

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA

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versus

NO. 1:09-CR-15 (1)
(Judge Crone)

MARK ISAAC SNARR

VERDICT OF THE JURY—PHASE TWO M. 5-12 2010

FILED

DAVID J. MALAND, CLERK
U.S. DISTRICT COURT

SPECIAL FINDING I

By _____
DEPUTY

We, the jury, unanimously find that the government

✓ HAS _____ HAS NOT

proved beyond a reasonable doubt that Defendant Mark Issac Snarr was eighteen (18) years of age or older at the time of the instant offense.

If you have found that the government has carried its burden with respect to Special Finding I, then proceed to Special Finding II-A. If you have found that the government has not carried its burden with respect to Special Finding I, then sign and date this Verdict Form and proceed to the Certification.

SPECIAL FINDING II

II-A. We, the jury, unanimously find that the government

✓ HAS _____ HAS NOT

proved beyond a reasonable doubt that Defendant Mark Isaac Snarr intentionally killed Gabriel Rhone.

If you have found that the government has carried its burden with respect to Special Finding II-A, then proceed to Special Finding III. If you have found that the government has not carried its burden with respect to Special Finding II-A, then proceed to Special Finding II-B.

II-B. We, the jury, unanimously find that the government

_____ HAS _____ HAS NOT

proved beyond a reasonable doubt that Defendant Mark Isaac Snarr intentionally inflicted serious bodily injury that resulted in the death of Gabriel Rhone.

If you have found that the government has carried its burden with respect to Special Finding II-B, then proceed to Special Finding III. If you have found that the government has not carried its burden with respect to Special Finding II-B, then proceed to Special Finding II-C.

II-C. We, the jury, unanimously find that the government

_____ HAS _____ HAS NOT

proved beyond a reasonable doubt that Defendant Mark Isaac Snarr 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 Gabriel Rhone died as a direct result of the act.

If you have found that the government has carried its burden with respect to Special Finding II-C, then proceed to Special Finding III. If you have found that the government has not carried its burden with respect to Special Finding II-C, then proceed to Special Finding II-D.

II-D. We, the jury, unanimously find that the government

_____ HAS _____ HAS NOT

proved beyond a reasonable doubt that Defendant Mark Isaac Snarr 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 Gabriel Rhone died as a direct result of the act.

If you have found that the government has carried its burden with respect to Special Finding II-D, then proceed to Special Finding III. If you have found that the government has not carried its burden with respect to Special Finding II-D, then sign and date this Verdict Form and proceed to the Certification.

SPECIAL FINDING III

III-A. We, the jury, unanimously find that the government

HAS _____ HAS NOT

proved beyond a reasonable doubt that Defendant Mark Isaac Snarr has previously been convicted of two (2) or more Federal or State offenses, punishable by a term of imprisonment of more than one (1) year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

Regardless of how you answered Special Finding III-A, proceed to Special Finding III-B.

III-B. We, the jury, unanimously find that the government

HAS HAS NOT

proved beyond a reasonable doubt that Defendant Mark Isaac Snarr, in the commission of the offense, knowingly created a grave risk of death to one (1) or more persons in addition to the victim of the offense, Gabriel Rhone.

Regardless of how you answered Special Finding III-B, proceed to Special Finding III-C.

III-C. We, the jury, unanimously find that the government

HAS HAS NOT

proved beyond a reasonable doubt that Defendant Mark Isaac Snarr committed the offense in an especially heinous, cruel, and depraved manner in that it involved torture or serious physical abuse to Gabriel Rhone.

Regardless of how you answered Special Finding III-C, proceed to Special Finding III-D.

III-D. We, the jury, unanimously find that the government

HAS HAS NOT

proved beyond a reasonable doubt that Defendant Mark Isaac Snarr committed the offense after substantial planning and premeditation to cause the death of a person.

Regardless of how you answered Special Finding III-D, proceed to Special Finding III-E.

III-E. We, the jury, unanimously find that the government

HAS HAS NOT

proved beyond a reasonable doubt that Defendant Mark Isaac Snarr intentionally killed or attempted to kill more than one (1) person in a single criminal episode.

Regardless of how you answered Special Finding III-E, sign and date this Verdict Form and proceed to the Certification.

Date: May 12, 2010

Jury Foreperson

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

UNITED STATES OF AMERICA

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versus

NO. 1:09-CR-15 (1)
(Judge Crone)

MARK ISAAC SNARR

VERDICT OF THE JURY—PHASE THREE P.M.

SPECIAL FINDING I

NON-STATUTORY AGGRAVATING FACTORS

FILED
5-24-2010
DAVID J. MALAND, CLERK
U.S. DISTRICT COURT
By *mp*
DEPUTY

1. We, the jury, unanimously find that the government

HAS HAS NOT

proved beyond a reasonable doubt that Defendant Mark Isaac Snarr poses a continuing and serious threat to the lives and safety of others because it is likely that he will commit criminal acts of violence in the future and this factor is aggravating.

2. We, the jury, unanimously find that the government

HAS HAS NOT

proved beyond a reasonable doubt that the victim, Gabriel Rhone, was particularly vulnerable due to the fact that he was locked in a cell and devoid of any means with which to defend himself from the armed defendant, Mark Isaac Snarr, and this factor is aggravating.

May 24, 2010
Date

Jury Foreperson

Regardless of whether you answered "HAS" or "HAS NOT" in response to either question in Section I, proceed to Section II, which follows.

SPECIAL FINDING II
MITIGATING FACTORS

For each of the following proposed non-statutory mitigating factors, indicate in the space provided the number of jurors who find that the defendant has proved by a preponderance of the evidence the existence of such factor and that it is mitigating.

1. Gabriel Rhone was not a peaceful and law abiding inmate.
Number of jurors who so find 0.
2. Gabriel Rhone was a racist.
Number of jurors who so find 0.
3. Gabriel Rhone frequently yelled religious slurs at non-Muslim inmates.
Number of jurors who so find 0.
4. Gabriel Rhone made threats to Mark Isaac Snarr.
Number of jurors who so find 4.
5. Gabriel Rhone was a District of Columbia inmate and District of Columbia inmates are the most disrespectful and brutal inmates in Federal prison.
Number of jurors who so find 0.
6. As an inmate in the Bureau of Prisons ("BOP"), Gabriel Rhone was a behavior management problem.
Number of jurors who so find 0.
7. Gabriel Rhone engaged in defiant behavior.
Number of jurors who so find 0.
8. Gabriel Rhone's behavior was unpredictable.
Number of jurors who so find 0.

9. Gabriel Rhone displayed a negative and angry approach to others.

Number of jurors who so find 0.

10. Gabriel Rhone ejaculated onto Correctional Officer Dawn Gallagher's shoe on November 12, 2007, and Mark Isaac Snarr was aware of the incident.

Number of jurors who so find 0.

11. Gabriel Rhone provoked the incident when he threatened Mark Isaac Snarr's family by saying that he was "going to fuck [his] mother and give her a black baby."
8

12. Gabriel Rhone provoked the incident when he threatened Mark Isaac Snarr's family by saying that he was "going to rape [his] sister and give her a black baby."

Number of jurors who so find 8.

13. Gabriel Rhone provoked the incident by calling Mark Isaac Snarr a "bitch" in front of other inmates.

Number of jurors who so find 0.

14. Gabriel Rhone provoked the incident on November 28, 2007, by yelling insults at Mark Isaac Snarr the night of November 27, 2007, and until 3:00 a.m. on November 28, 2007.

Number of jurors who so find 0.

15. Mark Isaac Snarr told Edgar Baltazar Garcia not to hit the officers anymore.

Number of jurors who so find 0.

16. Mark Isaac Snarr initially used his fists, not his knife, during the assault on the correctional officers.

Number of jurors who so find 0.

17. Mark Isaac Snarr did not kill Gabriel Rhone for any racial reason.

Number of jurors who so find 0.

18. Mark Isaac Snarr expressed remorse by stating that he was sorry about the officers getting harmed.

Number of jurors who so find 0 .

19. Mark Isaac Snarr stated that "it wasn't supposed to happen that way."

Number of jurors who so find 0 .

20. Mark Isaac Snarr had to act against Gabriel Rhone to avoid placing himself in danger.

Number of jurors who so find 0 .

21. After the death of Gabriel Rhone, Mark Isaac Snarr voluntarily surrendered his knife to correctional officers.

Number of jurors who so find 0 .

22. Mark Isaac Snarr had no intent to kill the correctional officers.

Number of jurors who so find 0 .

23. After the death of Gabriel Rhone, Mark Isaac Snarr voluntarily submitted to restraint and handcuffs.

Number of jurors who so find 0 .

24. Mark Isaac Snarr was not a member of a BOP-identified "Disruptive Group."

Number of jurors who so find 0 .

25. The BOP Beaumont Special Housing Unit ("SHU") facility lacked proper leadership on November 28, 2007.

Number of jurors who so find 0 .

26. The BOP Beaumont SHU facility lacked proper staffing on November 28, 2007.

Number of jurors who so find 0 .

27. The BOP Beaumont SHU facility lacked proper training on November 28, 2007.

Number of jurors who so find 1.

28. The BOP Beaumont SHU facility leaders failed to properly post orders for the staff on November 28, 2007.

Number of jurors who so find 0.

29. The BOP correctional officers sometimes allowed the inmates to police themselves in the BOP SHU facility.

Number of jurors who so find 0.

30. The BOP Beaumont SHU facility employees habitually failed to follow proper SHU policies.

Number of jurors who so find 3.

31. The BOP Beaumont SHU facility employees failed to properly shackle or restrain Mark Isaac Snarr on November 28, 2007.

Number of jurors who so find 7.

32. The BOP Beaumont SHU facility employees failed to properly escort Mark Isaac Snarr on November 28, 2007.

Number of jurors who so find 11.

33. The BOP Beaumont SHU facility employees failed to keep Mark Isaac Snarr separate from the other inmates on November 28, 2007.

Number of jurors who so find 4.

34. The failure of the BOP Beaumont SHU facility employees to follow proper policies contributed to the occurrence of the offense on November 28, 2007.

Number of jurors who so find 3.

35. The internal investigation of the BOP following the incident concluded that the BOP Beaumont SHU facility's numerous failures permitted the event to occur.

Number of jurors who so find 0.

36. The offense on November 28, 2007, would not have occurred if the BOP Beaumont SHU facility had followed proper policies and procedures.

Number of jurors who so find 2.

37. Investigative Agent Swain, a BOP official at the Beaumont facility, anticipated that an incident like the offense on November 28, 2007, was likely to occur if Mark Isaac Snarr was not transferred to ADX.

Number of jurors who so find 0.

38. The BOP had previously approved Mark Isaac Snarr for transfer to ADX prior to November 28, 2007.

Number of jurors who so find 0.

39. The BOP delayed transferring Mark Isaac Snarr to ADX prior to the offense on November 28, 2007.

Number of jurors who so find 0.

40. Mark Isaac Snarr was transferred to ADX immediately following the incident on November 28, 2007.

Number of jurors who so find 0.

41. The BOP has the capability to safely house Mark Isaac Snarr in ADX in Florence, Colorado.

Number of jurors who so find 0.

42. Utah Juvenile Probation Officer Gangwer believes that Mark Isaac Snarr came from a dysfunctional family.

Number of jurors who so find 0.

43. Utah Juvenile Probation Officer Gangwer liked Mark Isaac Snarr.

Number of jurors who so find 0.

44. Regarding the incident involving inmate Prieto in January 2004 in the Davis County, Utah, jail, Mark Isaac Snarr was found not guilty of possession of a dangerous weapon.

Number of jurors who so find 0.

45. Mark Isaac Snarr has never previously been charged or convicted of the offense of murder.

Number of jurors who so find 0.

46. Mark Isaac Snarr was raised in a family of violence.

Number of jurors who so find 0.

47. Mark Isaac Snarr was raised in a family of drug abuse and sexual abuse.

Number of jurors who so find 0.

48. Mark Isaac Snarr learned to cope with life by the violence he experienced as a child.

Number of jurors who so find 1.

49. Mark Isaac Snarr had redeeming qualities outside of prison.

Number of jurors who so find 0.

50. Mark Isaac Snarr had to assume the parenting role and responsibility of tending to the needs of siblings at the age of 8.

Number of jurors who so find 0.

51. Mark Isaac Snarr tried to get a job at the age of 8 to take care of his family.

Number of jurors who so find 0.

52. Mark Isaac Snarr assumed the role of protector in his family.

Number of jurors who so find 0.

53. Mark Isaac Snarr's mother taught him to steal at an early age.

Number of jurors who so find 0.

54. Mark Isaac Snarr's parents taught him to use drugs at an early age.

Number of jurors who so find 0.

55. Mark Isaac Snarr never had a stable home.

Number of jurors who so find 0.

56. There was widespread criminal conduct within Mark Isaac Snarr's family.

Number of jurors who so find 0 .

57. Mark Isaac Snarr was led into a life of crime by his family.

Number of jurors who so find 0 .

58. Mark Isaac Snarr was assaulted by a counselor at Mill Creek Youth Center as part of his counseling program.

Number of jurors who so find 0 .

59. Mark Isaac Snarr loves his family deeply.

Number of jurors who so find 0 .

60. Mark Isaac Snarr's family loves him deeply.

Number of jurors who so find 0 .

61. Mark Isaac Snarr provided emotional support and leadership to Angelique Atmore.

Number of jurors who so find 0 .

62. Mark Isaac Snarr is the father figure to Angelique Atmore.

Number of jurors who so find 0 .

63. Mark Isaac Snarr is a dedicated family member, even arranging Christmas gifts for Christa Frew's children from a prison cell by contacting a radio station.

Number of jurors who so find 0 .

64. Mark Isaac Snarr is opposed to the use of alcohol and drugs.

Number of jurors who so find 0 .

65. Mark Isaac Snarr learned to cope in prison by using violence because that is how he was taught to cope with his dysfunctional life.

Number of jurors who so find 0 .

66. Mark Isaac Snarr has committed no violent act in prison since being placed into the ADX facility in Florence, Colorado, following the offense on November 28, 2007.

Number of jurors who so find 0.

67. Prior to November 28, 2007, the BOP Beaumont facility had a reputation for having more incidents of violence than other U.S. Penitentiaries.

Number of jurors who so find 0.

68. There are alternatives in the BOP to protect inmates and staff other than executing Mark Isaac Snarr.

Number of jurors who so find 0.

The following extra spaces are provided to write in additional mitigating factors, if any, found by any one or more jurors. If none, write "NONE." If more space is needed, write "CONTINUED" and use the reverse side of this page.

none

Number of jurors who so find _____.

Number of jurors who so find _____.

Number of jurors who so find _____.

Number of jurors who so find _____.

Number of jurors who so find _____.

Number of jurors who so find _____.

Number of jurors who so find _____.

May 24, 2010
Date

Jury Foreperson

Regardless of how you answered in response to Section II, proceed to Section III, which follows.

SPECIAL FINDING III

SELECTION OF PUNISHMENT

Based upon our consideration of whether the aggravating factors found to exist sufficiently outweigh any mitigating factor(s) found to exist, or in the absence of any mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death, and whether death is therefore the appropriate sentence in this case, we, the jury, determine by unanimous vote, that the following sentence shall be imposed on Defendant Mark Isaac Snarr as to Count I of the Indictment:

DEATH PENALTY ✓

LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF RELEASE _____

May 24, 2010
Date

After each juror has signed Section III, proceed to Section IV, which follows.