

Cr. Ev. 22

5/9/05

MLB

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

-v- :

S(1) 00 Cr. 1008 (NRB)

ELIJAH BOBBY WILLIAMS, :

a/k/a "Bobby Torres," :

a/k/a "Bosco," and :

MICHAEL WILLIAMS, :

a/k/a "David Michael Torres," :

a/k/a "Mike Torres," :

a/k/a "Mike Foster," :

Defendants. :

-----x

Penalty Phase Verdict Sheet - Part One

Part A - Gateway factors

Do you find unanimously, and beyond a reasonable doubt, that the government has proved one or more of the following "gateway" factors:

1. That the Defendant intentionally killed the victim(s) of the particular capital offense charged in the respective count of the indictment; or
2. That the Defendant intentionally inflicted serious bodily injury that resulted in the death of the victim(s) of the particular capital offense charged in the respective count of the indictment; or
3. 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 the victim(s) of the

particular capital offense charged in the respective count of the indictment died as a direct result of the act; or

4. That 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(s) of the particular capital offense charged in the respective count of the indictment died as a direct result of the act.

As to Elijah Bobby Williams:

- a. Murder of Timothy Moore (counts 5-7; 9-14):

- Yes. We unanimously find that this factor has been proved beyond a reasonable doubt as to one or more of the capital counts.
- No. We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

- b. Murder of Robert James (counts 5-7; 9-14):

- Yes. We unanimously find that this factor has been proved beyond a reasonable doubt as to one or more of the capital counts.
- No. We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

- c. Murder of Joel Moore (counts 5-7; 9-14):

- Yes. We unanimously find that this factor has been proved beyond a reasonable doubt as to one or more of the capital counts.
- No. We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

As to Michael Williams:**a. Murder of Timothy Moore (counts 5-7; 9-14):**

- Yes. We unanimously find that this factor has been proved beyond a reasonable doubt as to one or more of the capital counts.
- No. We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

b. Murder of Robert James (counts 5-7; 9-14):

- Yes. We unanimously find that this factor has been proved beyond a reasonable doubt as to one or more of the capital counts.
- No. We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

c. Murder of Joel Moore (counts 5-7; 9-14):

- Yes. We unanimously find that this factor has been proved beyond a reasonable doubt as to one or more of the capital counts.
- No. We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

Instructions

If you have answered "yes" to any of the three questions above, as to one or both defendants, please go on to complete Part B of this verdict sheet.

Part B - Substantial planning and pre-meditation

Do you find unanimously, and beyond a reasonable doubt, that the government has proved the following aggravating factor:

The defendant whom you are considering committed the offense after substantial planning and premeditation to cause the death of another person.

As to Elijah Bobby Williams:**a. Murder of Timothy Moore (counts 5-7; 9-14):**

- Yes. We unanimously find that this factor has been proved beyond a reasonable doubt as to one or more of the capital counts.
- No. We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

b. Murder of Robert James (counts 5-7; 9-14):

- Yes. We unanimously find that this factor has been proved beyond a reasonable doubt as to one or more of the capital counts.
- No. We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

c. Murder of Joel Moore (counts 5-7; 9-14):

- Yes. We unanimously find that this factor has been proved beyond a reasonable doubt as to one or more of the capital counts.
- No. We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

(Please continue onto the next page)


As to Michael Williams:

- a. Murder of Timothy Moore (counts 5-7; 9-14):
- Yes. We unanimously find that this factor has been proved beyond a reasonable doubt as to one or more of the capital counts.
- No. We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.
- b. Murder of Robert James (counts 5-7; 9-14):
- Yes. We unanimously find that this factor has been proved beyond a reasonable doubt as to one or more of the capital counts.
- No. We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.
- c. Murder of Joel Moore (counts 5-7; 9-14):
- Yes. We unanimously find that this factor has been proved beyond a reasonable doubt as to one or more of the capital counts.
- No. We do not unanimously find that this factor has been proved beyond a reasonable doubt with regard to any of the capital counts.

Instructions

When you have completed your deliberations on these issues, please have your foreperson sign and date this verdict sheet below, and then advise the court officer that your deliberations on these issues are complete. We will bring you back into the courtroom to announce your findings.

Dated:

5/9/05
Foreperson

Ct. Ex. 24
5/12/05
ALRB

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

S1 00 Cr. 1008 (NRB)

- v. -

ELIJAH BOBBY WILLIAMS,
a/k/a "Bobby Torres,"
a/k/a "Bosco," and
MICHAEL WILLIAMS,
a/k/a "David Michael Torres,"
a/k/a "Mike Torres,"
a/k/a "Mike Foster,"

Defendants.

PENALTY PHASE
SPECIAL VERDICT FORM
FOR DEFENDANT MICHAEL WILLIAMS

SECTION I. NON-STATUTORY AGGRAVATING FACTORS

Directions: You have previously found the existence of a gateway factor and the statutory aggravating factor of "substantial planning and premeditation" with respect to Counts Five, Seven, Nine, Eleven, Twelve, and Fourteen relating to the murders of Timothy Moore and Robert James (the "Capital Counts"). In this section, please check "Unanimous Yes" as to any one or more of the following four non-statutory aggravating factors that you unanimously find that the Government has proven beyond a reasonable doubt. Otherwise, check "No or Not Unanimous."

- 1. As demonstrated by the deceased victims' personal characteristics as individual human beings and the impact of the deaths upon the deceased victims' families, MICHAEL WILLIAMS caused injury, harm, and loss to those victims and their families.

Counts Seven, Eleven and Fourteen (Murder of Robert James):

Unanimous Yes No or Not Unanimous

- 2. MICHAEL WILLIAMS killed more than one person in a single criminal episode and was convicted of participating in a conspiracy to distribute and possess with intent to distribute cocaine and cocaine base at the time of the offense, among other crimes.

Unanimous Yes No or Not Unanimous

- 3. MICHAEL WILLIAMS has demonstrated a continuing pattern of violence, low rehabilitative potential, and MICHAEL WILLIAMS tried to escape from a prison in Pennsylvania, all of which demonstrates a high risk of future dangerousness.

Unanimous Yes No or Not Unanimous

- 4. MICHAEL WILLIAMS was convicted of (i) attempted escape in Pennsylvania in 1998, for which he received a sentence of 21 to 43 months' incarceration and (ii) possession with intent to distribute crack cocaine in Pennsylvania in 1992, for which he received a sentence of 22 months to five years' imprisonment.

Unanimous Yes No or Not Unanimous

Directions: If, even before considering any mitigating factors, any one or more of you concludes that the statutory and non-statutory aggravating factors that you have found, taken alone, are not enough to warrant imposing the death penalty, go to Section III, check the "No or Not Unanimous" option and sign as appropriate. Otherwise, continue to Section II below.

SECTION II. MITIGATING FACTORS

Directions:

Unless you have already rejected the death penalty, you must now take account of any mitigating factors that any of you finds by a preponderance of the evidence favors imposition of life imprisonment without release instead of a death sentence. In this regard, you should consider and carefully discuss any and all mitigating factors that any one or more of you finds proven, including not only those listed in the Court's instructions and repeated below but also any others that any of you finds relevant.

Recall that your vote as a jury need not be unanimous with regard to each question in this section. 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 making his or her individual determination of 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.

In the spaces provided below, please indicate the number of jurors who have found the existence of that mitigating factor to be proven by a preponderance of the evidence with regard to each of the Capital Counts. (Note, however, that mitigating factors number 1 and number 4 involve matters that are not in dispute, and that you should consider these mitigating factors in the weighing process.)

- 1. The law mandates that if MICHAEL WILLIAMS is not sentenced to death, he will spend the rest of his life in a United States prison without any possibility of release.

[Not in dispute.]

- 2. MICHAEL Williams has made a positive adjustment to incarceration in the past.

Number of jurors who so find _____.

- 3. MICHAEL Williams is likely to make a positive adjustment to incarceration in the future.

Number of jurors who so find _____.

4. ELIJAH BOBBY WILLIAMS did not receive the death penalty.

[Not in dispute.]

5. Xavier Williams is an equally culpable co-defendant, but he will not face the death penalty.

Number of jurors who so find _____.

6. The favorable plea agreements offered to other cooperating witnesses in this case is a circumstance that weighs against imposition of a sentence of death for MICHAEL WILLIAMS.

Number of jurors who so find _____.

7. MICHAEL WILLIAMS was born to two teenage parents Elijah Bobby, 16, and Marilyn, 18, in 1972, neither of which had the maturity or responsibility to parent children.

Number of jurors who so find _____.

8. MICHAEL WILLIAMS' childhood was characterized by poverty, a mother struggling to survive, and a father often absent through incarcerations and separations.

Number of jurors who so find _____.

9. MICHAEL WILLIAMS witnessed severe physical abuse by ELIJAH BOBBY WILLIAMS to his mother Marilyn Garcia.

Number of jurors who so find _____.

10. MICHAEL WILLIAMS' mother Marilyn Garcia began working days when MICHAEL WILLIAMS was a child, leaving him to parent his sister Venus, and leaving him largely responsible for her needs.

Number of jurors who so find _____.

11. MICHAEL WILLIAMS was influenced by Elijah Bobby Williams.

Number of jurors who so find _____.

12. MICHAEL WILLIAMS was influenced by Xavier Williams.

Number of jurors who so find _____.

13. MICHAEL WILLIAMS has been a caring and loving father to his two children, Ashley and Valerie Shantel.

Number of jurors who so find _____.

14. MICHAEL WILLIAMS has a loving relationship with his mother and, if he were executed, his mother would severely suffer.

Number of jurors who so find _____.

15. MICHAEL WILLIAMS has a special bond with his sister Venus, whom he raised in part, and if he were executed, Venus would suffer severely.

Number of jurors who so find _____.

16. MICHAEL WILLIAMS has had the support and love of other family members who would suffer greatly if he were executed.

Number of jurors who so find _____.

17. By voluntarily choosing to become involved in narcotics dealing, the victims in this case willingly participated in dangerous and illegal activities, a circumstance that contributed to their deaths.

Number of jurors who so find _____.

18. While the evidence may have been sufficient to convict him of the murders by a standard of proof beyond a reasonable doubt, there remains a level of lingering or residual doubt as to whether MICHAEL WILLIAMS actually committed the murders.

Number of jurors who so find _____.

Directions:

The law does not limit your consideration of mitigating factors to those that can be articulated in advance. Therefore, you may consider during your deliberations any other factor or factors in MICHAEL WILLIAMS' background, record, character, or any other circumstances of the offense that mitigate against imposition of a death sentence.

The following extra spaces are provided to write in additional mitigating factors, if any, found by any one or more jurors. If more space is needed, write "CONTINUED" and use the reverse side of this page.

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 _____.

Directions: If after taking account of the mitigating factors, and weighing them against any aggravating factors you here find, any one or more of you concludes that the sentence should be life imprisonment, go to Section III, check the "No or Not Unanimous" option and sign as appropriate. Otherwise, continue to Section III immediately below and follow the instructions there.

SECTION III. DETERMINATION OF SENTENCE

Directions: At this stage, if you have not already checked the "No or Not Unanimous" option below, you should consider anew the entirety of the evidence and all the facts and circumstances, and then indicate your finding below.

We, the jury, by unanimous vote, find beyond a reasonable doubt that the aggravating factor or factors found to exist sufficiently outweigh the mitigating factor or factors found to exist - or, in the absence of any mitigating factors, that the aggravating factor or factors are themselves sufficient - so that death is the appropriate sentence for MICHAEL WILLIAMS.

Unanimous Yes _____ No or Not Unanimous

Directions: If you answered "Unanimous Yes" above, each of you should sign your juror number below and proceed to Section IV. Likewise, if you answered "No or Not Unanimous" above and all of you are unanimously agreed that the sentence should be life imprisonment without release rather than death, then each of you should sign your juror number below and proceed to Section IV. However, if you answered "No or Not Unanimous" above, and you are divided as to the appropriate sentence, then the foreperson alone should sign her juror number, and you should then proceed to Section IV.

377
375
63
289
78
283

394
237
39
364
144
13
Foreperson

The foreperson shall indicate the date of signing:

Date: 5/12/05

SECTION IV. CERTIFICATION

By signing your juror number below, each of you individually certifies that consideration of the race, color, religious beliefs, national origin, or sex of MICHAEL WILLIAMS or the victims was not involved in reaching your individual decision. Each of you further certifies that you, as an individual, would have made the same recommendation regarding a sentence for the crime or crimes in question regardless of the race, color, religious beliefs, national origin, or sex of the Defendant, or the victims.

_____	_____
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13
Foreperson

The foreperson shall indicate the date of signing:

Date: 5/12/05