

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
HARRISONBURG DIVISION

FEB 15 2005

JOHN F. COBURN, CLERK  
BY: *[Signature]*  
DEPUTY CLERK

UNITED STATES OF AMERICA, )  
 )  
 )  
v. )  
 )  
BRENT K. SIMMONS )

Criminal No. 5:04cr30014

SPECIAL FINDINGS  
AS TO COUNT ONE

Part I. FINDINGS ON INTENT

- (A) We the jury unanimously find beyond a reasonable doubt that the defendant, Brent K. Simmons, intentionally killed Ann Olson.

\_\_\_\_\_  
Foreperson

AND/OR

- (B) We the jury unanimously find beyond a reasonable doubt that the defendant, Brent K. Simmons, intentionally inflicted serious bodily injury that resulted in the death of Ann Olson.

\_\_\_\_\_  
Foreperson

AND/OR

- (C) We the jury find beyond a reasonable doubt that the defendant, Brent K. Simmons, 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 and Ann Olson died as a result of the act.

\_\_\_\_\_  
Foreperson

**AND/OR**

- (D) We the jury find beyond a reasonable doubt that the defendant, Brent K. Simmons, intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, such that participation in the act constituted a reckless disregard for human life and Ann Olson died as a direct result of the act.

\_\_\_\_\_  
Foreperson

**OR**

- (E) We the jury DO NOT unanimously find beyond a reasonable doubt one or more of (A),(B), (C), or (D), above.

\_\_\_\_\_  
Foreperson

***If you do NOT unanimously find any one of elements A, B, C, or D, above, sign finding E and report the decision to the court and deliberate no more.***

Part II. STATUTORY AGGRAVATING FACTORS

- (A) We the jury unanimously find beyond a reasonable doubt that defendant, Brent K. Simmons, committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of violence.

\_\_\_\_\_  
Foreperson

**AND/OR**

(B) We the jury unanimously find beyond a reasonable doubt that defendant, Brent K. Simmons, intentionally killed or attempted to kill more than one person, that is, Ann Olson and Keith O'Connell, in a single criminal episode.

\_\_\_\_\_  
Foreperson

**OR**

(D) We the jury DO NOT unanimously find beyond a reasonable doubt one or more of (A) or (B), above.

\_\_\_\_\_  
Foreperson



- (C) We the jury find beyond a reasonable doubt that the defendant, Brent K. Simmons, 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 and Keith O'Connell died as a result of the act.

\_\_\_\_\_  
Foreperson

**AND/OR**

- (D) We the jury find beyond a reasonable doubt that the defendant, Brent K. Simmons, intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, such that participation in the act constituted a reckless disregard for human life and Keith O'Connell died as a direct result of the act.

\_\_\_\_\_  
Foreperson

**OR**

- (E) We the jury DO NOT unanimously find beyond a reasonable doubt one or more of (A),(B), (C), or (D), above.

\_\_\_\_\_  
Foreperson

***If you do NOT unanimously find any one of elements A, B, C, or D, above, sign finding E and report the decision to the court and deliberate no more.***

Part II. STATUTORY AGGRAVATING FACTORS

- (A) We the jury unanimously find beyond a reasonable doubt that defendant, Brent K. Simmons, committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of violence.

\_\_\_\_\_  
Foreperson

**AND/OR**

(B) We the jury unanimously find beyond a reasonable doubt that defendant, Brent K. Simmons, intentionally killed or attempted to kill more than one person, that is, Ann Olson and Keith O'Connell, in a single criminal episode.

\_\_\_\_\_  
Foreperson

**OR**

(D) We the jury DO NOT unanimously find beyond a reasonable doubt one or more of (A) or (B), above.

\_\_\_\_\_  
Foreperson



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
HARRISONBURG DIVISION

CLERK'S OFFICE U.S. DIST. COURT  
AT ABINGDON, VA  
FILED

FEB 17 2005

JOHN F. ZORCCAN, CLERK  
BY: *[Signature]*  
DEPUTY CLERK

UNITED STATES OF AMERICA )  
 )  
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v. )  
 )  
 )  
BRENT K. SIMMONS )  
 )  
 )

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COUNT TWO

DECISION FORM (A)

We the jury DO NOT unanimously find that the aggravating factors proved in this case sufficiently outweigh the mitigating factors to justify a sentence of death. We therefore return a decision that Brent K. Simmons be sentenced to life imprisonment without possibility of release.

\_\_\_\_\_  
Foreperson

DATE: 02/16/05



IN THE UNITED STATES DISTRICT COURT  
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UNITED STATES OF AMERICA )

v. )

BRENT K. SIMMONS )

) Criminal No. 5:04cr30014

) SPECIAL FINDINGS

Part I. Non-statutory Aggravating Factors

[To be proved by the Government **beyond a reasonable doubt**]

As to each of Counts One and Two:

(1) We the jury unanimously find beyond a reasonable doubt that the defendant, Brent Simmons, had a prior history of domestic abuse, harassment, and stalking.

\_\_\_\_\_  
Foreperson

**AND/OR**

(2) We the jury unanimously find beyond a reasonable doubt that the defendant, Brent Simmons, willfully and knowingly possessed with intent to distribute quantities of cocaine and/or marijuana.

\_\_\_\_\_  
Foreperson

**AND/OR**

(3) We the jury unanimously find beyond a reasonable doubt that the defendant, Brent Simmons, caused injury, harm, and loss to the friends and family of Ann Olson and Keith O'Connell because of Ann Olson's and Keith O'Connell's personal characteristics as individuals and the impact of their deaths upon those persons.

\_\_\_\_\_

Foreperson

**OR**

(4) We the jury DO NOT unanimously find beyond a reasonable doubt one or more of (1)-(3), above.

\_\_\_\_\_

Foreperson

*Regardless of the findings you have made as to the non-statutory aggravating factors, proceed to the next part inquiring as to mitigating factors.*

Part II. Mitigating Factors

[To be proved by the defense by a **preponderance of the evidence**]

(1) Brent Simmons had no criminal record before these murders.

Number of jurors who so find: 12

(2) At the time of the offense, Brent Simmons was a young man (23).

Number of jurors who so find: 0

(3) At age 32, Brent Simmons' increasing age is a good indicator that he will not pose a substantial risk of harm to others in prison.

Number of jurors who so find: 2

(4) Brent Simmons has a history of nearly 8 years of functioning well in the prison system, which is a strong predictor of his future adjustment in prison.

Number of jurors who so find: ~~2~~ 0

(5) If incarcerated for the remainder of his natural life, Brent Simmons is unlikely to be a continuing and serious threat to the lives and safety of others in the prison setting.

Number of jurors who so find: 3

(6) Brent Simmons has the capacity to make productive contributions to his prison society.

Number of jurors who so find: 0

(7) Brent Simmons has demonstrated the ability to respond well in a structured and monitored environment like the one in which he will live in federal prison.

Number of jurors who so find: 0

(8) Brent Simmons remains involved in and positively contributes to the lives of his mother, sisters, and brother.

Number of jurors who so find: 12

(9) There are other factors in Brent Simmons' childhood, background or character

that mitigate against imposition of the death sentence.

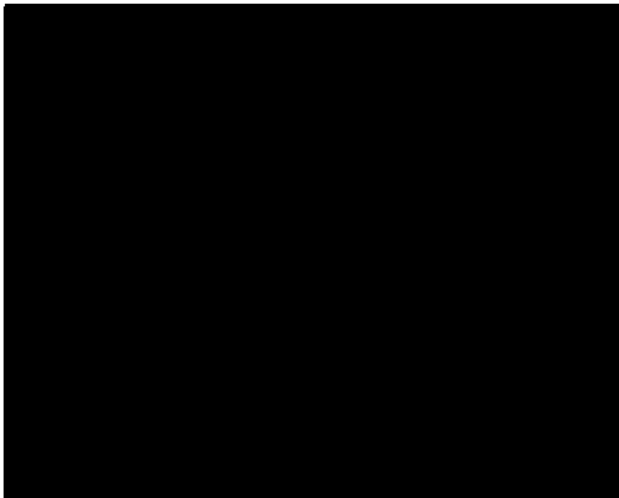
Number of jurors who so find: 6

  
Foreperson

CERTIFICATE

By signing below, each of us individually certifies that consideration of the race, color, religious beliefs, national origin, or sex of Brent K. Simmons and of the victim, were not involved in reaching our respective individual decisions.

Each of us individually further certifies that the same decision regarding a sentence would have been made no matter what the race, color, religious beliefs, national origin, or sex of the defendant or victim may have been.



(Foreperson)

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