

APR 05 1993

520

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 JOHN JAVILO McCULLAH,)
)
 Defendant.)

No. CR-92-32-S

FILED

MAR 23 1993

WILLIAM B. GUTHRIE
Clerk, U.S. District Court

Deputy Clerk

SPECIAL FINDINGS FORM

PART ONE

For each of the following category one statutory aggravating factors, answer "Yes" or "No" as to whether you unanimously find that the government has proven beyond a reasonable doubt that particular factor:

1. That the defendant John Javilo McCullah engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim.

YES X

NO _____

2. That the defendant John Javilo McCullah engaged in conduct which he knew would create a grave risk of death to a person, other than one of the participants of the offense, and resulted in the death of the victim.

YES X

NO _____

(If you have checked "NO" as to each of the category one statutory aggravating factors, deliberate no further, sign this special findings form, fill out Decision Form A, complete

the attached certificate, and advise the court that you have reached a decision. If you have checked "YES" to either or both the category one statutory aggravating factors, continue with your deliberations in accordance with the court's instructions and proceed to Part Two of this special findings form.)

PART TWO

For each of the following category two statutory aggravating factors, answer "YES" or "NO" as to whether you unanimously find that the government has proven beyond a reasonable doubt that particular factor:

1. That the defendant John Javilo McCullah committed the offense after substantial planning and premeditation by him.

YES X

NO _____

2. That the defendant John Javilo McCullah committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

YES X

NO _____

(If you have checked "No" as to both of the above listed category two statutory aggravating factors, deliberate no further, sign this special findings form, fill out Decision Form A, complete the attached certificate, and advise the court that you have reached a decision. If you have checked "Yes" as to either or both of the above listed category two statutory aggravating factors, continue with your deliberations in accordance with the court's instructions and proceed to Parts Three and Four of this special findings form.)

PART THREE

For each of the following non-statutory aggravating factors, answer "Yes" or "No" as to whether you unanimously find that the government has proven beyond a reasonable doubt that particular factor:

1. that a deadly weapon or weapons was/were used in the killing of Jewell Leon Collins.

YES X

NO

2. that the defendant John Javilo McCullah has previously been convicted of two or more state or federal offenses punishable by imprisonment for more than one year.

YES X

NO

2. that the defendant John Javilo McCullah committed the offenses as to which he is charged in the indictment.

YES X

NO

3. that repeated attempts to rehabilitate the defendant John Javilo McCullah or deter him from future criminal behavior have been unsuccessful.

YES X

NO

PART FOUR

For each of the following mitigating factors indicate the number of jurors who have found the existence of a particular mitigating factor proven by a preponderance of the evidence:

1. that the defendant John Javilo McCullah was not the triggerman in the killing of Jewell Leon Collins.

Number of jurors who so find 12

2. that the substantial planning for the killing was done by Eddie Arvizu and/or persons other than the defendant John Javilo McCullah.

Number of jurors who so find 8

3. that the defendant John Javilo McCullah was involved with the drug distribution activities of the Arvizu organization at a low level and received, in comparison to others, relatively little of the profits.

Number of jurors who so find 10

4. that James Norwood Hutching, at least equally responsible for the death of Jewell Leon Collins, will not receive the death penalty.

Number of jurors who so find 6

5. that Ramon Medina Molina, at least equally responsible for the death of Jewell Leon Collins, will not receive the death penalty.

Number of jurors who so find 6

6. that another defendant or other persons, equally culpable in the killing offense, will not be punished by death.

Number of jurors who so find 6

7. that the defendant John Javilo McCullah is emotionally and mentally youthful or immature.

Number of jurors who so find 1

8. that the defendant John Javilo McCullah suffers from brain dysfunction.

Number of jurors who so find 8

9. that the defendant John Javilo McCullah suffers from attention-deficit disorder.

Number of jurors who so find 2

10. that the defendant John Javilo McCullah's I.Q. is now 80.

Number of jurors who so find 11

11. that if the defendant John Javilo McCullah does not receive a sentence of death, he will spend the rest of his life in a maximum security prison.

Number of jurors who so find 12

12. that due to learning disabilities the defendant John Javilo McCullah was unable to complete school or obtain any significant education.

Number of jurors who so find 3

13. that due to his mental disabilities the defendant John Javilo McCullah was unable to carry out the instructions of the leaders of the Arvizu organization.

Number of jurors who so find 1

14. that the defendant John Javilo McCullah was raised in an abusive and violent environment.

Number of jurors who so find 12

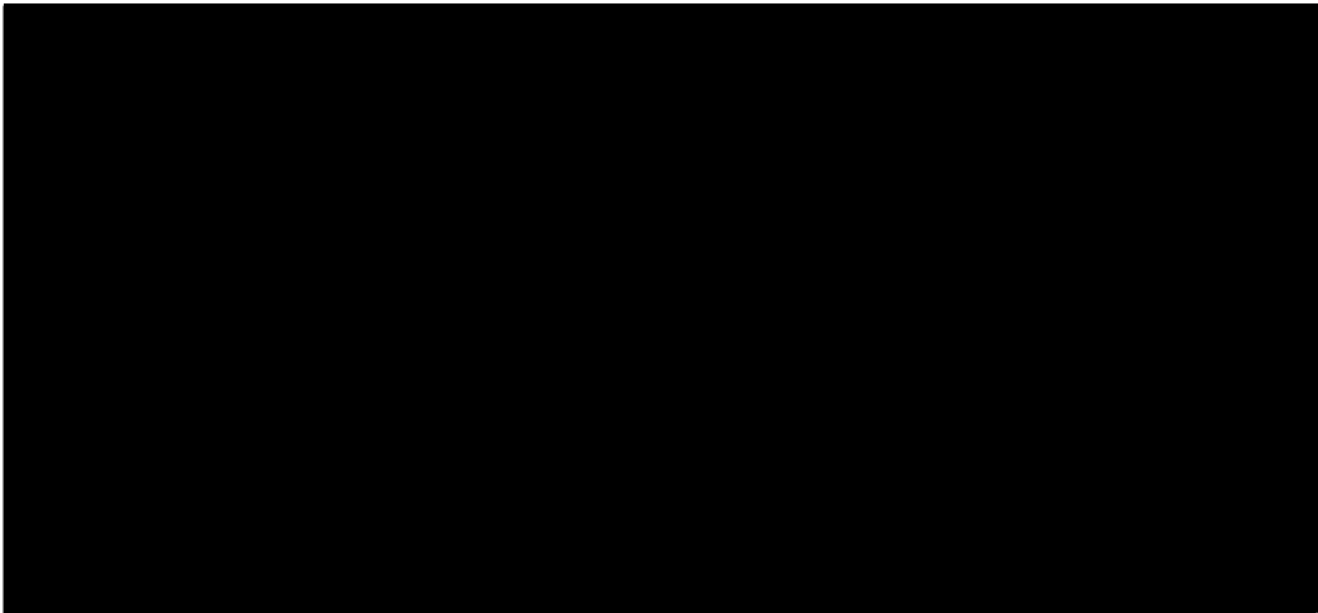
15. that the defendant John Javilo McCullah is a follower, not a leader.

Number of jurors who so find 4

16. that the defendant John Javilo McCullah is a concerned and caring son, husband and father of two young children.

Number of jurors who so find 5

(When you have completed Parts Three and Four and have arrived at a decision, sign this special findings form, enter your decision on either Decision Form B or Decision Form C, complete the attached certificate, and advise the court that your deliberations are complete. Note that Decision Form B and Decision Form C are mutually exclusive. Complete one or the other, but not both.)



Foreperson

Date: March 23rd, 1993.

CERTIFICATE

By signing below, each of us individually hereby certifies that in considering whether the sentence of death was justified, the race, color, religious beliefs, national origin or sex of the defendant John Javilo McCullah and of the victim Jewell Leon Collins were not considered in reaching our respective individual decisions. Each of us further individually certifies that the same decision regarding a sentence for the crime in question would have been made no matter what the race, color, religious beliefs, national origin or sex of the defendant John Javilo McCullah and of the victim Jewell Leon Collins.

FILED

1993

JURY
CHIEF

22

Date: March 23rd, 1993.

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN JAVILO McCULLAH,

Defendant.

)
)
)
)
)
)
)
)
)
)
)

No. CR-92-32-S

FILED
MAR 23 1993
WILLIAM B. BUTTNER
Clerk U.S. DISTRICT COURT
[Signature]

DECISION FORM B

We, the jury, unanimously find beyond a reasonable doubt the existence of (a) either or both of the aggravating factors set forth in Part One of the special findings form and (b) one or more of the aggravating factors set forth in Part Two of the special findings form. We have considered whether those and any other non-statutory aggravating factors that we have unanimously found to exist beyond a reasonable doubt outweigh any mitigating factor or factors that one or more jurors have found to exist by a preponderance of the evidence.

As a result of our consideration, we unanimously find beyond a reasonable doubt that the aggravating factors that have been found to exist outweigh any mitigating factor or factors that have been found to exist. Alternatively, if there have been no mitigating factors found to exist by any juror, we unanimously find beyond a reasonable doubt that the aggravating factors are themselves sufficient to justify a sentence of death.

We vote unanimously that the defendant John Javilo McCullah shall be sentenced to death.



Date: March 23rd, 1993.