

ORIGINAL

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLORADO

Criminal Case No. 00-cr-00531-WYD

UNITED STATES OF AMERICA,

Plaintiff,

v.

RUDY CABRERA SABLAN,

Defendant.

SPECIAL FINDINGS FORM

I. Findings Regarding Defendant's Eligibility for a Death Sentence

A. Defendant's Age at Time of Offense

Do you unanimously find that the government proved beyond a reasonable doubt that Rudy Sablan was at least eighteen (18) years of age at the time he committed the offense for which sentence is to be imposed?

YES ✓ 12

NO 0

If you answered "yes", proceed to the next section (I-B) of this Form. If you answered "no", then stop your deliberations, sign the section of this Form indicating a verdict of life imprisonment, certify your decision as described in section IV, and notify the Court that you have reached a decision.

B. Defendant's Intent in Commission of Offense

For each type of intent specified below, answer "yes" or "no" according to whether you unanimously find that the government proved beyond a reasonable doubt that Rudy Sablan acted with the specified intent:

1. The defendant intentionally killed the victim;

YES 5 *Suicides*
NO 2

2. The defendant intentionally inflicted serious bodily injury that resulted in the victim's death;

YES 11
NO 1

3. The defendant intentionally participated in an act, contemplating that a person's life 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 the victim died as a result of the act;

YES 12
NO 0

4. The defendant 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 died as a direct result of the act.

YES 11
NO 1

If you answered "yes" to one or more of these alternatives, proceed to the next section (I-C) of this Form. If you answered "no" to all of them, then stop your deliberations, sign the section of this Form indicating a verdict of life imprisonment, certify your decision as described in section IV, and notify the Court that you have reached a decision.

C. Statutory Aggravating Factors

The government has alleged that the following statutory aggravating factor is present in this case. Answer "yes" or "no" according to whether you unanimously find that the government proved the existence of the factor beyond a reasonable doubt:

- 1. Rudy Sablan committed the offense in an especially heinous or depraved manner in that it involved serious physical abuse to the victim:

YES 12
NO 0

If you answered "yes" to this statutory aggravating factor, you have found the defendant eligible for a death sentence and you should proceed to the next section (II) of this Form to select a sentence of death or a sentence of life imprisonment without possibility of release. If you answered "no" to this factor, then you have found the defendant ineligible for a death sentence and you should stop your deliberations, sign

the section of this Form indicating a verdict of life imprisonment, certify your decision as described in section IV, and notify the Court that you have reached a decision.

II. Findings Regarding Selection of the Sentence

A. Non-Statutory Aggravating Factor

The government has alleged that the following non-statutory aggravating factor is present in this case. Answer "yes" or "no" according to whether you unanimously find that the government proved the existence of the factor beyond a reasonable doubt:

- 1. Future Dangerousness of the Defendant: Rudy Sablan is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others.

YES 6 / UNDECIDED
 NO 5

Regardless of your finding on the non-statutory factor, you must proceed to the next section (II-B) of this Form.

B. Mitigating Factors

Rudy Sablan has alleged that the following mitigating factors are present in this case. For each of these factors, indicate in the space provided the number of juror(s) who have found the existence of that factor by a preponderance of the evidence.

- 1. William Sablan, equally culpable in the crime, will not be punished by death.

Number of Jurors who so find 7

2. Rudy Sablan is punishable as a principle in the killing of Mr. Estrella but Rudy played a lesser role than William Sablan in the killing of Mr. Estrella.
 Number of Jurors who so find 0

3. Rudy Sablan is punishable as a principle in the killing of Mr. Estrella but Rudy's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense.
 Number of Jurors who so find 0

4. The killing of Mr. Estrella was the result of an altercation between Joey Estrella and William Sablan.
 Number of Jurors who so find 1

5. Rudy Sablan was not a participant in the initial confrontation between Joey Estrella and William Sablan.
 Number of Jurors who so find 1

6. Rudy Sablan intervened and broke up the fight between Joey Estrella and William Sablan at least twice.
 Number of Jurors who so find 6

7. The escalation of the fight between Joey Estrella and William Sablan was caused, at least in part, by William Sablan's mental condition.
 Number of Jurors who so find 0

8. The escalation of the fight between Joey Estrella and William Sablan was caused, at least in part, by the fact that Mr. Estrella was intoxicated and that he was a very aggressive person when drinking.
 Number of Jurors who so find 1

9. Upon William Sablan's arrival at the United States Penitentiary-Florence, the Bureau of Prisons ("BOP") placed him in cell 124 of the Special Housing Unit along with Rudy Sablan and Joey Estrella, despite the fact that the cell was designed to house only two people.
- Number of Jurors who so find 1
10. Joey Estrella and Rudy Sablan had been cellmates for a long period of time, without any notable problems until William Sablan was put in the cell.
- Number of Jurors who so find 1
11. The circumstances that led to Joey Estrella's death existed, at least in part, because of failure(s) by BOP officials to properly do their job(s), by allowing alcohol and weapons in the cell.
- Number of Jurors who so find 2
12. Rudy Sablan was cooperative in his removal from the cell after Joey Estrella's death. Furthermore, Rudy Sablan encouraged William Sablan to cooperate with correctional officers during their removal from the cell.
- Number of Jurors who so find 0
13. Rudy Sablan obtained only an 8th grade level of education initially but then pursued, and attained, a G.E.D. (general education development) certificate, the equivalent of a high school diploma, while incarcerated during his young adulthood.
- Number of Jurors who so find 10

14. Rudy Sablan was raised in an abusive family and he suffered physical and emotional abuse at the hands of his father.
Number of Jurors who so find 0
15. Rudy Sablan is a concerned and loving father who is trying to be a positive influence on his 14-year-old son.
Number of Jurors who so find 5
16. Rudy Sablan has a close and loving relationship with other family members and maintains contact with them.
Number of Jurors who so find 3
17. Because of Rudy Sablan's ongoing relationship with his son, Irvin Saralu, the execution of Rudy Sablan will cause emotional trauma to his son and have a negative impact upon Irvin's life.
Number of Jurors who so find 7
18. Rudy Sablan is a talented artist and continues to rehabilitate himself through his artwork.
Number of Jurors who so find 3
19. Rudy Sablan has used his creative talents in a way that is beneficial to others and shows his love and concern for them.
Number of Jurors who so find 1
20. Rudy Sablan convinced another inmate, Clifford Black, to abandon his intent to assault a prison guard at USP Atlanta.
Number of Jurors who so find 0

21. Rudy Sablan showed concern for the family relationship of his cellmate, Jimmy Kelly, by taking the blame for a weapon which belonged to Mr. Kelly so his family visit would not be taken away.

Number of Jurors who so find 0

22. Rudy Sablan attempted to break up a fight between inmates Jimmy Couch and Paul Hennings at USP Florence in 1999.

Number of Jurors who so find 0

23. If not sentenced to death, Rudy Sablan will be sentenced to a term of life in prison without any possibility of release.

Number of Jurors who so find 7

As explained in the Court's instructions, the law permits you to consider any other relevant mitigating information, in addition to the specific mitigating factors alleged by the defendant listed above, so long as you find that it was proved by a preponderance of the evidence. As with specific mitigating factors, your findings in this regard need not be unanimous.

Did one or more jurors find that the evidence has established some other factor(s) in the defendant's background, record or character that mitigate(s) against the imposition of the death sentence?

YES

NO

If you answered "yes," list the additional mitigation information you found to be present and the number of jurors who so find in the space provided below.

- ① THE B.D.P. DIDN'T DO THEIR JOB BY FAULTY LOGIC OF PUTTING WILLIAM AND RUDY IN THE SAME CELL (8 YRS)
- ② RUDY PLAYED A LESSER ROLE IN THE DESECRATION OF THE BODY OF JOEY (1 YRS)

Did one or more jurors find that the evidence has established some other circumstance(s) that mitigate(s) against the imposition of the death sentence?

YES
NO

If you answered "yes," list the additional mitigation information you found to be present and the number of jurors who so find in the space provided below.

- ③ RUDY HAS SHOWN NO SIGNS OF VIOLENT ACTIVITY IN THE PAST 9 YEARS. (7 YRS)
- ④ JOEY DIED BECAUSE THE GUARDS FAILED TO DO 30 MINUTE ROUNDS. (7 YRS)

When you have completed your findings regarding mitigation, proceed to the next section (II-C) of this Form, where you will weigh the aggravating factor(s) with the mitigating factor(s), if any, that you have found to be present in this case.

C. Weighing Process

The question you must answer at this stage of your deliberations is whether the proven aggravating factor(s) sufficiently outweigh the proven mitigating factor(s) and information to justify a sentence of death or, if you have not found any mitigation present, whether the aggravating factor(s) considered alone justify a death sentence. If you unanimously find that the weight of the aggravating factors is sufficient to justify a sentence of death, answer "yes" below, record your verdict on Verdict—Sentence of Death, certify your decision as described in section IV, and notify the Court that you

have reached a decision. If you do not unanimously find that a death sentence is justified, answer "no" below, stop your deliberations, sign Verdict—Life Imprisonment, certify your decision as described in section IV, and notify the Court that you have reached a decision.

YES _____

NO

*S- DEATH
T- LIFE*

If you are unable, after reasonable efforts, to unanimously agree upon a sentence, sign the form on page 13 indicating this.

III. Imposition of Sentence

Fill in the appropriate verdict form and then proceed to section IV, and certify your decision as described in section IV, which concludes your deliberations.

VERDICT-SENTENCE OF DEATH

Based upon our consideration of the evidence and in accordance with the Court's instructions, we find by unanimous vote that Rudy Sablan shall be sentenced to death.

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____
- 8. _____
- 9. _____
- 10. _____
- 11. _____
- 12. _____

Foreperson

Dated this _____ day of _____, 2008.

VERDICT-LIFE IMPRISONMENT

Based upon our consideration of the evidence and in accordance with the Court's instructions, we find that Rudy Sablan shall be sentenced to life imprisonment without possibility of release.

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

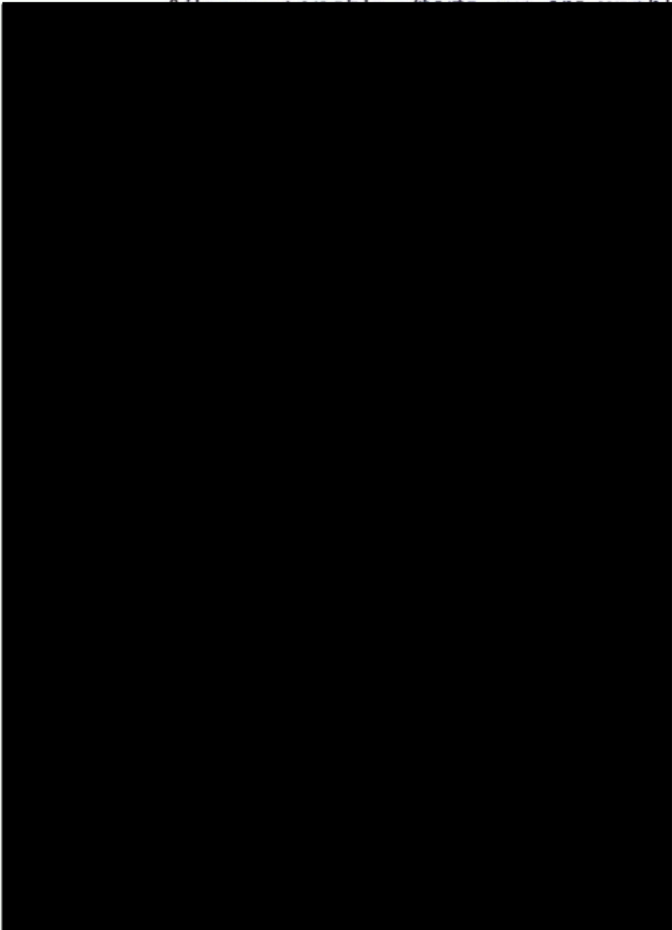
11. _____

12. _____

Foreperson

Dated this ____ day of _____, 2008.

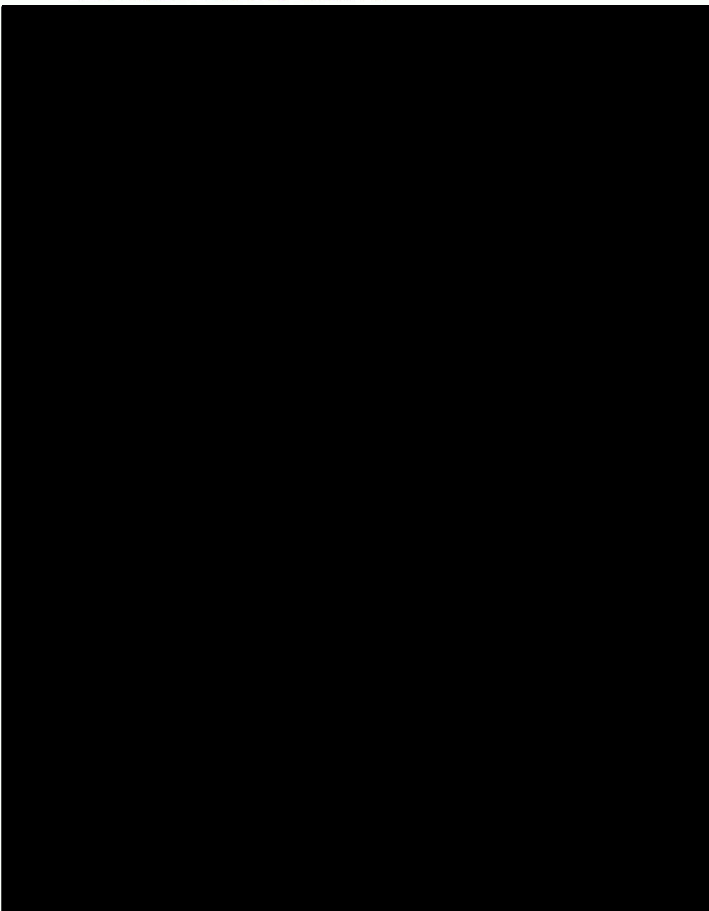
All [redacted] to unanimously agree upon a sentence.



Dated this 20th day of May, 2008.

IV. Certification

By signing below, each juror certifies that *per se* consideration of the race, color, religious beliefs, national origin, or gender of the defendant or the victim was not involved in reaching his or her individual decision, and that the individual juror would have made the same decision regarding the appropriate sentence for the offense in question regardless of the race, color, religious beliefs, national origin, or gender of the defendant or the victim.



Dated this 20th day of May, 2008.