

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

UNITED STATES OF AMERICA

v.

Criminal No. 3:96-CR-66-07

RICHARD ANTHONY THOMAS
a/k/a "Spookie"
a/k/a "Richie"
a/k/a "Mark Andrew Taylor"

Defendant.

SPECIAL VERDICT FORM

I. CATEGORY ONE STATUTORY AGGRAVATING FACTORS

Instructions: For the following four statutory aggravating factors in Category One, you may find only one factor present as to the defendant and any count for which you have convicted the defendant for killing a particular victim. If you unanimously find that one of these four factors has been proved beyond a reasonable doubt place an "X" next to "YES" as to that factor and move on to the Category Two factors for that particular count.

COUNT TEN -- KILLING OF ANTHONY BAYLOR

1. RICHARD ANTHONY THOMAS intentionally killed Anthony Baylor.

YES X
NO _____

2. RICHARD ANTHONY THOMAS intentionally inflicted serious bodily injury which resulted in the death of the Anthony Baylor.

YES _____
NO _____

3. RICHARD ANTHONY THOMAS intentionally engaged in conduct intending that Anthony Baylor be killed and/or that lethal force be employed against Anthony Baylor which resulted in the death of Anthony Baylor.

YES _____
NO _____

4. RICHARD ANTHONY THOMAS intentionally engaged in conduct which he knew would create a grave risk of death to a person, other than one of the participants in the offense, and which resulted in the death of Anthony Baylor.

YES _____
NO _____

COUNT ELEVEN -- KILLING OF MARCO BAYLOR

1. RICHARD ANTHONY THOMAS intentionally killed Marco Baylor.

YES X _____
NO _____

2. RICHARD ANTHONY THOMAS intentionally inflicted serious bodily injury which resulted in the death of the Marco Baylor.

YES _____
NO _____

3. RICHARD ANTHONY THOMAS intentionally engaged in conduct intending that Marco Baylor be killed and/or that lethal force be employed against Marco Baylor which resulted in the death of Marco Baylor.

YES _____
NO _____

4. RICHARD ANTHONY THOMAS intentionally engaged in conduct which he knew would create a grave risk of death to a person, other

than one of the participants in the offense, and which resulted in the death of Marco Baylor.

YES _____

NO _____

COUNT TWELVE-- KILLING OF ANTHONY MERRIT

1. RICHARD ANTHONY THOMAS intentionally killed Anthony Merrit.

YES X _____

NO _____

2. RICHARD ANTHONY THOMAS intentionally inflicted serious bodily injury which resulted in the death of the Anthony Merrit.

YES _____

NO _____

3. RICHARD ANTHONY THOMAS intentionally engaged in conduct intending that Anthony Merrit be killed and/or that lethal force be employed against Anthony Merrit which resulted in the death of Anthony Merrit.

YES _____

NO _____

4. RICHARD ANTHONY THOMAS intentionally engaged in conduct which he knew would create a grave risk of death to a person, other than one of the participants in the offense and resulted in the death of Anthony Merrit.

YES _____

NO _____

Instructions: If you answered "NO" with respect to all four of the Category One Statutory Aggravating Factors in Section I above as to Count Ten, Count Eleven, or Count Twelve, then that ends your consideration of the death penalty as to that count or

counts. Accordingly, you must stop your deliberations and complete Section A of the Decision Form for defendant RICHARD ANTHONY THOMAS which relates to that count.

If you answered "NO" with respect to all four Category One Statutory Aggravating Factors as to all three of Counts Ten, Eleven, and Twelve, then that ends your consideration of the death penalty as to this defendant. You must stop your deliberations and complete Section A of the Decision Form that relates to Count Ten, Count Eleven, and Count Twelve for RICHARD ANTHONY THOMAS. You should then sign the Certification Form and advise the Court that you have reached a decision respecting RICHARD ANTHONY THOMAS.

If you answered "YES" with respect to one of the Category One Statutory Aggravating Factors in Section I above as to Count Ten, and/or Count Eleven, and/or Count Twelve, then continue your deliberations as to that count or counts in accordance with the Court's instructions and proceed to Section II which follows.

II. CATEGORY TWO STATUTORY AGGRAVATING FACTORS

Instructions: Please answer "YES" or "NO" as to whether you, the jury, unanimously find that the government has established the existence of any of the following Category Two statutory aggravating factors beyond a reasonable doubt as to each of Counts Ten, Eleven and Twelve. You may find more than one of the following factors for each of Counts Ten, Eleven and Twelve.

COUNT TEN-- KILLING OF ANTHONY BAYLOR

1. The defendant RICHARD ANTHONY THOMAS committed the offense described in Count Ten of the Superseding Indictment as consideration for the receipt, and in the expectation of the receipt of something of pecuniary value.

YES X
NO _____

2. The defendant RICHARD ANTHONY THOMAS committed the offense described in Count Ten of the Superseding Indictment after substantial planning and premeditation.

✓ YES X
NO _____

COUNT ELEVEN -- KILLING OF MARCO BAYLOR

1. The defendant RICHARD ANTHONY THOMAS committed the offense described in Count Eleven of the Superseding Indictment as consideration for the receipt, and in the expectation of the receipt of something of pecuniary value.

✓ YES X
NO _____

2. The defendant RICHARD ANTHONY THOMAS committed the offense described in Count Eleven of the Superseding Indictment after substantial planning and premeditation.

✓ YES X
NO _____

COUNT TWELVE -- KILLING OF ANTHONY MERRIT

1. The defendant RICHARD ANTHONY THOMAS committed the offense described in Count Twelve of the Superseding Indictment as consideration for the receipt, and in the expectation of the receipt of something of pecuniary value.

✓ YES X
NO _____

2. The defendant RICHARD ANTHONY THOMAS committed the offense described in Count Twelve of the Superseding Indictment after substantial planning and premeditation.

✓ YES X
NO _____

Instructions: If you answered "NO" with respect to all of the Category Two Statutory Aggravating Factors in Section II above as to either Count Ten, Count Eleven, or Count Twelve, then that ends your consideration of the death penalty as to that count or counts. Accordingly, you must stop your deliberations, and complete Section A of the Decision Form for RICHARD ANTHONY THOMAS which relates to that count.

If you answered "YES" with respect to any one or more of the Category Two Statutory Aggravating Factors alleged as to Count Ten, Count Eleven, or Count Twelve, (or all three counts), for the defendant RICHARD ANTHONY THOMAS in Section II above, then you may continue your deliberations in accordance with the Court's instructions only if you also found a Category One Statutory Aggravating Factor in Section I as to that particular count. If you have so found, please proceed to Section III which follows.

In short, you must have unanimously found one Aggravating Factor from Section I and, at least, one Aggravating Factor from Section II proven beyond a reasonable doubt as to the same count. Otherwise, stop your deliberations and complete Section A of the appropriate Decision Form. If you have signed Section A as to all three Counts Ten, Eleven and Twelve, then you should also sign the Certification Form and advise the Court that you have reached a decision respecting RICHARD ANTHONY THOMAS.

III. NON-STATUTORY AGGRAVATING FACTORS

Instructions: Please answer "YES" or "NO" as to whether you, the jury, unanimously find that the government has established the following non-statutory aggravating factors beyond a reasonable doubt. You may find more than one of the following factors for each of Counts Ten, Eleven, and Twelve.

COUNT TEN-- KILLING OF ANTHONY BAYLOR

1. The defendant RICHARD ANTHONY THOMAS poses a future danger to the community in that there is a high probability that

the defendant would commit criminal acts of violence constituting a continuing threat to society


YES _____
o NO X

2. The defendant RICHARD ANTHONY THOMAS intentionally killed and aided and abetted in the intentional killing of more than one person in a single criminal episode, to wit: Anthony Baylor, Marco Baylor, and Anthony Merrit.

o YES X
NO _____

COUNT ELEVEN -- KILLING OF MARCO BAYLOR

1. The defendant RICHARD ANTHONY THOMAS poses a future danger to the community in that there is a high probability that the defendant would commit criminal acts of violence constituting a continuing threat to society

YES
o NO X *NO* 

2. The defendant RICHARD ANTHONY THOMAS intentionally killed and aided and abetted in the intentional killing of more than one person in a single criminal episode, to wit: Anthony Baylor, Marco Baylor, and Anthony Merrit.

o YES X
NO _____

COUNT TWELVE -- KILLING OF ANTHONY MERRIT

1. The defendant RICHARD ANTHONY THOMAS poses a future danger to the community in that there is a high probability that the defendant would commit criminal acts of violence constituting a continuing threat to society

YES _____
o NO X

2. The defendant RICHARD ANTHONY THOMAS intentionally killed and aided and abetted in the intentional killing of more than one person in a single criminal episode, to wit: Anthony Baylor, Marco Baylor, and Anthony Merrit.

• YES X
NO _____

Instructions: Regardless of whether you answered "YES" or "NO" with respect to the Non-Statutory Aggravating Factors in Section III above, continue your deliberations in accordance with the Court's instructions and proceed to Section IV which follows.

IV. MITIGATING FACTORS

Instructions: Please answer each of the following questions, respecting the mitigating factors alleged by the defendant, "YES" or "NO." A "YES" answer must be recorded if one juror believes the mitigating factor to have been established by the defendant by a preponderance of the evidence. For each of the following, you also must 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. Any member of the jury who finds a mitigating factor proven by a preponderance of the evidence, whether or not specifically argued by defense counsel, may consider such a factor in determining whether a sentence of death shall be imposed. This is true even if no other juror concurs that the factor has been proved. Any jury may find more than one mitigating factor.

MITIGATING FACTORS AS TO THE KILLING OF ANTHONY BAYLOR

(COUNT TEN)

1. As of the date of the offense, the defendant, RICHARD ANTHONY THOMAS, was youthful, although not under the age of 18.

YES X

NO _____

Number of jurors who so find 7

7. The defendant, RICHARD ANTHONY THOMAS, was emotionally neglected during his childhood.

YES X
NO _____

Number of jurors who so find 9.

8. RICHARD ANTHONY THOMAS' circumstances and environment were conducive to his becoming involved in drug trafficking, either as a user, seller, or both.

YES X
NO _____

Number of jurors who so find 12.

9. Other persons who committed murders in furtherance of the continuing criminal enterprise or drug conspiracy alleged in this case, whether indicted or not, will not be punished by death.

YES X
NO _____

Number of jurors who so find 4.

MITIGATING FACTORS AS TO THE KILLING OF MARCO BAYLOR

(COUNT ELEVEN)

1. As of the date of the offense, RICHARD ANTHONY THOMAS, was youthful, although not under the age of 18.

YES X
NO _____

Number of jurors who so find 7.

2. As of the date of the offense, the defendant, RICHARD ANTHONY THOMAS, did not have a significant prior criminal record.

YES X
NO _____

Number of jurors who so find 1.

3. As of this date, the defendant, RICHARD ANTHONY THOMAS, does not have a significant prior criminal record.

YES _____

NO X

Number of jurors who so find 0.

4. Another defendant or co-conspirator, equally culpable in the crime, will not be punished by death.

YES X

NO _____

Number of jurors who so find 6.

5. The defendant, RICHARD ANTHONY THOMAS, was recruited at an early age, approximately 14 years, by persons who were older and more experienced, and who had no concern for his physical well-being and safety, with promises of monetary returns calculated and intended to attract young teenagers of limited means to commit criminal acts with a great likelihood of violence.

YES X

NO _____

Number of jurors who so find 12.

6. When recruited into the commission of criminal activity the defendant, RICHARD ANTHONY THOMAS, showed weak cognitive abilities and overall deficiency in academic areas.

YES X

NO _____

Number of jurors who so find 10.

7. The defendant, RICHARD ANTHONY THOMAS, was emotionally neglected during his childhood.

YES X

NO _____

Number of jurors who so find 9.

8. RICHARD ANTHONY THOMAS' circumstances and environment were conducive to his becoming involved in drug trafficking, either as a user, seller, or both.

YES X
NO _____

Number of jurors who so find 12.

9. Other persons who committed murders in furtherance of the continuing criminal enterprise or drug conspiracy alleged in this case, whether indicted or not, will not be punished by death.

YES X
NO _____

Number of jurors who so find 4.

MITIGATING FACTORS AS TO THE KILLING OF ANTHONY MERRIT

(COUNT TWELVE)

1. As of the date of the offense, the defendant, RICHARD ANTHONY THOMAS, was youthful, although not under the age of 18.

YES X
NO _____

Number of jurors who so find 7.

2. As of the date of the offense, the defendant, RICHARD ANTHONY THOMAS, did not have a significant prior criminal record.

YES X
NO _____

Number of jurors who so find 1.

3. As of this date, the defendant, RICHARD ANTHONY THOMAS, does not have a significant prior criminal record.

YES _____
NO X

Number of jurors who so find 0.

4. Another defendant or co-conspirator, equally culpable in the crime, will not be punished by death.

• YES X
NO _____

Number of jurors who so find 6.

5. The defendant, RICHARD ANTHONY THOMAS, was recruited at an early age, approximately 14 years, by persons who were older and more experienced, and who had no concern for his physical well-being and safety, with promises of monetary returns calculated and intended to attract young teenagers of limited means to commit criminal acts with a great likelihood of violence.

• YES X
NO _____

Number of jurors who so find 12.

6. When recruited into the commission of criminal activity the defendant, RICHARD ANTHONY THOMAS, showed weak cognitive abilities and overall deficiency in academic areas.

• YES X
NO _____

Number of jurors who so find 10.

7. The defendant, RICHARD ANTHONY THOMAS, was emotionally neglected during his childhood.

• YES X
NO _____

Number of jurors who so find 9.

8. RICHARD ANTHONY THOMAS' circumstances and environment were conducive to his becoming involved in drug trafficking, either as a user, seller, or both.

• YES X
NO _____

Number of jurors who so find 12.

9. Other persons who committed murders in furtherance of the continuing criminal enterprise or drug conspiracy alleged in this case, whether indicted or not, will not be punished by death.

• YES X
NO _____

Number of jurors who so find 4.

ADDITIONAL MITIGATING FACTORS

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

10. Questionable reliability of key inmate witnesses

Number of jurors who so find 2.

Number of jurors who so find _____.

Number of jurors who so find _____.

Instructions: You have now completed your Special Findings respecting RICHARD ANTHONY THOMAS and must begin the process of weighing the aggravating and mitigating factors, in accordance with the Court's instructions, to determine if you will recommend a sentence of death. Remember, you are now considering only those killings for which you have not already completed Section A of the Decision Form. Upon completing your deliberations as to the remaining killings for which you have convicted RICHARD ANTHONY

THOMAS, complete Section B, C, or D of the Decision Form as appropriate for each crime.

The date and your foreperson's signature should appear below, certifying that these are your Special Findings respecting RICHARD ANTHONY THOMAS.

Date



Foreperson

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Richmond Division

UNITED STATES OF AMERICA

v.

Criminal No. 3:96-CR-66-07

RICHARD ANTHONY THOMAS

a/k/a "Spookie"

a/k/a "Richie"

a/k/a "Mark Andrew Taylor"

Defendant.

DECISION FORM

As to the crime of killing ANTHONY BAYLOR while engaged in, or in furtherance of, a continuing criminal enterprise as set forth in Count Ten of the Superseding Indictment:

A. WE, THE JURY, do not unanimously find proven, beyond a reasonable doubt, the existence of the statutory aggravating factors required by law as prerequisites for the imposition of capital punishment, and therefore do not consider the death penalty as to the killing of ANTHONY BAYLOR for which defendant RICHARD ANTHONY THOMAS has been convicted.

Date

Foreperson

OR

B. WE, THE JURY, unanimously find proven, that the aggravating factors required by law as prerequisites for the imposition of capital punishment have been proven by the government beyond a reasonable doubt as to Count Ten and as to RICHARD ANTHONY THOMAS. We further unanimously find that the proven

aggravating factors, as to this crime and this defendant, sufficiently outweigh any mitigating factors, and, in the absence of mitigating factors, we unanimously find that the proven aggravating factors are themselves sufficient to justify a sentence of death. We vote unanimously that RICHARD ANTHONY THOMAS shall be sentenced to death for the killing of ANTHONY BAYLOR.

Date

Foreperson

OR

- C. WE, THE JURY, do not unanimously find that the proven aggravating factors respecting Count Ten and RICHARD ANTHONY THOMAS sufficiently outweigh the proven mitigating factors. We, therefore, return a decision that RICHARD ANTHONY THOMAS not be sentenced to death for the killing of ANTHONY BAYLOR.

Date

Foreperson

OR

- D. WE, THE JURY, having considered and evaluated the evidence presented in light of the instructions of the Court, are not unanimously persuaded that a death sentence should be imposed upon RICHARD ANTHONY THOMAS for Count Ten. We, therefore, return a decision that RICHARD ANTHONY THOMAS not be sentenced to death for the killing of ANTHONY BAYLOR.

Date

Foreperson

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Richmond Division

UNITED STATES OF AMERICA

v. Criminal No. 3:96-CR-66-07

RICHARD ANTHONY THOMAS
a/k/a "Spookie"
a/k/a "Richie"
a/k/a "Mark Andrew Taylor"

Defendant.

DECISION FORM

As to the crime of killing MARCO BAYLOR while engaged in, or in furtherance of, a continuing criminal enterprise as set forth in Count Eleven of the Superseding Indictment:

A. WE, THE JURY, do not unanimously find proven, beyond a reasonable doubt, the existence of the statutory aggravating factors required by law as prerequisites for the imposition of capital punishment, and therefore do not consider the death penalty as to the killing of MARCO BAYLOR for which defendant RICHARD ANTHONY THOMAS has been convicted.

Date

Foreperson

OR

B. WE, THE JURY, unanimously find proven, that the aggravating factors required by law as prerequisites for the imposition of capital punishment have been proven by the government beyond a reasonable doubt as to Count Eleven and as to RICHARD ANTHONY THOMAS. We further unanimously find that the proven

aggravating factors, as to this crime and this defendant, sufficiently outweigh any mitigating factors, and, in the absence of mitigating factors, we unanimously find that the proven aggravating factors are themselves sufficient to justify a sentence of death. We vote unanimously that RICHARD ANTHONY THOMAS shall be sentenced to death for the killing of MARCO BAYLOR.

Date

Foreperson

OR

- C. WE, THE JURY, do not unanimously find that the proven aggravating factors respecting Count Eleven and RICHARD ANTHONY THOMAS sufficiently outweigh the proven mitigating factors. We, therefore, return a decision that RICHARD ANTHONY THOMAS not be sentenced to death for the killing of MARCO BAYLOR.

Date

Foreperson

OR

- D. WE, THE JURY, having considered and evaluated the evidence presented in light of the instructions of the Court, are not unanimously persuaded that a death sentence should be imposed upon RICHARD ANTHONY THOMAS for Count Eleven. We, therefore, return a decision that RICHARD ANTHONY THOMAS not be sentenced to death for the killing of MARCO BAYLOR.

Date

Foreperson

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Richmond Division

UNITED STATES OF AMERICA

v.

Criminal No. 3:96-CR-66-07

RICHARD ANTHONY THOMAS
a/k/a "Spookie"
a/k/a "Richie"
a/k/a "Mark Andrew Taylor"

Defendant.

DECISION FORM

As to the crime of killing ANTHONY MERRIT while engaged in, or in furtherance of, a continuing criminal enterprise as set forth in Count Twelve of the Superseding Indictment:

- A. WE, THE JURY, do not unanimously find proven, beyond a reasonable doubt, the existence of the statutory aggravating factors required by law as prerequisites for the imposition of capital punishment, and therefore do not consider the death penalty as to the killing of ANTHONY MERRIT for which defendant RICHARD ANTHONY THOMAS has been convicted.

Date

Foreperson

OR

- B. WE, THE JURY, unanimously find proven, that the aggravating factors required by law as prerequisites for the imposition of capital punishment have been proven by the government beyond a reasonable doubt as to Count Twelve and as to RICHARD ANTHONY THOMAS. We further unanimously find that the proven

aggravating factors, as to this crime and this defendant, sufficiently outweigh any mitigating factors, and, in the absence of mitigating factors, we unanimously find that the proven aggravating factors are themselves sufficient to justify a sentence of death. We vote unanimously that RICHARD ANTHONY THOMAS shall be sentenced to death for the killing of ANTHONY MERRIT.

Date

Foreperson

OR

C. WE, THE JURY, do not unanimously find that the proven aggravating factors respecting Count Twelve and RICHARD ANTHONY THOMAS sufficiently outweigh the proven mitigating factors. We, therefore, return a decision that RICHARD ANTHONY THOMAS not be sentenced to death for the killing of ANTHONY MERRIT.

Date

Foreperson

OR

D. WE, THE JURY, having considered and evaluated the evidence presented in light of the instructions of the Court, are not unanimously persuaded that a death sentence should be imposed upon RICHARD ANTHONY THOMAS for Count Twelve. We, therefore, return a decision that RICHARD ANTHONY THOMAS not be sentenced to death for the killing of ANTHONY MERRIT.

Date

Foreperson