

29

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**FILED**  
AUG 25 2010  
CLERK'S OFFICE  
U. S. DISTRICT COURT  
EASTERN MICHIGAN

UNITED STATES OF AMERICA,

Plaintiff(s),

CASE NUMBER: 05-80025-  
HONORABLE VICTORIA A. ROBERTS

v.

D-1 TIMOTHY DENNIS O'REILLY,

Defendant(s).

SPECIAL VERDICT FORM

SECTION I: AGE OF THE DEFENDANT

Do you, the jury, unanimously find that the Government proved beyond a reasonable doubt that:

TIMOTHY O'REILLY was at least 18 years old at the time he committed the offenses charged in Counts 2 and 3 of the Second Superseding Indictment?

Because the parties stipulated to this fact, you must answer "YES," and proceed to Section II.

YES  \_\_\_\_\_

NO \_\_\_\_\_

**SECTION II: PRELIMINARY INTENT FACTORS**

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

- (A) Do you, the jury, unanimously find that the Government proved beyond a reasonable doubt, that TIMOTHY O'REILLY intentionally killed Norman Anthony Stephens?

Count 2

YES \_\_\_\_\_

NO  \_\_\_\_\_

Count 3

YES \_\_\_\_\_

NO  \_\_\_\_\_

- (B) Do you, the jury, unanimously find that the Government proved beyond a reasonable doubt, that TIMOTHY O'REILLY intentionally inflicted serious bodily injury that resulted in the death of Norman Anthony Stephens?

Count 2

YES \_\_\_\_\_

NO  \_\_\_\_\_

Count 3

YES \_\_\_\_\_

NO  \_\_\_\_\_

(C) Do you, the jury, unanimously find that the Government proved beyond a reasonable doubt, that TIMOTHY O'REILLY intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense; and, Norman Anthony Stephens died as a direct result of the act?

Count 2

YES  \_\_\_\_\_

NO \_\_\_\_\_

Count 3

YES  \_\_\_\_\_

NO \_\_\_\_\_

(D) Do you, the jury, unanimously find that the Government proved beyond a reasonable doubt, that TIMOTHY O'REILLY 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, Norman Anthony Stephens died as a direct result of the act?

Count 2

YES  \_\_\_\_\_

NO \_\_\_\_\_

Count 3

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 Special Verdict Form, and proceed to Section VII. Each juror must 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, proceed to Section III.

**SECTION III: STATUTORY AGGRAVATING FACTORS**

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

- (A) Do you, the jury, unanimously find that the Government proved beyond a reasonable doubt, that TIMOTHY O'REILLY, in the commission of robbing the Dearborn Federal Credit Union, knowingly created a grave risk of death to one or more persons in addition to Norman Anthony Stephens; namely, Michael Moore and/or Elliott Phillinganes?

Count 2

YES  \_\_\_\_\_

NO \_\_\_\_\_

Count 3

YES  \_\_\_\_\_

NO \_\_\_\_\_

- (B) Do you, the jury, unanimously find that the Government proved beyond a reasonable doubt, that TIMOTHY O'REILLY killed Norman Anthony Stephens as consideration for the receipt, or in expectation of the receipt, of a thing of pecuniary value?

Count 2

YES \_\_\_\_\_

NO  \_\_\_\_\_

Count 3

YES \_\_\_\_\_

NO  \_\_\_\_\_

**Instructions:** If you answered "NO" with respect to all of the determinations in this Section, then stop your deliberations, cross out Sections IV, V and VI of this Special Verdict Form, and proceed to Section VII. Each juror must 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 statutory aggravating factors in this Section, proceed to Section IV.

**SECTION IV: NON-STATUTORY AGGRAVATING FACTORS**

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

- (A) Do you, the jury, unanimously find that the Government proved beyond a reasonable doubt, that TIMOTHY O'REILLY shot Norman Anthony Stephens from behind, and while Mr. Stephens was already wounded on the ground?

Count 2

YES \_\_\_\_\_

NO  \_\_\_\_\_

Count 3

YES \_\_\_\_\_

NO  \_\_\_\_\_

- (B) Additional Violent Behavior: Do you, the jury, unanimously find that the Government proved beyond a reasonable doubt, that TIMOTHY O'REILLY has participated in additional, violent behavior?

Count 2

YES  \_\_\_\_\_

NO \_\_\_\_\_

Count 3

YES  \_\_\_\_\_

NO \_\_\_\_\_

(C) Future Dangerousness: Do you, the jury, unanimously find that the Government proved beyond a reasonable doubt that TIMOTHY O'REILLY, if sentenced to life in prison without the possibility of release, is likely to commit criminal acts of violence in the future that would constitute a continuing and serious threat to the lives and safety of others?

Count 2

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

Count 3

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

(D) Impact of the offense on the victim, Norman Anthony Stephens, and his family: Do you, the jury, unanimously find that the Government proved beyond a reasonable doubt that because of the murder of Norman Anthony Stephens, he and his family have suffered severe and irreparable harm?

Count 2

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

Count 3

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



**Instructions:** Whether you answered "YES" or "NO" with respect to the non-statutory aggravating factors in this Section, proceed to Section V.

**SECTION V: MITIGATING FACTORS**

**Instructions:** For each of the following mitigating factors, indicate, in the space provided, the number of jurors who found that TIMOTHY O'REILLY proved that mitigating factor by a preponderance of the evidence.

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 by a preponderance of the evidence must consider such factor in deliberations, regardless of whether any other jurors agree that the factor has been established by a preponderance of the evidence.

Further, any juror may weigh a mitigating factor found by another juror, even if he or she did not find that factor to be mitigating:

1. If he is not sentenced to death, Mr. O'Reilly will be sentenced to life in prison without the possibility of release.

**Number of jurors who found this mitigating factor established:**

12

2. Life in prison without the possibility of release is a harsh punishment.

**Number of jurors who found this mitigating factor established:**

12

3. The Federal Bureau of Prisons can safely manage and confine Mr. O'Reilly for the rest of his natural life.

**Number of jurors who found this mitigating factor established:**

8

4. Mr. O'Reilly has a good institutional record, has been very compliant, and has created no difficulties for guards or prison staff.

**Number of jurors who found this mitigating factor established:**

8

5. Mr. O'Reilly has made contributions to the well being of other inmates and the Milan Detention Center while incarcerated by performing menial tasks such as filling commissary orders and passing out toilet paper.

**Number of jurors who found this mitigating factor established:**

10

6. The Federal Bureau of Investigation took no action after speaking with Dominic Young-Guidice.

**Number of jurors who found this mitigating factor established:**

4

7. After speaking with Zouelfikar Nehmeh, the Government transferred Mr.

O'Reilly to the Milan Detention Center where he was placed in General Population.

**Number of jurors who found this mitigating factor established:**

12

8. Mr. O'Reilly was diagnosed at age nine with abnormal brain function.

**Number of jurors who found this mitigating factor established:**

0

9. As a child, Mr. O'Reilly was sad, withdrawn and unusually compliant.

**Number of jurors who found this mitigating factor established:**

6

10. Mr. O'Reilly was physically slow and uncoordinated throughout his childhood and teenage years.

**Number of jurors who found this mitigating factor established:**

0

11. Mr. O'Reilly's father had no patience with Mr. O'Reilly, and verbally abused him throughout his childhood.

**Number of jurors who found this mitigating factor established:**

7

12. As an adult, Mr. O'Reilly was verbally abused and denigrated by his father until he left for Detroit.

**Number of jurors who found this mitigating factor established:**

0

13. TIMOTHY O'REILLY was physically abused by Patrick O'Reilly when Patrick repeatedly threw a soccer ball at TIMOTHY O'REILLY when he was 5 years old because TIMOTHY O'REILLY was not coordinated.

**Number of jurors who found this mitigating factor established:**

0

14. At the time of the soccer ball incident, Mr. O'Reilly was in adaptive physical education.

**Number of jurors who found this mitigating factor established:**

11

15. There were other instances of physical abuse of TIMOTHY O'REILLY by Patrick O'Reilly.

**Number of jurors who found this mitigating factor established:**

0

16. TIMOTHY O'REILLY's father was addicted to pornography.

**Number of jurors who found this mitigating factor established:**

9

17. Mr. O'Reilly witnessed his father creating pornography in the family home.

**Number of jurors who found this mitigating factor established:**

7

18. Mr. O'Reilly was exposed to sexual materials at an inappropriate age.

**Number of jurors who found this mitigating factor established:**

12

19. Mr. O'Reilly's mother failed to protect him.

**Number of jurors who found this mitigating factor established:**

6

20. Mr. O'Reilly struggled academically and socially throughout school.

**Number of jurors who found this mitigating factor established:**

7

21. When he graduated from high school, Mr. O'Reilly was in the 15th percentile in reading.

**Number of jurors who found this mitigating factor established:**

11

22. As a result of his difficulties, and things that occurred within the O'Reilly household, Mr. O'Reilly had a difficult childhood.

**Number of jurors who found this mitigating factor established:**

0

23. As a result of his lack of coordination, his academic difficulties, his lack of social skills, and his difficulties reading, Mr. O'Reilly suffers from low self-esteem.

**Number of jurors who found this mitigating factor established:**

3

24. Mr. O'Reilly has difficulty adjusting to, and processing, rapidly changing situations.

**Number of jurors who found this mitigating factor established:**

0

25. Mr. O'Reilly is a follower.

**Number of jurors who found this mitigating factor established:**

11

26. Mr. O'Reilly is dependent upon the people around him.

**Number of jurors who found this mitigating factor established:**

3

27. Others, such as Archie Broom and Norman Duncan, took advantage of Mr. O'Reilly.

**Number of jurors who found this mitigating factor established:**

6

28. Mr. O'Reilly is easily manipulated by others.

**Number of jurors who found this mitigating factor established:**

7

29. It was only after Barron Nix told the Federal Bureau of Investigation that he "could get Mr. O'Reilly to say he killed the guard" that Mr. O'Reilly said he shot Mr. Stephens.

**Number of jurors who found this mitigating factor established:**

0

30. Mr. O'Reilly was particularly vulnerable to the supposed friendship of Norman Duncan.

**Number of jurors who found this mitigating factor established:**

12



31. Mr. Duncan persuaded Mr. O'Reilly to come to Detroit.

**Number of jurors who found this mitigating factor established:**

11

32. Mr. Duncan dominated Mr. O'Reilly while he was in Detroit.

**Number of jurors who found this mitigating factor established:**

5

33. Mr. O'Reilly became dependent upon Mr. Duncan.

**Number of jurors who found this mitigating factor established:**

8

34. Earl Johnson organized the Dearborn Federal Credit Union robbery.

**Number of jurors who found this mitigating factor established:**

11

35. Earl Johnson and Kevin Watson recruited Norman Duncan to participate in the Dearborn Federal Credit Union robbery.

**Number of jurors who found this mitigating factor established:**

12

36. Without Mr. Duncan's influence, Mr. O'Reilly would not have participated in the Dearborn Federal Credit Union robbery.

**Number of jurors who found this mitigating factor established:**

7

37. Mr. O'Reilly was not a planner or organizer in the planning of the Dearborn Federal Credit Union robbery.

**Number of jurors who found this mitigating factor established:**

1

38. Residual doubt exists as to whether Mr. O'Reilly shot Mr. Stephens.

**Number of jurors who found this mitigating factor established:**

8

39. Residual doubt exists as to whether Mr. Stephens was shot while he was on the ground and already wounded.

**Number of jurors who found this mitigating factor established:**

9

40. Kevin Watson has claimed responsibility for the killing of Norman Anthony Stephens.

**Number of jurors who found this mitigating factor established:**

1

41. Kevin Watson sold or destroyed the weapon that killed Mr. Stephens.

**Number of jurors who found this mitigating factor established:**

0

42. Mr. Duncan wounded Jonathan Smith with a 9mm pistol during the Comerica robbery.

**Number of jurors who found this mitigating factor established:**

12

43. Doubt exists as to whether others who have not been charged such as Elliott Phillinganes and "Fat James" participated in the Dearborn Federal Credit Union robbery.

**Number of jurors who found this mitigating factor established:**

7

44. Others, equally or more culpable, such as Earl Johnson, Khayyam Wilson, Henry Matthews, and Archie Broom, did not face the death penalty, and will not receive death sentences.

**Number of jurors who found this mitigating factor established:**

10

45. Earl Johnson is serving a sentence of life in prison without the possibility of release.

**Number of jurors who found this mitigating factor established:**

11

46. The favorable informal agreement that the Government offered to Henry Matthews as well as the favorable plea agreements offered to Khayyam Wilson and Archie Broom, weigh against imposition of a sentence of death for Mr. O'Reilly.

**Number of jurors who found this mitigating factor established:**

0

47. Although Norman Duncan and Kevin Watson currently face the possibility of the death penalty, a death sentence may not be imposed on them.

**Number of jurors who found this mitigating factor established:**

12

48. TIMOTHY O'REILLY's execution will cause Shawn Meissner to suffer grief and loss.

**Number of jurors who found this mitigating factor established:**

12

49. TIMOTHY O'REILLY's execution will cause Brian Southerland to suffer grief and loss.

**Number of jurors who found this mitigating factor established:**

12

50. Nicole O'Reilly will be harmed, and she and her child, Brianne, will suffer grief and loss, if Mr. O'Reilly is executed.

**Number of jurors who found this mitigating factor established:**

8

51. TIMOTHY O'REILLY's execution will cause harm to Steven O'Reilly, and will cause him to suffer grief and loss.

**Number of jurors who found this mitigating factor established:**

12

52. TIMOTHY O'REILLY's execution will cause harm to Patrick O'Reilly, and will cause him to suffer grief and loss.

**Number of jurors who found this mitigating factor established:**

7

- 53. TIMOTHY O'REILLY's execution will cause harm to Sherri O'Reilly, and will cause her to suffer grief and loss.

**Number of jurors who found this mitigating factor established:**

12

- 54. Mr. O'Reilly's life has value.

**Number of jurors who found this mitigating factor established:**

8

There may be other factors in TIMOTHY O'REILLY's life, background, record, character; any other circumstance of the offense; or, anything else that mitigates against imposition of a death sentence.

Please write in the additional mitigating factor or factors, if any, found by one or more jurors. If no jury member found any additional mitigating factor or factors, write "NONE" and cross out the extra spaces with a large "X."

If more space is needed, please write "CONTINUED" and use the reverse side of this page.

55. Timothy O'Reilly has low self-esteem

**Number of jurors who found this mitigating factor established:**

  11  

~~\_\_\_\_\_~~

**Number of jurors who found this mitigating factor established:**

\_\_\_\_\_

**Instructions:** Whether you found any mitigating factors established, proceed to Section VI.

**SECTION VI - A: RECOMMENDATION TO SENTENCE TIMOTHY O'REILLY TO LIFE IN PRISON WITHOUT THE POSSIBILITY OF RELEASE**

As to TIMOTHY O'REILLY, we, unanimously find that the proven aggravating factor(s) do(es) not sufficiently outweigh the mitigating factor(s) found to exist; or, in the absence of any mitigating factors, we, unanimously find that the aggravating factors in themselves do not justify a sentence of death. Therefore, we unanimously recommend that TIMOTHY O'REILLY be sentenced to life in prison without the possibility of release.

Count 2

YES \_\_\_\_\_  
NO   ✓  

Count 3

YES \_\_\_\_\_  
NO   ✓  

Instructions: If you answer "YES," you must sign here and proceed to Section VII. If you answer "NO," you must proceed to Section VI - B.

So say we all, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_

Name:

\_\_\_\_\_

Name:

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**Name:**

**SECTION VI - B: RECOMMENDATION TO SENTENCE TIMOTHY O'REILLY TO DEATH**

As to TIMOTHY O'REILLY, we, unanimously find that the proven aggravating factor(s) sufficiently outweigh(s) the mitigating factor(s) found to exist; or, in the absence of mitigating factors, we unanimously find that the aggravating factors themselves justify a sentence of death. Therefore, we unanimously recommend that a death sentence be imposed on TIMOTHY O'REILLY.

Count 2

YES \_\_\_\_\_  
NO       ✓      

Count 3

YES \_\_\_\_\_  
NO       ✓      

Instructions: If you answer "YES," you must sign here and proceed to Section VII. If you answer "NO," you must proceed to Section VI - C.

So say we all, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

\_\_\_\_\_  
Name:

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**Name:**

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**Name:**

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**Name:**

**SECTION VI - C: NO UNANIMOUS SENTENCING RECOMMENDATION**

We, the jury, are unable to reach a unanimous sentencing recommendation either in favor of a sentence of life in prison without the possibility of release, or in favor of a death sentence.

**Count 2**

YES  \_\_\_\_\_

NO \_\_\_\_\_

**Count 3**

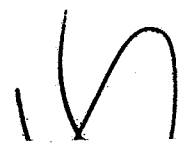
YES  \_\_\_\_\_

NO \_\_\_\_\_

**Instructions:** If you answer "YES," you must sign here and proceed to Section

VII.

So say we all, this 25<sup>th</sup> day of August, 2010.



**S/Jury Foreperson**

In compliance with the Privacy Policy Adopted by the Judicial Conference, the verdict form with the original signature has been filed under seal

**S/Juror**

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**SECTION VII: CERTIFICATION**

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of TIMOTHY O'REILLY or Norman Anthony Stephens 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 TIMOTHY O'REILLY or Norman Anthony Stephens

**S/Jury Foreperson**

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Date: Aug 25, 2010