

1
2
3 UNITED STATES DISTRICT COURT

4 FOR THE CENTRAL DISTRICT OF CALIFORNIA

5
6 UNITED STATES OF AMERICA,) No. CR 02-938-DOC
7 Plaintiff,) SPECIAL VERDICT FORM RE
8 v.) DEFENDANT MILLS
9)
10 HARRY BYRON MILLS,)
11 Defendant.)
12

13 OVERALL INSTRUCTIONS FOR FILLING OUT SPECIAL VERDICT FORM:

14 Below is a series of questions accompanied by instructions.
15 Please read the instructions and place your answers to the
16 questions in the appropriate spaces. As was described in the
17 jury instructions provided by the Court, the questions are
18 grouped into seven sections that are numbered as Sections I -
19 VII. There is a parallel set of instructions and questions for
20 each of Counts Six and Seven; the instructions and questions are
21 the same for both counts. At the bottom of each Special Verdict
22 Form as a whole, your foreperson must sign his juror number in
23 the appropriate space. In addition, as to each of Counts Six and
24 Seven, in Section VII of each Special Verdict Form each juror
25 must sign his or her juror number in the appropriate space.
26
27
28

1 SPECIAL VERDICT QUESTIONS REGARDING COUNT SIX (MILLS)

2
3 Section I: Age of the Defendant:

4 Instructions: Answer "yes" or "no." Do you, the jury,
5 unanimously find that the government has established beyond a
6 reasonable doubt that defendant Mills was 18 years of age or
7 older at the time of the offense charged in Count Six of the
8 Indictment?

9 Yes ✓

10 No _____

11 Instructions: If you answered "no" with respect to the
12 determination in this Section, then stop your deliberations,
13 cross out Sections II, III, IV, V, and VI of this form, and
14 proceed to Section VII. Each juror should then carefully read
15 the statement in Section VII, and sign in the appropriate place
16 if the statement accurately reflects the manner in which you
17 reached your decision. You should then advise the Court that you
18 have reached a decision.

19 If you answered "yes" with respect to the determination in
20 this Section I, then proceed to Section II.

21
22 Section II: Threshold Eligibility Factors:

23 Instructions: For each of the following, answer "yes" or
24 "no."

25 A. Do you, the jury, unanimously find that the government
26 has established beyond a reasonable doubt that the defendant
27 intentionally participated in an act, contemplating that the life
28 of a person would be taken and/or that lethal force would be used

1 in connection with a person, other than one of the participants
2 in the offense, and that the victims died as a direct result of
3 the act?

4 Yes ☒

5 No ☐

6 B. Do you, the jury, unanimously find that the government
7 has established beyond a reasonable doubt that the defendant
8 intentionally and specifically engaged in an act of violence,
9 knowing that the act created a grave risk of death to a person,
10 other than one of the participants in the offense, such that
11 participation in the act constituted a reckless disregard for
12 human life, and that the victims died as a direct result of the
13 act?

14 Yes ☒

15 No ☐

16 Instructions: If you answered "no" with respect to both of
17 the determinations in this Section, then stop your deliberations,
18 cross out Sections III, IV, V, and VI of this form, and proceed
19 to Section VII. Each juror should carefully read the statement
20 in Section VII, and sign in the appropriate place if the
21 statement accurately reflects the manner in which you reached a
22 decision.

23 If you answered "yes" with respect to one or more of the
24 determinations in this Section II, then proceed to Section III.

25
26 Section III: Statutory Aggravating Factors

27 Instructions: For each of the following, answer "yes" or
28 "no."

1 1. Do you, the jury, unanimously find that the government
2 has established beyond a reasonable doubt that the victims'
3 deaths, or injuries resulting in death, occurred during the
4 commission or attempted commission of an offense under 18 U.S.C.
5 Section 1118, to wit, murder by a federal prisoner serving a life
6 term?

7 Yes ☒

8 No ☐

9 2. Do you, the jury, unanimously find that the government
10 has proved beyond a reasonable doubt that the defendant committed
11 the offense charged in Count Six after having been previously
12 convicted of a federal or state offense punishable by a term of
13 imprisonment of more than one year, involving the use or
14 attempted or threatened use of a firearm (as defined in 18 U.S.C.
15 Section 921) against another person?

16 Yes ☒

17 No ☐

18 3. Do you, the jury, unanimously find that the government
19 has proved beyond a reasonable doubt that the defendant committed
20 the offense charged in Count Six after having previously been
21 convicted of another federal or state offense resulting in the
22 death of a person, for which a sentence of life imprisonment or
23 death was authorized by statute?

24 Yes ☒

25 No ☐

26 4. Do you, the jury, unanimously find that the government
27 has proved beyond a reasonable doubt that the defendant, in the
28 commission of the offense charged in Count Six, knowingly created

1 a grave risk of death to one or more persons in addition to the
2 victims of the offenses?

3 Yes ☒

4 No ☐

5 5. Do you, the jury, unanimously find that the government
6 has proved beyond a reasonable doubt that the defendant committed
7 the offense charged in Count Six after substantial planning and
8 premeditation to cause the death of a person?

9 Yes ☒

10 No ☐

11 6. Do you, the jury, unanimously find that the government
12 has proved beyond a reasonable doubt that the defendant killed or
13 attempted to kill more than one person in a single criminal
14 episode?

15 Yes ☒

16 No ☐

17 Instructions: If you answered "no" with respect to all of
18 the Statutory Aggravating Facts in this Section III, then stop
19 your deliberations, cross out Sections IV, V, and VI, and proceed
20 to Section VII of this form. Each juror should then read the
21 statement in Section VII, and sign in the appropriate place if
22 the statement accurately reflects the manner in which you have
23 reached a decision. You should then advise the Court that you
24 have reached a decision.

25 If you found the requisite age in Section I, the requisite
26 mental state in Section II, and answered "yes" with respect to
27 one or more of the statutory aggravating factors in this Section
28 III, then proceed to Section IV.

1 **Section IV: Non-Statutory Aggravating Factors**

2 **Instructions:** For each of the following, answer "yes" or
3 "no" to the numbered questions below.

4 1. **Future Dangerousness of Defendant.** Do you, the jury,
5 unanimously find that the government has proved beyond a
6 reasonable doubt that the defendant is likely to commit criminal
7 acts of violence in the future that would constitute a continuing
8 and serious threat to the lives and safety of others.

9 Yes _____

10 No ✓

11 2. **Contemporaneous Convictions.** Do you, the jury,
12 unanimously find that the government has proved beyond a
13 reasonable doubt that the defendant faces contemporaneous
14 convictions for multiple murders, attempted murders, and other
15 serious acts of violence?

16 Yes ✓

17 No _____

18 3. **Racial Animosity Was a Motive for the Murders.** Do you,
19 the jury, unanimously find that the government has proved beyond
20 a reasonable doubt that the defendant committed the crime charged
21 in Count Six in part from racial animosity against the victims of
22 the crimes?

23 Yes _____

24 No ✓

25 **Instructions:** Regardless of whether you answered "yes" or
26 "no" with respect to the non-statutory aggravating factors in
27 this Section IV, proceed to Section V.

1 Section V: Mitigating Factors

2 Instructions: For each of the following mitigating factors,
3 you have the option to indicate, in the space provided, the
4 number of jurors who have found the existence of the mitigating
5 factor to be proven by a preponderance of the evidence. If you
6 choose not to make these findings, cross out each page of Section
7 V with a large "X" and then continue your deliberations in
8 accordance with the instructions of the Court.

9 1. Allen Benton was an equally culpable person in the
10 offenses, and will not face death, received a 9-year sentence for
11 the killings of Salaam and Joyner, and may receive a further
12 reduction in that sentence.

13 Number of Jurors who found this mitigating factor: 6

14 2. Daily life for inmates in a federal penitentiary is
15 dangerous and violent.

16 Number of Jurors who found this mitigating factor: 7

17 3. Daily life for inmates in a federal penitentiary is
18 particularly dangerous for white inmates, as they are a minority
19 in the system.

20 Number of Jurors who found this mitigating factor: 3

21 4. The mistreatment of children at the California Youth
22 Authority from 1964-67.

23 Number of Jurors who found this mitigating factor: 4

24 5. Barry Mills has been eligible for release on parole
25 since 1987, so a sentence of life in prison without possibility
26 of release is substantial punishment.

27 Number of Jurors who found this mitigating factor: 3

28 6. Barry Mills has maintained a non-violent, discipline

1 free prison record for more than 7 years.

2 Number of Jurors who found this mitigating factor: 5

3 7. Barry Mills has often served as a peacemaker in the
4 penitentiaries in which he's been housed.

5 Number of Jurors who found this mitigating factor: 4

6 8. Barry Mills, as late as June 1997, discouraged other
7 white inmates from attacking black inmates.

8 Number of Jurors who found this mitigating factor: 2

9 9. Barry Mills, while in custody, had a positive influence
10 on others.

11 Number of Jurors who found this mitigating factor: 6

12 10. Other factors in Barry Mills' life suggest that a life
13 sentence is appropriate.

14 Number of Jurors who found this mitigating factor: 5

15 Instructions: Regardless of whether you chose to make
16 written findings for the Mitigating Factors of Section V above,
17 proceed to Section VI and Section VII.

18
19 Section VI: Determination

20 Based upon consideration of whether the aggravating factors
21 found to exist sufficiently outweigh any mitigating factors found
22 to exist, or in the absence of any mitigating factors, whether
23 the aggravating factors are themselves sufficient to justify a
24 sentence of death, and whether death is therefore the appropriate
25 sentence in this case:

1 A. Death Sentence

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

4 Yes _____

5 No ✓

6 If you answer "yes," the foreperson must sign here, and you must
7 then proceed to Section VII. If you answer "no," the foreperson
8 must sign and you must then proceed to Section VIB.

9 [REDACTED]
10 Foreperson

11 Date: 09/15/06

12 B. Sentence of Life in Prison Without Possibility of Release

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

15 Yes _____

16 No ✓

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

19 _____
20 Foreperson

21 Date: _____

22

23 Section VII: Certification

24 By signing his or her juror numbers below, each juror
25 certifies that consideration of the race, color, religious
26 beliefs, national origin or sex of the defendants or any victims
27 was not involved in reaching his or her individual decision, and
28 that the individual juror would have made the same recommendation

1 regarding a sentence for the crimes in question regardless of the
2 race, color, religious beliefs, national origin, or sex of the
3 defendants or the victims.



SPECIAL VERDICT QUESTIONS REGARDING COUNT SEVEN (MILLS)

Section I: Age of the Defendant:

Instructions: Answer "yes" or "no." Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that defendant Mills was 18 years of age or older at the time of the offense charged in Count Seven of the Indictment?

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 you reached your 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, then proceed to Section II.

Section II: Threshold Eligibility Factors:

Instructions: For each of the following, answer "yes" or "no."

A. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally participated in an act, contemplating that the life of a person would be taken and/or that lethal force would be used

1 in connection with a person, other than one of the participants
2 in the offense, and that the victims died as a direct result of
3 the act?

4 Yes ☒

5 No ☐

6 B. Do you, the jury, unanimously find that the government
7 has established beyond a reasonable doubt that the defendant
8 intentionally and specifically engaged in an act of violence,
9 knowing that the act created a grave risk of death to a person,
10 other than one of the participants in the offense, such that
11 participation in the act constituted a reckless disregard for
12 human life, and that the victims died as a direct result of the
13 act?

14 Yes ☒

15 No ☐

16 Instructions: If you answered "no" with respect to both of
17 the determinations in this Section, then stop your deliberations,
18 cross out Sections III, IV, V, and VI of this form, and proceed
19 to Section VII. Each juror should carefully read the statement
20 in Section VII, and sign in the appropriate place if the
21 statement accurately reflects the manner in which you reached a
22 decision.

23 If you answered "yes" with respect to one or more of the
24 determinations in this Section II, then proceed to Section III.

25
26 Section III: Statutory Aggravating Factors

27 Instructions: For each of the following, answer "yes" or
28 "no."

1 1. Do you, the jury, unanimously find that the government
2 has established beyond a reasonable doubt that the victims'
3 deaths, or injuries resulting in death, occurred during the
4 commission or attempted commission of an offense under 18 U.S.C.
5 Section 1118, to wit, murder by a federal prisoner serving a life
6 term?

7 Yes ☒

8 No ☐

9 2. Do you, the jury, unanimously find that the government
10 has proved beyond a reasonable doubt that the defendant committed
11 the offense charged in Count Seven after having been previously
12 convicted of a federal or state offense punishable by a term of
13 imprisonment of more than one year, involving the use or
14 attempted or threatened use of a firearm (as defined in 18 U.S.C.
15 Section 921) against another person?

16 Yes ☒

17 No ☐

18 3. Do you, the jury, unanimously find that the government
19 has proved beyond a reasonable doubt that the defendant committed
20 the offense charged in Count Seven after having previously been
21 convicted of another federal or state offense resulting in the
22 death of a person, for which a sentence of life imprisonment or
23 death was authorized by statute?

24 Yes ☒

25 No ☐

26 4. Do you, the jury, unanimously find that the government
27 has proved beyond a reasonable doubt that the defendant, in the
28 commission of the offense charged in Count Seven, knowingly

1 created a grave risk of death to one or more persons in addition
2 to the victims of the offenses?

3 Yes ✓

4 No _____

5 5. Do you, the jury, unanimously find that the government
6 has proved beyond a reasonable doubt that the defendant committed
7 the offense charged in Count Seven after substantial planning and
8 premeditation to cause the death of a person?

9 Yes ✓

10 No _____

11 6. Do you, the jury, unanimously find that the government
12 has proved beyond a reasonable doubt that the defendant killed or
13 attempted to kill more than one person in a single criminal
14 episode?

15 Yes ✓

16 No _____

17 Instructions: If you answered "no" with respect to all of
18 the Statutory Aggravating Factors in this Section III, then stop
19 your deliberations, cross out Sections IV, V, and VI, and proceed
20 to Section VII of this form. Each juror should then read the
21 statement in Section VII, and sign in the appropriate place if
22 the statement accurately reflects the manner in which you have
23 reached a decision. You should then advise the Court that you
24 have reached a decision.

25 If you found the requisite age in Section I, the requisite
26 mental state in Section II, and answered "yes" with respect to
27 one or more of the statutory aggravating factors in this Section
28 III, then proceed to Section IV.

1 **Section IV: Non-Statutory Aggravating Factors**

2 **Instructions:** For each of the following, answer "yes" or
3 "no" to the numbered questions below.

4 1. **Future Dangerousness of Defendant.** Do you, the jury,
5 unanimously find that the government has proved beyond a
6 reasonable doubt that the defendant is likely to commit criminal
7 acts of violence in the future that would constitute a continuing
8 and serious threat to the lives and safety of others.

9 Yes _____

10 No ✓

11 2. **Contemporaneous Convictions.** Do you, the jury,
12 unanimously find that the government has proved beyond a
13 reasonable doubt that the defendant faces contemporaneous
14 convictions for multiple murders, attempted murders, and other
15 serious acts of violence?

16 Yes ✓

17 No _____

18 3. **Racial Animosity Was a Motive for the Murders.** Do you,
19 the jury, unanimously find that the government has proved beyond
20 a reasonable doubt that the defendant committed the crime charged
21 in Count Seven in part from racial animosity against the victims
22 of the crimes?

23 Yes _____

24 No ✓

25 **Instructions:** Regardless of whether you answered "yes" or
26 "no" with respect to the non-statutory aggravating factors in
27 this Section IV, proceed to Section V.

1 Section V: Mitigating Factors

2 Instructions: For each of the following mitigating factors,
3 you have the option to indicate, in the space provided, the
4 number of jurors who have found the existence of the mitigating
5 factor to be proven by a preponderance of the evidence. If you
6 choose not to make these findings, cross out each page of Section
7 V with a large "X" and then continue your deliberations in
8 accordance with the instructions of the Court.

9 1. Allen Benton was an equally culpable person in the
10 offenses, and will not face death, received a 9-year sentence for
11 the killings of Salaam and Joyner, and may receive a further
12 reduction in that sentence.

13 Number of Jurors who found this mitigating factor: 6

14 2. Daily life for inmates in a federal penitentiary is
15 dangerous and violent.

16 Number of Jurors who found this mitigating factor: 7

17 3. Daily life for inmates in a federal penitentiary is
18 particularly dangerous for white inmates, as they are a minority
19 in the system.

20 Number of Jurors who found this mitigating factor: 3

21 4. The mistreatment of children at the California Youth
22 Authority from 1964-67.

23 Number of Jurors who found this mitigating factor: 4

24 5. Barry Mills has been eligible for release on parole
25 since 1987, so a sentence of life in prison without possibility
26 of release is substantial punishment.

27 Number of Jurors who found this mitigating factor: 3

28 6. Barry Mills has maintained a non-violent, discipline

1 free prison record for more than 7 years.

2 Number of Jurors who found this mitigating factor: 5

3 7. Barry Mills has often served as a peacemaker in the
4 penitentiaries in which he's been housed.

5 Number of Jurors who found this mitigating factor: 4

6 8. Barry Mills, as late as June 1997, discouraged other
7 white inmates from attacking black inmates.

8 Number of Jurors who found this mitigating factor: 2

9 9. Barry Mills, while in custody, had a positive influence
10 on others.

11 Number of Jurors who found this mitigating factor: 6

12 10. Other factors in Barry Mills' life suggest that a life
13 sentence is appropriate.

14 *Number of jurors who found this mitigating factor: 5*
Instructions: Regardless of whether you chose to make
15 written findings for the Mitigating Factors of Section V above,
16 proceed to Section VI and Section VII.

17
18 **Section VI: Determination**

19 Based upon consideration of whether the aggravating factors
20 found to exist sufficiently outweigh any mitigating factors found
21 to exist, or in the absence of any mitigating factors, whether
22 the aggravating factors are themselves sufficient to justify a
23 sentence of death, and whether death is therefore the appropriate
24 sentence in this case:

1 **A. Death Sentence**

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

4 Yes _____

5 No ✓

6 If you answer "yes," the foreperson must sign here, and you must
7 then proceed to Section VII. If you answer "no," the foreperson
8 must sign and you must then proceed to Section VI.B.

9 
10 Foreperson

11 Date: 09/15/06

12 **B. Sentence of Life in Prison Without Possibility of Release**

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

15 Yes _____

16 No ✓

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

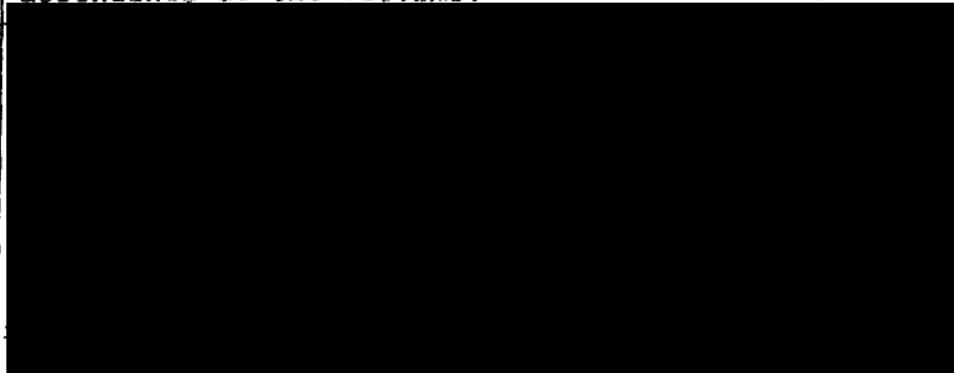
19 _____
20 Foreperson

21 Date: _____
22


23 **Section VII: Certification**

24 By signing his or her juror number below, each juror
25 certifies that consideration of the race, color, religious
26 beliefs, national origin or sex of the defendants or any victims
27 was not involved in reaching his or her individual decision, and
28 that the individual juror would have made the same recommendation

1 regarding a sentence for the crimes in question regardless of the
2 race, color, religious beliefs, national origin, or sex of the
3 defendants or the victims.



10
11 Signature (Juror Number) of Foreperson as to Overall Verdict Form
12 Re Defendant Mills

13 Foreperson: 

14 Date: 07/15/06