

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

HERNALDO MEDINA VILLEGAS,

Defendant.

CRIMINAL NO. 02-117(PG)

*Received & Filed
May 2, 2005
at 6:50 P.M.
pm, Deputy Clerk*

SPECIAL VERDICT FORM

MURDER OF GILBERTO RODRIGUEZ CABRERA
BY DEFENDANT HERNALDO MEDINA VILLEGAS

I. AGE OF DEFENDANT

Instructions: Answer "YES" or "NO."

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

Hernaldo Medina Villegas was eighteen years (18) of age or older at the time of the offense?

YES ✓

NO _____



Instructions: If you answered "NO" with respect to the determination in this section, then stop your deliberations, cross out Sections II, III, IV, V and VI of this form, and proceed to Section VII. Each juror should then carefully read the statement in 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 this Section I, proceed to Section II which follows.

II. REQUISITE MENTAL STATE (STATUTORY THRESHOLD FINDINGS)

Instructions: For each of the following, answer "YES" or "NO."

1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Hernaldo Medina Villegas intentionally killed Gilberto Rodríguez Cabrera?

YES ✓

NO _____



2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Hernaldo Medina Villegas intentionally inflicted serious bodily injury which resulted in the death of Gilberto Rodríguez Cabrera ?

YES ✓

NO _____



3. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Hernaldo Medina Villegas intentionally participated in an act, contemplating that the life of a person would be taken and/or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim Gilberto Rodríguez Cabrera died as a direct result of the act ?

YES _____

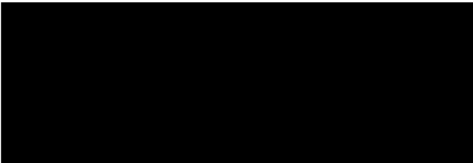
NO ✓



4. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Hernaldo Medina Villegas 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 the victim Gilberto Rodríguez Cabrera died as a direct result of the act ?

YES

NO



Instructions: If you answered "NO" with respect to all of the determinations in this section, then stop your deliberations, cross out Sections III, IV, V, and VI of this form, and proceed to Section VII. Each juror should carefully read the statement in 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 the determinations in this Section II, proceed to Section III which follows.

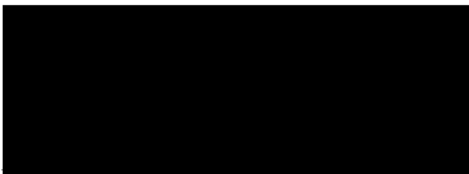
III. STATUTORY AGGRAVATING FACTORS

Instructions: For each of the following, answer "YES" or "NO."

1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Hernaldo Medina Villegas knowingly created a grave risk of death to one or more persons in addition to the victim of the crime, Gilberto Rodríguez Cabrera ?

YES

NO



2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Hernaldo Medina Villegas committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim Gilberto Rodriguez Cabrera ?

YES _____

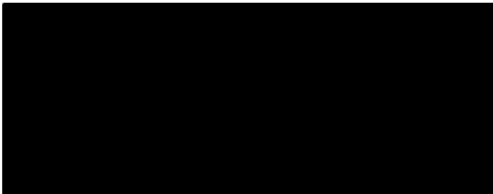
NO _____



3. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Hernaldo Medina Villegas committed the offense as consideration for the receipt, or in the expectation of the receipt of anything of pecuniary value ?

YES _____

NO _____



Instructions: If you answered "NO" with respect to all of the Statutory Aggravating Factors in this Section III, then stop your deliberations, cross out Sections IV, V, and VI of this form, and proceed to Section VII of this form. Each juror should then carefully read the statement in 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 found the requisite age in Section I, the requisite mental state in Section II and answered "Yes" with respect to one or more of the aggravating factors in this Section III, proceed to Section IV which follows.

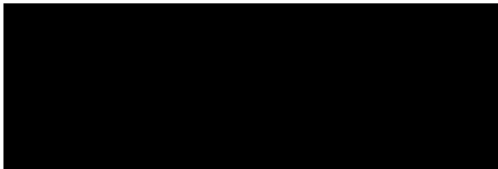
IV. NON-STATUTORY AGGRAVATING FACTORS

Instructions: For each of the following, answer "YES" or "NO."

1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that Hernaldo Medina Villegas caused injury, harm, and loss to the victim, his family, his friends, and his co-workers, and that this factor tends to support imposition of the death penalty?

YES ✓

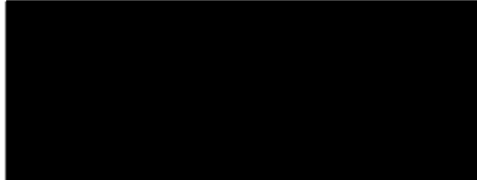
NO



2. The defendant Hernaldo Medina Villegas has demonstrated a lack of remorse for his criminal conduct.

YES ✓

NO



Instructions: Regardless of whether you answered "YES" or "NO" with respect to the Non-Statutory Aggravating Factors in this Section IV, proceed to Section V, which follows.

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 proven by a preponderance of the evidence. If you choose not to make these written findings, cross out each page of Section V with a large "X" and then continue your deliberations in accordance with the instructions of the court.



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:

1. Hernaldo Medina Villegas was immersed since childhood until age 15 when he left his parents home to a violent, explosive, and unpredictable environment which caused chronic childhood trauma.

Number of jurors who so find 0 (None)

2. Hernaldo Medina Villegas was maltreated as a child verbally and physically by his mother, Carmen Ana.

Number of jurors who so find 1

3. Hernaldo Medina Villegas was maltreated as a child verbally and physically by his father, Juan Antonio.

Number of jurors who so find 0

4. Hernaldo's father was an abusive and violent alcoholic.

Number of jurors who so find 10

5. Hernaldo's mother has suffered and continues to suffer from mental illness and drug addiction.

Number of jurors who so find 5

6. Hernaldo witnessed the verbal and physical abuse of sisters Daisy and Laura.

Number of jurors who so find 1

7. Hernaldo's mother Carmen Ana, was raised in a profoundly dysfunctional family, which affected her ability to effectively parent.

Number of jurors who so find 0 (none)

8. Hernaldo's father, Juan Antonio, was raised in a profoundly dysfunctional family, which affected his ability to effectively parent.

Number of jurors who so find 0 (none)

9. Hernaldo Medina Villegas had to assume responsibilities that were not age appropriate.

Number of jurors who so find 0 (none)

10. Juan Antonio's alcoholism and profound transformations had a negative impact on Hernaldo Medina Villegas.

Number of jurors who so find 8

11. The mutual combat of Hernaldo Medina Villegas' parents negatively affected him.

Number of jurors who so find 11

12. Hernaldo was described as well mannered, respectful, and humble by friends, teachers, neighbors, and family.

Number of jurors who so find 1

13. Hernaldo is and was a hardworking, responsible, dependable, and respectful worker.

Number of jurors who so find 1

14. Hernaldo was a loving, nurturing, and supportive father figure to Joan's son Kenneth, Wandi's daughters Nasharie, Shagily, and Erika.

Number of jurors who so find 1

15. Hernaldo gave his name to Erika Medina Torres even though he was not the biological father.

Number of jurors who so find 3

16. Hernaldo has no criminal record as a juvenile.

Number of jurors who so find 12

17. Hernaldo has no prior criminal record as an adult other than this offense.

Number of jurors who so find 12

18. Hernaldo's youthfulness is a mitigating circumstance.

Number of jurors who so find 2

19. At the age of 14, Hernaldo suffered by the suspicious and untimely death of his father.

Number of jurors who so find 7

20. Hernaldo's family suffers from multi-generational mental illness, including depression, alcohol and substance abuse.

Number of jurors who so find 1

21. Hernaldo is and was a loving son to his mother, Carmen Ana.

Number of jurors who so find 2

22. Hernaldo is loving and nurturing to his two sisters.

Number of jurors who so find 0 (none)

23. Hernaldo is loving and nurturing to children.

Number of jurors who so find 0 (none)

24. Hernaldo was the peacemaker in his family — literally getting between fights to break them up.

Number of jurors who so find 0 (none)

25. Hernaldo's mother was emotionally unavailable.

Number of jurors who so find 10

26. Hernaldo was negatively impacted by his mother's rape and subsequent psychiatric hospitalizations.

Number of jurors who so find 5

27. At great risk to himself, Hernaldo intervened on behalf of a neighbor, Maria Pastrana Rodriguez, who was being violently beaten by her husband.

Number of jurors who so find 1

28. Hernaldo has maintained and nurtured a loving relationship with Nasharie, Shagily, Erika and Valeria.

Number of jurors who so find 2

29. The Defendant's children, siblings and other loved ones would suffer greatly if he were executed, because of positive aspects of his character and the manner in which he continues to treat them.

Number of jurors who so find 4

30. Co-defendant Lorenzo Catalan Roman confessed to shooting Gilberto Rodriguez Cabrera several times, yet he is not facing the death penalty.

Number of jurors who so find 1

31. Since being incarcerated at the Metropolitan Detention Center, Hernaldo has adjusted well to confinement.

Number of jurors who so find 3

- 32. Since being incarcerated at MDC, Hernaldo has volunteered for work and received favorable performance evaluations. He has been described as a "good, dependable, and responsible" worker. His attitude is professional and positive towards staff.

Number of jurors who so find 0 (none)

- 33. Hernaldo was only twenty years old at the time of the offense.

Number of jurors who so find 2

- 34. Hernaldo Medina was exposed to a corruptive environment while he lived in FEMA housing.

Number of jurors who so find 1

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" and line out the extra spaces with a large "X." If more space is needed, write "CONTINUED" and use the reverse side of this page.

The defined knowledge of
who started the shooting is
not without a reasonable doubt.

Number of jurors who so find 1

~~_____

 _____~~

Number of jurors who so find X

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

VI. DETERMINATION

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, and whether death is therefore the appropriate sentence in this case:

A. Death Sentence

We determine, by unanimous vote, that a sentence of death shall be imposed.

YES _____

NO ✓

If you answer "YES," the foreperson must sign here, and you must then proceed to Section VII. If you answer "NO," the foreperson must sign, and you must then proceed to Section B:

[Redacted Signature]

FOREPERSON

Date: May 2, 2005

B. Sentence of Life in Prison Without Possibility of Release

We determine, by unanimous vote, that a sentence of life imprisonment without possibility of release shall be imposed.

YES _____

NO ✓

If you answer "YES," the foreperson must sign here, and then you must proceed to Section VII.

[Redacted Signature]

FOREPERSON

Date: May 2, 2005

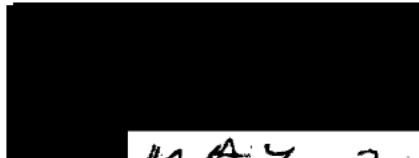
VII. CERTIFICATION

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant Hernaldo Medina Villegas or the victim Gilberto Rodriguez Cabrera 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 or crimes in question regardless of the race, color, religious beliefs, national origin, or sex of the defendant, or the victim.

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

FOREPERSON

Date: _____



MAY 2, 2005

C. Unable to Reach a Unanimous Decision

We are unable to reach a unanimous vote as to a sentence of death or a sentence of life imprisonment. We understand that the Court will impose a sentence of life imprisonment without possibility of release.

YES

NO

If you answer "YES", the foreperson must sign here, and then you must proceed to Section VII.

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FOREPERSON

Date: MAY 2, 2005

VII. CERTIFICATION

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant Hernaldo Medina Villegas or the victim Gilberto Rodríguez Cabrera 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 or crimes in question regardless of the race, color, religious beliefs, national origin, or sex of the defendant or the victim.



FOREPERSON

Date: MAY 2, 2005