_, 19\_\_\_\_

3. SENTENCE OF LIFE IN PRISON WITHOUT POSSIBILITY OF RELEASE

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 life imprisonment without possibility of release shall be imposed upon the defendant RAHEEM JOHNSON for the killing of Tracy Morgan as described in Count Ten.

YES \_\_\_\_\_

NO \_\_\_\_\_

If you answer "YES", sign your names here, and then proceed to Count Eleven in Section V.I. of this form. If you answer "NO", the Foreperson alone should sign, and you should proceed to Section V.H.4.

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FOREPERSON

Date: \_\_\_\_\_, 19\_\_\_\_

I. Count Eleven -- Killing of Tracy Morgan During Drug Conspiracy

1. NO THRESHOLD OR STATUTORY AGGRAVATING FACTORS FOUND TO EXIST AS TO COUNT ELEVEN.

Instructions: If you have been unable to unanimously find beyond a reasonable doubt that any Threshold Factors exist (Section I of this form) or Statutory Aggravating Factors exist (Section II of this form) as to Count Eleven, then so indicate below.

We, the Jury, do not unanimously find proven, beyond a reasonable doubt, the existence of any of the Threshold Factors and/or Statutory Aggravating Factors required by law as prerequisites for the imposition of capital punishment, and therefore do not consider the death penalty as to the killing of Tracy Morgan, for which RAHEEM JOHNSON has been convicted in Count Eleven.

  
Foreperson

Date: 12 20, 1998

Instructions: If you have been unable to unanimously find beyond a reasonable doubt that any threshold or statutory aggravating factor exists as to Count Eleven, then after the Foreperson so indicates above, you should proceed to Section VI of this form.

If you have unanimously found beyond a reasonable doubt that at least one Threshold and Statutory Aggravating Factor exists as to Count Eleven, then you should proceed to recommend an appropriate punishment as set forth below.

2. 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 RAHEEM JOHNSON for the killing of Tracy Morgan as described in Count Eleven.

YES \_\_\_\_\_

NO \_\_\_\_\_

If you answer "YES", sign your names here, and then proceed to Section VI. If you answer "NO", the Foreperson alone should sign, and you should proceed to Section V.I.3.

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FOREPERSON

Date: \_\_\_\_\_, 19\_\_\_\_

3. SENTENCE OF LIFE IN PRISON WITHOUT POSSIBILITY OF RELEASE

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 life imprisonment without possibility of release shall be imposed upon the defendant RAHEEM JOHNSON for the killing of Tracy Morgan as described in Count Eleven.

YES \_\_\_\_\_

NO \_\_\_\_\_

If you answer "YES", sign your names here, and then proceed to Section VI of this form. If you answer "NO", the Foreperson alone should sign, and you should proceed to Section V.I.4.

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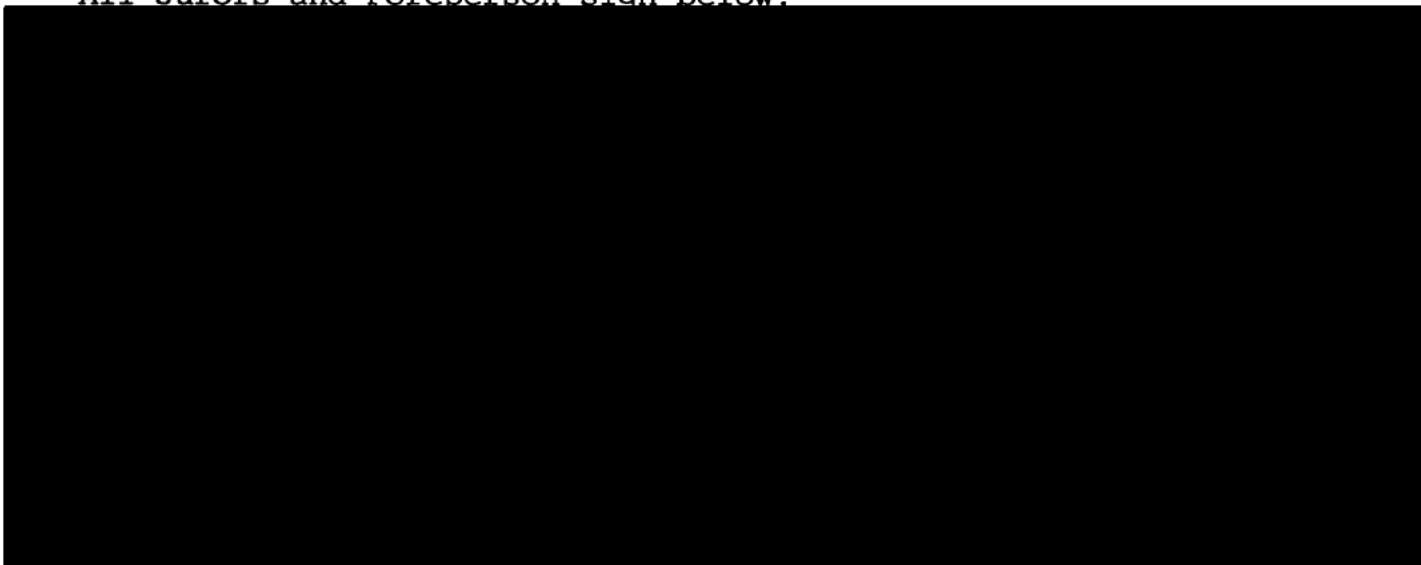
FOREPERSON

Date: \_\_\_\_\_, 19\_\_

SECTION VI. CERTIFICATION

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or the victims 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 RAHEEM JOHNSON for the crimes in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant, or the victim, would have been.

All Jurors and Foreperson sign below:



Date: 12 22, 1998