

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

File No. 1:01-CR-218

v.

HON. ROBERT HOLMES BELL

ROBERT NORMAN OSTRANDER

Defendant

**PENALTY PHASE
SPECIAL VERDICT FORM**

I. GATEWAY INTENT FACTOR

Instructions: Answer "YES" or "NO."

1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally killed Hansle Andrews as explained in Instruction No. 8?

Yes

No



2. 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 or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and that Hansle Andrews died as a result of the act as explained in Instruction No. 8?

Yes

NO

[Redacted Signature]

Jury Foreperson

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

II. 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 the defendant committed the murder of Hansle Andrews in an especially heinous, cruel and depraved manner, as set out in Instructions No. 9 and 10?

Yes

NO

[REDACTED]

Jury Foreperson

2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant committed the offense of murder after substantial planning and premeditation to cause the death of a person, as set out in Instructions No. 9 and 11?

Yes

No

[REDACTED]

Jury Foreperson

3. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant committed the offense of murder as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value, as set out in Instructions 9 and 12?

Yes

No

[Redacted Signature]

Jury Foreperson

Instructions: If you answered "NO" with respect to all three of the Statutory Aggravating Factors in this Section II, then stop your deliberations, cross out Sections III, IV and V of this form, and proceed to Section VI of this form.

If you found the requisite mental state in Section I and answered "YES" with respect to one or more of the statutory aggravating factors in this Section II, proceed to Section III which follows.

III. 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 the personal characteristics of Hansle Andrews as an individual human being were such that his death has caused injury and loss to Hansle Andrews, his family and his friends, and that such victim impact evidence is an aggravating factor, as set out in Instructions 13 and 14?

Yes

No

[Redacted Signature]

Jury Foreperson

2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant lacked remorse for the murder of Hansle Andrews as set out in Instructions 13 and 15?

Yes

No

[Redacted Signature]

Jury Foreperson

3. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant presents a risk of future dangerousness as set out in Instructions 13 and 16?

Yes

No



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

IV. MITIGATING FACTORS

Instructions: For each of the following mitigating factors, 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.

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:

1. Defendant has developed a close and loving relationship with his daughter, Tabitha, who will need his continuing support as she grows to maturity.

Number of jurors who so find

0

2. Defendant's execution would have a detrimental emotional impact upon his daughter, Tabitha.

Number of jurors who so find

8

3. Defendant has provided support and protection for his mother, Barbara Evans.

Number of jurors who so find

12

4. Defendant has provided guidance and encouragement to his younger twin brothers, Daryll and David, who have come to regard him as a father figure.

Number of jurors who so find 12

5. Defendant grew up in a chaotic, unstable, violent, and dysfunctional single-parent environment. His mother was a substance abuser who dated men who were violent, drug-dependant, and alcoholic. His father was an alcoholic who provided no meaningful parental guidance to him.

Number of jurors who so find 12

6. The environment in which defendant grew up failed to meet his developmental needs, thereby causing him to become withdrawn.

Number of jurors who so find 5

7. Because of the dysfunctional single-parent environment where he grew up, defendant was compelled at a young age to assume responsibility for protecting his family against physical and mental abuse.

Number of jurors who so find 12

8. During more than two years of pre-trial detention, defendant has caused no problems for jail personnel, and he has thereby demonstrated good adjustment to a prison environment.

Number of jurors who so find

0

9. Defendant feels significant remorse for the killing of Hansle Andrews.

Number of jurors who so find

0

10. No other participant in the events surrounding the death of Hansle Andrews will be punished with death, and nearly every other participant in the events will serve a prison term of less than ten years.

Number of jurors who so find

12

Please identify any other factors about the commission of the crime or about the defendant's background or character, that mitigate against imposition of the death penalty:

1. _____

Number of jurors who so find

2. _____

Number of jurors who so find

3. _____

Number of jurors who so find _____

4. _____

Number of jurors who so find _____

(If more space is needed, simply write below and on the back of this sheet. Please remember that you need not be able to articulate a mitigating factor with specificity to consider it in your deliberations.)

V. DETERMINATION

Instruction: As to each count, please check one of the three boxes below, sign your names, and then proceed to Section VI.

Count 2: With respect to Count 2, murder with a firearm in relation to a drug trafficking crime:

We, the jury, after weighing the aggravating and mitigating factors, unanimously find that the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist to justify a sentence of death, and unanimously recommend that the defendant be sentenced to death.

We, the jury, after weighing the aggravating and mitigating factors, and considering the evidence and the law, recommend that the defendant be sentenced to life imprisonment without the possibility of release.

We, the jury, after weighing the aggravating and mitigating factors, and considering the evidence and the law, recommend that the defendant be sentenced to any term of incarceration, which may include life imprisonment, to be imposed by the Court.

Sign your names here, and then proceed to Count 3.

Date: 12-4-03

Count 3: With respect to Count 3, murder with a firearm during the commission of a robbery that affects interstate commerce:

We, the jury, after weighing the aggravating and mitigating factors, unanimously find that the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors found to exist to justify a sentence of death, and unanimously recommend that the defendant be sentenced to death.

We, the jury, after weighing the aggravating and mitigating factors, and considering the evidence and the law, recommend that the defendant be sentenced to life imprisonment without the possibility of release.

We, the jury, after weighing the aggravating and mitigating factors, and considering the evidence and the law, recommend that the defendant be sentenced to any term of incarceration, which may include life imprisonment, to be imposed by the Court.

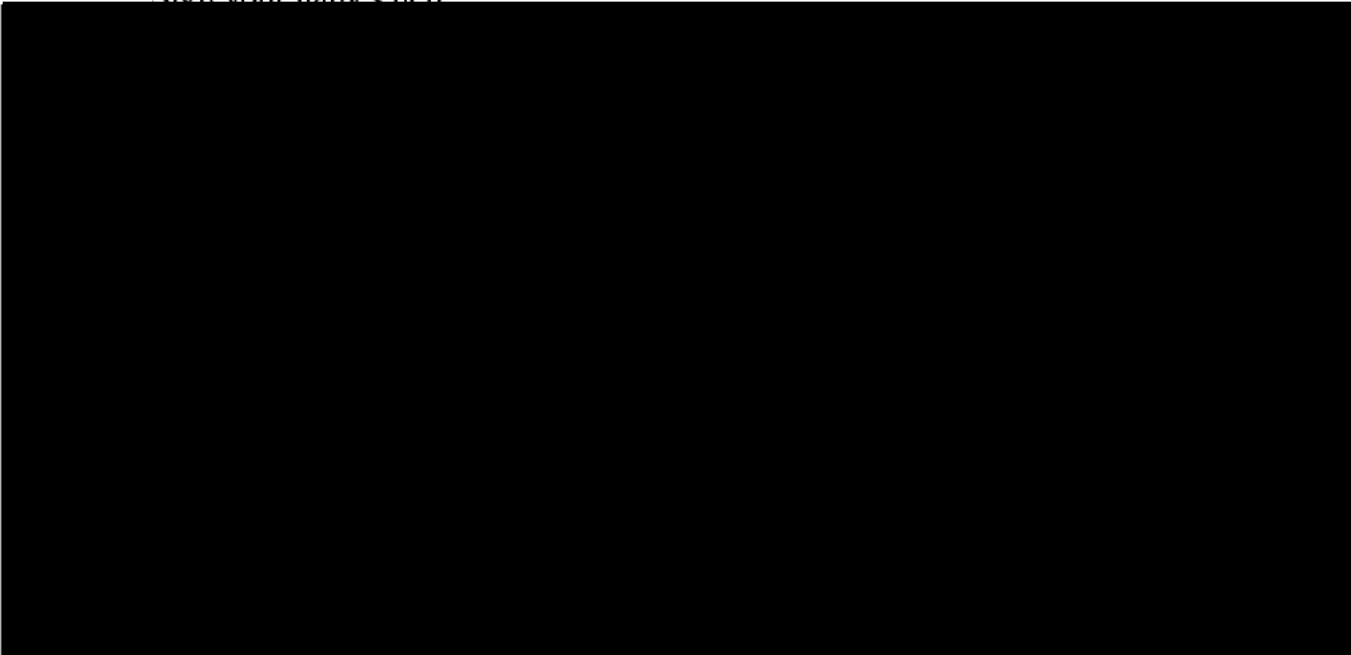
Sign your names here, and then proceed to Section VI.

Date: 12-4-03

VI. CERTIFICATION

By signing below, each juror certifies that neither the defendant's nor the victim's race, color, religious beliefs, national origin, or sex was considered in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime in question regardless of the race, color, religious beliefs, national origin, or sex of the defendant, or the victim.

Sign your names here:



Date: 12-4-03

