

**12.00 HOMICIDE - DEATH PENALTY - SENTENCING**  
**(18 U.S.C. § 3591 et seq.)**

Instructions 12.01-.03 are to be given at the beginning of the sentencing phase, before the introduction of evidence. They are intended to be a concise overview, so that the jury has a basic understanding of the decisions it will be called upon to make.

Instructions 12.04-.21 are to be given after all evidence has been presented and prior to deliberations.

## **Death Penalty - Preliminary Instructions**

### **12.01 INTRODUCTION TO PRELIMINARY INSTRUCTIONS**

Members of the jury, you have unanimously found the defendant, Steven Green, guilty of the offenses of [Premeditated Murder (Counts 3-6), Felony Murder (Counts 7-10), and Use of a Firearm During a Crime of Violence, (Counts 13-16)] of the indictment. You must now consider whether imposition of a sentence of death is justified, or whether the defendant should be sentenced to life imprisonment without the possibility of release.

This decision is left exclusively to you, the jury. If you determine that the defendant should be sentenced to death, or to life imprisonment without possibility of release, the court is required to impose that sentence.

Before you may consider whether to impose a sentence of death, you must make each of the following three findings unanimously and beyond a reasonable doubt:

First, you must find unanimously and beyond a reasonable doubt that defendant was at least 18 years of age at the time of the offenses; and

Second, you must find unanimously and beyond a reasonable doubt that defendant:

- Intentionally killed Abeer, Hadeel, Kassem, or Fakhriya Al-Janabi; or
- Intentionally inflicted serious bodily injury that resulted in the death of Abeer Al-Janabi; or
- 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 Abeer, Hadeel, Kassem, or Fakhriya Al-Janabi died as a direct result of the act; or
- 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 Abeer, Hadeel, Kassem, and Fakhriya Al-Janabi died as a direct result of the act; and

Third, you must find unanimously and beyond a reasonable doubt that the government has proved the existence of at least one statutory aggravating factor. I will define the term "aggravating factors" for you shortly.

If, after fair and impartial consideration of all the evidence in this case, any one of you does not make these three findings beyond a reasonable doubt, your deliberations will be over. If

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you do unanimously make these three findings beyond a reasonable doubt, you will then proceed to determine whether you unanimously find that the government has proved the existence of any non-statutory aggravating factors beyond a reasonable doubt, and whether any of you find that the defendant has proved any mitigating factors by a preponderance of the evidence. You must then engage in a weighing process. If you unanimously find that the aggravating factor or factors, which you all found to exist, sufficiently outweigh any mitigating factor or factors, which any one of you found to exist to justify imposition of a sentence of death, or, if, in the absence of a mitigating factor or factors, you find that the aggravating factor or factors alone are sufficient to justify imposition of a sentence of death, and that death is therefore the appropriate sentence in this case, the law provides that the defendant must be sentenced to death.

If, after weighing the aggravating and mitigating factors, any one of you finds that a sentence of death is not justified, the jury must then determine whether the defendant should be sentenced to life imprisonment without possibility of release, or be given a lesser sentence to be determined by the court.

Again, whether or not the circumstances in this case justify a sentence of death is a decision that is entirely yours. You must not take anything I may say or do during this phase of the trial as indicating what I think of the evidence or what I think your verdict should be.

Two terms that you have already heard and will hear throughout this phase of the case are "aggravating factors" and "mitigating factors." These factors concern the circumstances of the crime or the personal traits, character or background of the defendant and the effect of the offense on the victim and the victim's family.

The word "aggravate" means "to make worse or more offensive" or "to intensify." The word "mitigate" means "to make less severe" or "to moderate." An aggravating factor, then, is a fact or circumstance which would tend to support imposition of the death penalty. A mitigating factor is any aspect of a defendant's character or background, any circumstance of the offense(s), or any other relevant fact or circumstance which might indicate that the defendant should not be sentenced to death.

In the death penalty statute, a number of aggravating factors are listed. These are called "statutory aggravating factors." As I instructed you earlier, before you may consider imposition of the death penalty, you must find that the government proved at least one of these aggravating factors specifically listed in the death penalty statute, and your finding must be unanimous and beyond a reasonable doubt. In addition to statutory aggravating factors, there may also be aggravating factors not specifically set out in the death penalty statute. Again, your finding that any non-statutory aggravating factor exists must be unanimous and beyond a reasonable doubt.

The defendant has the burden of proving any mitigating factors. However, there is a different standard of proof as to mitigating factors. You need not be convinced beyond a

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reasonable doubt about the existence of a mitigating factor; you need only be convinced that it is more likely true than not true in order to find that it exists. A unanimous finding is not required. Any one of you may find the existence of a mitigating factor, regardless of the number of other jurors who may agree.

If you have unanimously found that at least one statutory aggravating factor exists, you then must weigh the aggravating factors you have all found to exist against any mitigating factors you have individually found to exist, to determine the appropriate sentence. I will give you detailed instructions regarding the weighing of aggravating and mitigating factors before you begin your deliberations. However, I instruct you now that you must not simply count the number of aggravating and mitigating factors and reach a decision based on which number is greater; you must consider the weight and value of each factor.

The government alleges the following statutory aggravating factors:

1. The defendant committed the offenses alleged in Counts 3, 7, and 13 in an especially heinous, cruel, and depraved manner in that the offenses involved serious physical abuse to Abeer Al-Janabi.
2. The defendant committed the offenses charged in Counts 3-10 and 13-16 after substantial planning and premeditation to cause the death of a person.
3. The victims of the charged offenses – Abeer Al-Janabi (Counts 3, 7, and 13) and Hadeel Al-Janabi (Counts 4, 8, and 14) – were particularly vulnerable due to youth.
4. The defendant intentionally killed more than one person in a single criminal episode as charged in Counts 3-10 and 13-16.

The government also alleges the following non-statutory aggravating factors:

1. The defendant killed the victim and witnesses of the rape he committed, including Abeer Al-Janabi, Hadeel Al-Janabi, Kassem Al-Janabi, and Fakhriya Al-Janabi, in order to eliminate them as possible witnesses to his crimes.
2. The defendant caused injury, harm, and loss to the family of Abeer Al-Janabi, as evidenced by her personal characteristics as a human being and the impact of her death on her family.
3. The defendant caused injury, harm, and loss to the family of Hadeel Al-Janabi, as evidenced by her personal characteristics as a human being and

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the impact of her death on her family.

4. The defendant caused injury, harm, and loss to the family of Kassem Al-Janabi, as evidenced by his personal characteristics as a human being and the impact of his death on his family.
5. The defendant caused injury, harm, and loss to the family of Fakhriya Al-Janabi, as evidenced by her personal characteristics as a human being and the impact of her death on her family.
6. The injuries caused by the defendant extend especially to the two minor children orphaned as a result of their parents' death and to those presently caring for the children.

The defendant alleges the following mitigating factors:

[list factors]

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### **12.02 BURDEN OF PROOF**

**This instruction is to be given at the beginning of the sentencing phase, before the introduction of evidence.**

As I have just instructed you, the government must meet its burden of proof beyond a reasonable doubt. A "reasonable doubt" is a doubt based upon reason and common sense after careful and impartial consideration of all the evidence received in this trial. It is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

The defendant does not have the burden of disproving the existence of anything the government must prove beyond a reasonable doubt. The burden is wholly upon the government; the law does not require the defendant to produce any evidence at all.

It is the defendant's burden to establish any mitigating factors, by a preponderance of the evidence. To prove something by the preponderance of the evidence is to prove that it is more likely true than not true. It is determined by considering all of the evidence and deciding which of the evidence is more believable. If, on any issue in the case, the evidence is equally balanced, you cannot find that issue has been proved.

The preponderance of the evidence is not necessarily determined by the greater number of witnesses or exhibits presented by the government or the defendant.

To prove something by the preponderance of the evidence is a lesser standard of proof than proof beyond a reasonable doubt.

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### **12.03 EVIDENCE**

**This instruction is to be given at the beginning of the sentencing phase, before the introduction of evidence.**

In making all the determinations you are required to make in this phase of the trial, you may consider any evidence that was presented during the guilt phase of the trial as well as evidence that is presented at this sentencing phase of the trial. The evidence in this phase of the trial includes only what the witnesses say while testifying under oath; the exhibits that I allow into evidence; the stipulations that the lawyers agreed to; and the facts that I have judicially noticed.

Nothing else is evidence. The lawyers' statements and arguments are not evidence. Their questions and objections are not evidence. My legal rulings are not evidence. And my comments and questions are not evidence.

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it. In deciding what testimony of any witness to believe, consider the witness's intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness's memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with other evidence that you believe.

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### **12.04 INTRODUCTION TO FINAL INSTRUCTIONS**

Regardless of any opinion you may have as to what the law may be - or should be - it would be a violation of your oaths as jurors to base your verdict upon any view of the law other than that given to you in these instructions.

Some of the legal principles that you must apply to this sentencing decision duplicate those you followed in reaching your verdict as to guilt or innocence. Others are different. The instructions I am giving you now are a complete set of instructions on the law applicable to the sentencing decision. I have prepared them to ensure that you are clear in your duties at this stage of the case. I have also prepared a special verdict form that you must complete. The form details special findings you must make in this case and will help you perform your duties properly.

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**12.05 FINDING AS TO DEFENDANT'S AGE  
(18 U.S.C. § 3591) (Homicide)**

Before you may consider the imposition of the death penalty, you must first unanimously agree beyond a reasonable doubt that the defendant was eighteen years of age or older at the time of the offense.

If you unanimously make that finding, you should so indicate on page [ ] of the Special Verdict Form and continue your deliberations. If you do not unanimously make that finding, you should so indicate on page [ ] of the Special Verdict Form and follow the directions on page [ ] of the form. No further deliberations will be necessary.

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### 12.06 FINDING OF REQUISITE MENTAL STATE (18 U.S.C. § 3591) (Homicide)

Before you may consider the imposition of the death penalty, you must also unanimously find beyond a reasonable doubt that the defendant killed Abeer Al-Janabi, Hadeel Al-Janabi, Kassem Al-Janabi, or Fakhriya Al-Janabi in one of the manners described below. If you unanimously make such findings as to the murders of Abeer Al-Janabi, Hadeel Al-Janabi, Kassem Al-Janabi, or Fakhriya Al-Janabi, you should so indicate on page [ ] of the Special Verdict Form and continue your deliberations. If you do not unanimously make such findings as to the murder of Abeer Al-Janabi, Hadeel Al-Janabi, Kassem Al-Janabi, or Fakhriya Al-Janabi, you should so indicate on page [ ] of the Special Verdict Form, and follow the direction on page [ ]. No further deliberations will be necessary with respect to a murder in which you do not make such a finding.

The government alleges that –

With regard to Counts 3, 7, and 13:

- 1(A). The defendant intentionally killed the victim, Abeer Al-Janabi, by shooting her in the face. To establish that the defendant intentionally killed the victim, the government must prove that the defendant killed the victim with a conscious desire to cause the victim's death.
  
- 1(B). The defendant intentionally inflicted serious bodily injury that resulted in the death of the victim, Abeer Al-Janabi, by shooting her in the face, which resulted in the death of Abeer Al-Janabi. The government must prove that the defendant deliberately caused serious injury to the victim's body which in turn caused the victim's death.

"Serious bodily injury" means a significant or considerable amount of injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of a body member, organ or mental faculty.

- 1(C). 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, by shooting Abeer Al-Janabi in the face, which directly resulted in her death. The government must prove that the defendant deliberately shot Abeer Al-Janabi with a conscious desire that she be killed or that lethal force be employed against her. The phrase "lethal force" means an act [or acts] of violence capable of causing death.

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- 1(D). 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 Abeer Al-Janabi died as a direct result of the act, by sustaining injuries caused by a firearm.

With regard to Counts 4, 8, and 14:

- 2(A). The defendant intentionally killed the victim, Hadeel Al-Janabi, by shooting her with a gun. To establish that the defendant intentionally killed the victim, the government must prove that the defendant killed the victim with a conscious desire to cause the victim's death.
- 2(B). The defendant intentionally inflicted serious bodily injury that resulted in the death of the victim, Hadeel Al-Janabi, by shooting her with a gun, which resulted in the death of Hadeel Al-Janabi. The government must prove that the defendant deliberately caused serious injury to the victim's body which in turn caused the victim's death.

"Serious bodily injury" means a significant or considerable amount of injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of a body member, organ or mental faculty.

- 2(C). 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, by shooting Hadeel Al-Janabi with a gun, which directly resulted in her death. The government must prove that the defendant deliberately shot Hadeel Al-Janabi with a conscious desire that she be killed or that lethal force be employed against her.

The phrase "lethal force" means an act or acts of violence capable of causing death.

- 2(D). 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 Hadeel Al-Janabi died as a direct result of the act, by sustaining injuries caused by a firearm.

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With regard to Counts 5, 9, and 15:

- 3(A). The defendant intentionally killed the victim, Kassem Al-Janabi, by shooting him in the head. To establish that the defendant intentionally killed the victim, the government must prove that the defendant killed the victim with a conscious desire to cause the victim's death.
- 3(B). The defendant intentionally inflicted serious bodily injury that resulted in the death of the victim, Kassem Al-Janabi, by shooting him in the head, which resulted in the death of Kassem Al-Janabi. The government must prove that the defendant deliberately caused serious injury to the victim's body which in turn caused the victim's death.

"Serious bodily injury" means a significant or considerable amount of injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of a body member, organ or mental faculty.

- 3(C). 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, by shooting Kassem Al-Janabi in the head, which directly resulted in his death. The government must prove that the defendant deliberately shot Kassem Al-Janabi with a conscious desire that he be killed or that lethal force be employed against him.

The phrase "lethal force" means an act or acts of violence capable of causing death.

- 3(D). 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 Kassem Al-Janabi died as a direct result of the act, by sustaining injuries caused by a firearm.

With regard to Counts 6, 10, and 16:

- 4(A). The defendant intentionally killed the victim, Fakhriya Al-Janabi, by shooting her with a gun. To establish that the defendant intentionally killed the victim, the government must prove that the defendant killed the victim with a conscious desire to cause the victim's death.

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- 4(B). The defendant intentionally inflicted serious bodily injury that resulted in the death of the victim, Fakhriya Al-Janabi, by shooting her with a gun, which resulted in the death of Fakhriya Al-Janabi. The government must prove that the defendant deliberately caused serious injury to the victim's body which in turn caused the victim's death.

"Serious bodily injury" means a significant or considerable amount of injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of a body member, organ or mental faculty.

- 4(C). 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, by shooting Fakhriya Al-Janabi with a gun, which directly resulted in her death. The government must prove that the defendant deliberately shot Fakhriya Al-Janabi with a conscious desire that she be killed or that lethal force be employed against her.

The phrase "lethal force" means an act or acts of violence capable of causing death.

- 4(D). 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 Fakhriya Al-Janabi died as a direct result of the act, by sustaining injuries caused by a firearm.

Intent or knowledge may be proved like anything else. You may consider any statements made and acts done by the defendant, and all the facts and circumstances in evidence which may aid in a determination of defendant's knowledge or intent.

You may, but are not required to, infer that a person intends the natural and probable consequences of acts knowingly done or knowingly omitted.

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### **12.07 STATUTORY AGGRAVATING FACTORS (18 U.S.C. § 3592) (Homicide)**

If you unanimously find beyond a reasonable doubt that the defendant committed the murder of Abeer Al-Janabi, Hadeel Al-Janabi, Kassem Al-Janabi, or Fakhriya Al-Janabi in a manner described in Instruction 12.06, you must then proceed to determine whether the government has proved beyond a reasonable doubt the existence of any of the following alleged statutory aggravating factors with respect to the same murder or murders. If you unanimously make that finding in the affirmative as to the murder of Abeer Al-Janabi, Hadeel Al-Janabi, Kassem Al-Janabi, or Fakhriya Al-Janabi, you should so indicate in Section III on page [ ] of the Special Verdict Form and continue your deliberations. If you do not unanimously make that finding in the affirmative as to the murder of Abeer Al-Janabi, Hadeel Al-Janabi, Kassem Al-Janabi, or Fakhriya Al-Janabi, you should so indicate on page [ ] of the Special Verdict Form, and follow the directions on page [ ]. No further deliberations will be necessary as to those murders for which you do not unanimously find a statutory aggravating factor.

The government alleges the following statutory aggravating factors:

1. The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved serious physical abuse to the victim, Abeer Al-Janabi, by raping her, shooting her in the face, and lighting her on fire.

Note: To establish that the defendant killed the victim in an especially heinous, cruel, or depraved manner, the government must prove that the killing involved either serious physical abuse to the victim. You must not find this factor to exist unless you unanimously agree that serious physical abuse has been proved beyond a reasonable doubt. In other words, all twelve of you must agree that it involved serious physical abuse to the victim and was thus heinous, cruel or depraved.

"Heinous" means extremely wicked or shockingly evil, where the killing was accompanied by such additional acts of torture or serious physical abuse of the victim as to set it apart from other killings.

"Cruel" means that the defendant intended to inflict a high degree of pain by torturing the victim in addition to killing the victim.

"Depraved" means that the defendant relished the killing or showed indifference to the suffering of the victim, as evidenced by serious physical abuse of the victim.

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"Serious physical abuse" means a significant or considerable amount of injury or damage to the victim's body. Serious physical abuse may be inflicted either before or after death and does not require that the victim be conscious of the abuse at the time it was inflicted. However, the defendant must have specifically intended the abuse in addition to the killing.

Pertinent factors in determining whether a killing was especially heinous, cruel, or depraved include: an infliction of gratuitous violence upon the victim above and beyond that necessary to commit the killing; the needless mutilation of the victim's body; the senselessness of the killing; and the helplessness of the victim.

The word "especially" means highly or unusually great, distinctive, peculiar, particular, or significant, when compared to other killings.

2. The defendant committed the offenses of Premeditated Murder, Felony Murder, and Use of a Firearm During a Crime of Violence, as charged in Counts 3, 7, and 13 of the indictment, for which you have found him guilty, after substantial planning and premeditation to cause the death of Abeer Al-Janabi.

Note: To establish the existence of factors 2, 3, 4, or 5, "planning" means mentally formulating a method for doing something or achieving some end. "Premeditation" means thinking or deliberating about something and deciding whether to do it beforehand. "Substantial" planning and premeditation means a considerable or significant amount of planning and premeditation.

3. The defendant committed the offenses of Premeditated Murder, Felony Murder, and Use of a Firearm During a Crime of Violence, as charged in Counts 4, 8, and 14 of the indictment, for which you have found him guilty, after substantial planning and premeditation to cause the death of Hadeel Al-Janabi.
4. The defendant committed the offenses of Premeditated Murder, Felony Murder, and Use of a Firearm During a Crime of Violence, as charged in Counts 5, 9, and 15 of the indictment, for which you have found him guilty, after substantial planning and premeditation to cause the death of Kassem Al-Janabi.
5. The defendant committed the offenses of Premeditated Murder, Felony Murder, and Use of a Firearm During a Crime of Violence, as charged in Counts 6, 10, and 16 of the indictment, for which you have found him guilty, after substantial planning and premeditation to cause the death of Fakhriya Al-Janabi.

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6. Abeer Al-Janabi was 14-years-old and particularly vulnerable due to youth.
7. Hadeel Al-Janabi was 6-years-old and particularly vulnerable due to youth.

Note: To establish the existence of factors 6 or 7 listed above, the government must prove that the victim was particularly vulnerable due to old age, youth, or infirmity.

"Particularly" means especially, significantly, unusually, or high in degree. "Vulnerable" means subject to being attacked or injured by reason of some weakness. Thus, to be "particularly vulnerable" means to be especially or significantly vulnerable, or vulnerable to an unusual or high degree.

"Youth" means that the victim was a child, a juvenile, a young person, or a minor, that is: any person who was, by reason of youthful immaturity or inexperience, significantly less able: (1) to avoid, resist, or withstand any attacks, persuasions, or temptations, or (2) to recognize, judge, or discern any dangers, risks, or threats.

8. The defendant intentionally killed Abeer Al-Janabi, Hadeel Al-Janabi, Kassem Al-Janabi, and Fakhriya Al-Janabi in a single criminal episode.

Note: To establish the existence of this factor, the government must prove that the defendant intentionally killed or attempted to kill more than one person in a single criminal episode.

"Intentionally killing" a person means killing a person on purpose, that is: willfully, deliberately, or with a conscious desire to cause a person's death (and not just accidentally or involuntarily).

"A single criminal episode" is an act or series of related criminal acts which occur within a relatively limited time(s) and place(s), or are directed at the same person(s), or are part of a continuous course of conduct related in time, place, or purpose.

You may, but are not required to, presume that a person of sound mind and discretion may be presumed to have intended the ordinary, natural, and probable consequences of his knowing and voluntary acts. Thus, you may infer from the defendant's conduct that the defendant intended to kill a person if you find: (1) that the defendant was a person of sound mind and discretion; (2) that person's death was an ordinary, natural, and probable consequence of the defendant's acts (even if the person's death did not actually result, in the case of an attempt); and (3) that the defendant committed these acts knowingly and voluntarily. But once again, you are not required to make such an inference.

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The law directs you to consider and decide at this point the existence or nonexistence of only the statutory aggravating factors specifically claimed by the government. You are reminded that to find the existence of a statutory aggravating factor, your decision must be unanimous and beyond a reasonable doubt.

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### 12.08 NON-STATUTORY AGGRAVATING FACTORS

If you have found the existence of one or more statutory aggravating factors unanimously and beyond a reasonable doubt, you must then consider whether the government has proved the existence of any non-statutory aggravating factors. As in the case for statutory aggravating factors, you must unanimously agree that the government has proved beyond a reasonable doubt the existence of any of the alleged non-statutory aggravating factors. You may not consider an alleged non-statutory aggravating factor in your sentencing decision if you do not find that the government has proved beyond a reasonable doubt that it is a fact or circumstance that tends to support imposition of the death penalty.

In addition to any statutory aggravating factors you have found, you are permitted to consider and discuss only the non-statutory aggravating factors specifically claimed by the government and listed below. You must not consider any other facts in aggravation which you think of on your own.

The government alleges the following non-statutory aggravating factors:

1. The defendant killed the victim and witnesses of his alleged rape, including Abeer Al-Janabi, Hadeel Al-Janabi, Kassem Al-Janabi, and Fakhriya Al-Janabi, in order to eliminate these victims as possible witnesses to his crimes.
2. The defendant caused injury, harm, and loss to the family of Abeer Al-Janabi, as evidenced by her personal characteristics as a human being and the impact of her death on her family.
3. The defendant caused injury, harm, and loss to the family of Hadeel Al-Janabi, as evidenced by her personal characteristics as a human being and the impact of her death on her family.
4. The defendant caused injury, harm, and loss to the family of Kassem Al-Janabi, as evidenced by his personal characteristics as a human being and the impact of his death on his family.
5. The defendant caused injury, harm, and loss to the family of Fakhriya Al-Janabi, as evidenced by her personal characteristics as a human being and the impact of her death on her family.
6. The injuries caused by the defendant extend especially to the two minor children orphaned as a result of their parents' death and to those presently caring for the children.

At this point you must record your findings regarding whether you unanimously find that the government has proven beyond a reasonable doubt the existence of any of these non-statutory aggravating factors. Please enter that finding on page [ ] of the Special Verdict Form, and continue your deliberations.

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### **12.09 MITIGATING FACTORS**

Before you may consider the appropriate punishment, you must consider whether the defendant has established the existence of any mitigating factors. A mitigating factor is a fact about the defendant's life or character, or about the circumstances surrounding the offenses that would suggest, in fairness, that a sentence of death is not the most appropriate punishment, or that a lesser sentence is the more appropriate punishment.

Unlike aggravating factors, which you must unanimously find proved beyond a reasonable doubt in order to consider them in your deliberations, the law does not require unanimous agreement with regard to mitigating factors. Any juror persuaded of the existence of a mitigating factor must consider it in this case. Further, any juror may consider a mitigating factor found by another juror, even if he or she did not find that factor to be mitigating.

It is the defendant's burden to establish any mitigating factors, but only by a preponderance of the evidence. This is a lesser standard of proof under the law than proof beyond a reasonable doubt. A factor is established by a preponderance of the evidence if its existence is shown to be more likely so than not so. In other words, a preponderance of the evidence means such evidence as, when considered and compared with that opposed to it, produces in your mind the belief that what is sought to be established is, more likely than not, true. In Part V of the Special Verdict Form relating to mitigating factors, you are asked, but not required, to report the total number of jurors that find a particular mitigating factor established by a preponderance of the evidence.

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**12.10 MITIGATING FACTORS ENUMERATED  
(18 U.S.C. § 3592(a))**

The mitigating factors which the defendant asserts he has proved by a preponderance of the evidence are: [list applicable mitigating factors]

- 1.
- 2.
- ....

With regard to alleged factors [*non-statutory factors*], you may not consider the factor in your sentencing decision if you do not find that the defendant has proved by a preponderance of the evidence that it is a fact or circumstance that tends to support imposition of a sentence less than death.

You are permitted to consider anything else about the commission of the crime or about defendant's background or character that would mitigate against imposition of the death penalty. If there are any such mitigating factors, whether or not specifically argued by defense counsel, which are established by a preponderance of the evidence, you are free to consider them in your deliberations.

In Part V on page [ ] of the Special Verdict Form, you are asked to identify any mitigating factors that any one of you finds has been proved by a preponderance of the evidence, but you are not required to do so.

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### **12.11 WEIGHING AGGRAVATION AND MITIGATION**

If you find unanimously and beyond a reasonable doubt as to one or more of the offenses charged in Counts 3-10 and Counts 13-16 that the defendant was eighteen years of age or older when he committed the offenses; that he acted with the requisite intent; and that the government proved the existence of at least one statutory aggravating factor, you will then engage in a weighing process.

In determining the appropriate sentence, all of you must weigh the aggravating factor or factors that you unanimously found to exist -- whether statutory or non-statutory - and each of you must weigh any mitigating factors that you individually found to exist, and may weigh any mitigating factors that another of your fellow jurors found to exist. In engaging in the weighing process, you must avoid any influence of passion, prejudice, or undue sympathy. Your deliberations should be based upon the evidence you have seen and heard and the law on which I have instructed you.

Again, whether or not the circumstances in this case justify a sentence of death is a decision that the law leaves entirely to you.

The process of weighing aggravating and mitigating factors against each other in order to determine the proper punishment is not a mechanical process. In other words, you should not simply count the number of aggravating and mitigating factors and reach a decision based on which number is greater; you should consider the weight and value of each factor.

The law contemplates that different factors may be given different weights or values by different jurors. Thus, you may find that one mitigating factor outweighs all aggravating factors combined, or that the aggravating factors proved do not, standing alone, justify imposition of a sentence of death. Similarly, you may unanimously find that a particular aggravating factor sufficiently outweighs all mitigating factors combined to justify a sentence of death. You are to decide what weight or value is to be given to a particular aggravating or mitigating factor in your decision-making process.

If you unanimously conclude that the aggravating factor or factors found to exist sufficiently outweigh any mitigating factor or factors which any of you found to exist to justify a sentence of death, and that therefore death is the appropriate sentence in this case, you must record your determination that a sentence of death shall be imposed in Section VI(A), on page [ ] of the Special Verdict Form.

If you determine that death is not justified, you must complete Section VI(A) of the Special Verdict Form, and you must then record your determination that defendant be sentenced to life imprisonment without possibility of release in Section VI(B) on page [ ] of the Special Verdict Form.

**Death Penalty - Final Instructions**

**12.12 CONSEQUENCES OF DELIBERATIONS  
(18 U.S.C. § 3594)**

At the end of your deliberations, if you unanimously determine that the defendant should be sentenced to death, or to life imprisonment without possibility of release, the court is required to impose that sentence. There is no parole in the federal system.

**Death Penalty - Final Instructions**

**12.13 JUSTICE WITHOUT DISCRIMINATION  
(18 U.S.C. § 3593(f))**

In your consideration of whether the death sentence is justified, you must not consider the race, color, religious beliefs, national origin, or sex of either the defendant or the victims. You are not to return a sentence of death unless you would return a sentence of death for the crime in question without regard to the race, color, religious beliefs, national origin, or sex of either the defendant or any victim.

To emphasize the importance of this consideration, Section VI of the Special Verdict Form contains a certification statement. Each juror should carefully read the statement, and sign in the appropriate place if the statement accurately reflects the manner in which each of you reached your decision.

**Death Penalty - Final Instructions**

**12.14 DEFENDANT'S RIGHT NOT TO TESTIFY**

The defendant did not testify. There is no burden upon a defendant to prove that he should not be sentenced to death. The burden is entirely on the prosecution to prove that a sentence of death is justified. Accordingly, the fact that a defendant did not testify must not be discussed or considered by you in any way in arriving at your decision.

**Death Penalty - Final Instructions**

**12.15 - 12.19 [Reserved for Future Use]**

**Death Penalty - Final Instructions**

**12.20 SPECIAL VERDICT  
(18 U.S.C. § 3593(d); 21 U.S.C. § 848(k), (q))**

I have prepared a form entitled "Special Verdict Form" to assist you during your deliberations. You are required to record your decisions on this form.

Section I of the Special Verdict Form contains space to record your findings on defendant's age; Section II contains space to record your findings on the requisite mental state; Section III contains space to record your findings on statutory aggravating factors; and Section IV contains space to record your findings on non-statutory aggravating factors. Section V of the Special Verdict Form contains space to record your findings on mitigating factors, if you choose to do so. If you choose not to do so, cross out each page of Section V with a large "X."

You are each required to sign the Special Verdict Form.

### **12.21 CONCLUDING INSTRUCTION**

If you want to communicate with me at any time during your deliberations, please write down your message or question and pass the note to the marshal who will bring it to my attention.

I will respond as promptly as possible, either in writing or by having you return to the courtroom so that I can address you orally.

I caution you, however, with any message or question you might send, that you should not tell me any details of your deliberations or how many of you are voting in a particular way on any issue.

Let me remind you again that nothing that I have said in these instructions – and nothing that I have said or done during the trial – has been said or done to suggest to you what I think your decision should be. The decision is your exclusive responsibility.

**Death Penalty - Special Verdict Form**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
AT PADUCAH**

**CRIMINAL ACTION NO. 5:06 CR-00019-R**

**UNITED STATES OF AMERICA**

**PLAINTIFF**

**v.**

**STEVEN D. GREEN**

**DEFENDANT**

**SPECIAL VERDICT FORM**

**I. AGE OF DEFENDANT**

\_\_\_\_\_ Instructions: Answer "YES" or "NO."

Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant was eighteen years of age or older at the time of the offense.

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

Instructions: If you answered "NO" with respect to the determination in this section, then stop your deliberations, cross out Sections II, III, IV, V and VI of this form, and proceed to Section VII. Each juror should then carefully read the statement in Section VII, and sign in the appropriate place if the statement accurately reflects the manner in which he or she reached his or her decision. You should then advise the court that you have reached a decision.

If you answered "YES" with respect to the determination in this Section I, proceed to Section II which follows.

**Death Penalty - Special Verdict Form**

**II. REQUISITE MENTAL STATE**

\_\_\_\_\_  
Instructions: For each of the following, answer "YES" or "NO."

1(A) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally killed Abeer Al-Janabi?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

1(B) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally inflicted serious bodily injury which resulted in the death of Abeer Al-Janabi?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

1(C) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally participated in an act, contemplating that the life of a person would be taken and/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 Abeer Al-Janabi died as a direct result of the act?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

**Death Penalty - Special Verdict Form**

1(D) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt 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 Abeer Al-Janabi died as a direct result of the act?

YES \_\_\_\_\_

NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

2(A) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally killed Hadeel Al-Janabi?

YES \_\_\_\_\_

NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

2(B) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally inflicted serious bodily injury which resulted in the death of Hadeel Al-Janabi?

YES \_\_\_\_\_

NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

**Death Penalty - Special Verdict Form**

2(C) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally participated in an act, contemplating that the life of a person would be taken and/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 Hadeel Al-Janabi died as a direct result of the act?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

2(D) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt 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 Hadeel Al-Janabi died as a direct result of the act?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

3(A) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally killed Kassem Al-Janabi?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

3(B) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally inflicted serious bodily injury which resulted in the death of Kassem Al-Janabi?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

**Death Penalty - Special Verdict Form**

3(C) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally participated in an act, contemplating that the life of a person would be taken and/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 Kassem Al-Janabi died as a direct result of the act?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

3(D) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt 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 Kassem Al-Janabi died as a direct result of the act?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

4(A) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally killed Fakhriya Al-Janabi?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

4(B) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally inflicted serious bodily injury which resulted in the death of Fakhriya Al-Janabi?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

**Death Penalty - Special Verdict Form**

4(C) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally participated in an act, contemplating that the life of a person would be taken and/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 Fakhriya Al-Janabi died as a direct result of the act?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

4(D) Do you, the jury, unanimously find that the government has established beyond a reasonable doubt 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 Fakhriya Al-Janabi died as a direct result of the act?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

Instructions: If you answered "NO" with respect to all of the determination in this section, then stop your deliberations, cross out Sections III, IV, V, and VI of this form, and proceed to Section VII. Each juror should carefully read the statement in Section VII, and sign in the appropriate place if the statement accurately reflects the manner in which he or she reached his or her decision. You should then advise the court that you have reached a decision.

If you answered "YES" with respect to one or more of the determinations in Section II, proceed to Section III which follows.

**Death Penalty - Special Verdict Form**

**III. STATUTORY AGGRAVATING FACTORS**

Instructions: For each of the following, answer "YES" or "NO."

- 1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant committed the offenses alleged in Counts 3, 7, and 13 in an especially heinous, cruel, or depraved manner in that it involved serious physical abuse to Abeer Al-Janabi, as set out in Instruction No. 12.07(1)?

YES \_\_\_\_\_  
 NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

- 2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant committed the offenses of Premeditated Murder, Felony Murder, and Use of a Firearm During a Crime of violence, as charged in Counts 3, 7, and 13 of the indictment after substantial planning and premeditation to cause the death of a Abeer Al-Janabi, as set out in Instruction No. 12.07(2)?

YES \_\_\_\_\_  
 NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

- 3. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant committed the offenses of Premeditated Murder, Felony Murder, and Use of a Firearm During a Crime of violence, as charged in Counts 4, 8, and 14 of the indictment after substantial planning and premeditation to cause the death of a Hadeel Al-Janabi, as set out in Instruction No. 12.07(3)?

YES \_\_\_\_\_  
 NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

**Death Penalty - Special Verdict Form**

4. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant committed the offenses of Premeditated Murder, Felony Murder, and Use of a Firearm During a Crime of violence, as charged in Counts 5, 9, and 15 of the indictment after substantial planning and premeditation to cause the death of a Kassem Al-Janabi, as set out in Instruction No. 12.07(4)?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

5. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant committed the offenses of Premeditated Murder, Felony Murder, and Use of a Firearm During a Crime of violence, as charged in Counts 6, 10, and 16 of the indictment after substantial planning and premeditation to cause the death of a Fakhriya Al-Janabi, as set out in Instruction No. 12.07(5)?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

6. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the victim, Abeer Al-Janabi, was particularly vulnerable due to youth, as set out in Instruction No. 12.07(6)?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

7. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the victim, Hadeel Al-Janabi, was particularly vulnerable due to youth, as set out in Instruction No. 12.07(7)?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

**Death Penalty - Special Verdict Form**

8. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant intentionally killed more than one person in a single criminal episode, as set out in Instruction No. 12.07(8)?

YES \_\_\_\_\_

NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

Instructions: If you answered "NO" with respect to all of the Statutory Aggravating Factors in this Section III, then stop your deliberations, cross out Sections IV, V, and VI of this form, and proceed to Section VII of this form. Each juror should then carefully read the statement in Section VII, and sign in the appropriate place if the statement accurately reflects the manner in which he or she reached his or her decision. You should then advise the court that you have reached a decision.

If you found the requisite age in Section I, the requisite mental state in Section II, and answered "Yes" with respect to one or more of the aggravating factors in this Section III, proceed to Section IV which follows.

**Death Penalty - Special Verdict Form**

**IV. NON-STATUTORY AGGRAVATING FACTORS**

Instructions: For each of the following, answer "YES" or "NO."

- 1. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant killed the victim and witnesses of a rape he committed, including Abeer Al-Janabi, Hadeel Al-Janabi, Kassem Al-Janabi, and Fakhriya Al-Janabi, in order to eliminate them as possible witnesses to his crimes, and that this factor tends to support imposition of the death penalty?

YES \_\_\_\_\_  
 NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

- 2. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant caused injury, harm, and loss to the family of Abeer Al-Janabi, as evidenced by her personal characteristics as a human being and the impact of her death on her family, and that this factor tends to support imposition of the death penalty?

YES \_\_\_\_\_  
 NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

- 3. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant caused injury, harm, and loss to the family of Hadeel Al-Janabi, as evidenced by her personal characteristics as a human being and the impact of her death on her family, and that this factor tends to support imposition of the death penalty?

YES \_\_\_\_\_  
 NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

**Death Penalty - Special Verdict Form**

4. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant caused injury, harm, and loss to the family of Kassem Al-Janabi, as evidenced by his personal characteristics as a human being and the impact of his death on his family, and that this factor tends to support imposition of the death penalty?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

5. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the defendant caused injury, harm, and loss to the family of Fakhriya Al-Janabi, as evidenced by her personal characteristics as a human being and the impact of her death on her family, and that this factor tends to support imposition of the death penalty?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

6. Do you, the jury, unanimously find that the government has established beyond a reasonable doubt that the injuries caused by the defendant extend especially to the two minor children orphaned as a result of their parents' death and to those presently caring for the children, and that this factor tends to support imposition of the death penalty?

YES \_\_\_\_\_  
NO \_\_\_\_\_

\_\_\_\_\_  
Foreperson Signature

Instructions: Regardless of whether you answered "YES" or "NO" with respect to the Non-Statutory Aggravating Factors in this Section IV, proceed to Section V, which follows.

**Death Penalty - Special Verdict Form**

**V. MITIGATING FACTORS**

Instructions: For each of the following mitigating factors, you have the option to 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. If you choose not to make these written findings, cross out each page of Section V with a large "X" and then continue your deliberations in accordance with the instructions of the court.

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 considering 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. Further, any juror may also weigh a mitigating factor found by another juror, even if he or she did not also find that factor to be mitigating:

*[List only those mitigating factors for which evidence has been offered, using the language contained in 18 U.S.C. § 3592(a)(1)-(7)]*

1. \_\_\_\_\_,  
\_\_\_\_\_, and this is a  
fact or circumstance that tends to support imposition of a sentence less than death.  
Number of jurors who so find \_\_\_\_\_.]

2. \_\_\_\_\_,  
\_\_\_\_\_, and this is  
a fact or circumstance that tends to support imposition of a sentence less than  
death.  
Number of jurors who so find \_\_\_\_\_.]

....

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" and line out the extra spaces with a large "X." If more space is needed, write "CONTINUED" and use the reverse side of this page.

—· \_\_\_\_\_,  
\_\_\_\_\_, and this is a  
fact or circumstance that tends to support imposition of a sentence less than death.  
Number of jurors who so find \_\_\_\_\_.

**Death Penalty - Special Verdict Form**

\_\_\_\_. \_\_\_\_\_, and this is a fact or circumstance that tends to support imposition of a sentence less than death.

Number of jurors who so find \_\_\_\_\_.

\_\_\_\_. \_\_\_\_\_, and this is a fact or circumstance that tends to support imposition of a sentence less than death.

Number of jurors who so find \_\_\_\_\_.

\_\_\_\_. \_\_\_\_\_, and this is a fact or circumstance that tends to support imposition of a sentence less than death.

Number of jurors who so find \_\_\_\_\_.

Instructions: Regardless of whether you chose to make written findings for the Mitigating Factors in Section V above, proceed to Section VI and Section VII which follow.

**Death Penalty - Special Verdict Form**

**VI. DETERMINATION**

Based upon consideration of whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors 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:

**A. Death Sentence**

We determine, by unanimous vote, that a sentence of death shall be imposed.

YES \_\_\_\_\_  
NO \_\_\_\_\_

If you answer "YES," the foreperson must sign here, and you must then proceed to Section VII. If you answer "NO," the foreperson must sign, and you must then proceed to Section VI(B):

\_\_\_\_\_  
FOREPERSON

Date: \_\_\_\_\_, \_\_\_\_\_

**B. Sentence of Life in Prison Without Possibility of Release**

We determine, by unanimous vote, that a sentence of life imprisonment without possibility of release shall be imposed.

YES \_\_\_\_\_  
NO \_\_\_\_\_

If you answer "YES," the foreperson must sign here, and then you must proceed to Section VII. If you answer "NO," the foreperson must sign, and you must proceed to Section VI(C):

\_\_\_\_\_  
FOREPERSON

Date: \_\_\_\_\_, \_\_\_\_\_

**Death Penalty - Special Verdict Form**

**VII. CERTIFICATION**

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision, and that the individual juror 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.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

FOREPERSON

Date: \_\_\_\_\_, \_\_\_\_\_