

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT PADUCAH

CRIMINAL ACTION NO. 5:06CR-19-R
UNITED STATES OF AMERICA,

PLAINTIFF,

vs.

STEVEN DALE GREEN,

DEFENDANT.

Special Verdict Form for Using a Firearm During and in Relation
to the Premeditated Murder of Abeer Kassem Hamza Al-Janabi (Count 13)

Section I. Threshold Mental State Factors

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

(A) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant,
Steven Dale Green, intentionally killed Abeer Kassem Hamza Al-Janabi?

YES _____

NO _____

Foreperson

(B) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant,
Steven Dale Green, intentionally inflicted serious bodily injury that resulted in the death of
Abeer Kassem Hamza Al-Janabi?

YES _____

NO _____

Foreperson

(C) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant, Steven Dale Green, 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 that Abeer Kassem Hamza Al-Janabi died as a direct result of the act?

YES _____

NO _____

Foreperson

(D) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant, Steven Dale Green, 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 Kassem Hamza Al-Janabi died as a direct result of the act?

YES _____

NO _____

Foreperson

If you have answered “YES” to either A, B, C, or D, please continue to Section II: Statutory Aggravating Factors. If you have answered “NO” to A, B, C, and D, cease your deliberations with respect to the murder of Abeer Kassem Hamza Al-Janabi and proceed to Section VI.

Section II. Statutory Aggravating Factors

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

(1) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, committed the offense in an especially heinous, cruel, and depraved manner in that it involved torture and serious physical abuse to Abeer Kassem Hamza Al-Janabi?

YES _____

NO _____

Foreperson

(2) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism?

YES _____

NO _____

Foreperson

(3) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that Abeer Kassem Hamza Al-Janabi was particularly vulnerable due to youth?

YES _____

NO _____

Foreperson

(4) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, intentionally killed or attempted to kill more than one person when he killed Abeer Kassem Hamza Al-Janabi?

YES _____

NO _____

Foreperson

If you have answered “YES” with respect to one or more of the Statutory Aggravating Factors, please proceed to Section III: Non-Statutory Aggravating Factors. If you have answered “NO” to with respect to ALL of the Statutory Aggravating Factors, then stop your deliberations with respect to the murder of Abeer Kassem Hamza Al-Janabi and proceed to Section VI.

Section III. Non-Statutory Aggravating Factors

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

(1) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, killed Abeer Kassem Hamza Al-Janabi in order to eliminate her as a possible witness to his crimes?

YES _____ NO _____

Foreperson

(2) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, caused injury, harm, and loss to the family of Abeer Kassem Hamza Al-Janabi, as evidenced by her personal characteristics as a human being and the impact of her death on her family?

YES _____ NO _____

Foreperson

Regardless of whether you answered “YES” or “NO” with respect to these non-statutory aggravating factors, please proceed to Section IV: Mitigating Factors.

Section IV. Mitigating Factors

Instructions: For each of the following mitigating factors, 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. Extra spaces are also provided at the end of the section to write additional mitigating factors found by one or more jurors.

- (1) Sgt. Paul Cortez, Spc. James Barker, and PFC Jesse Spielman, persons equally or more culpable in the offenses charged, will not face the death penalty for their involvement in the murders. This is a statutory mitigating factor.

Number of jurors who so find _____

- (2) In its criminal prosecutions of Sgt. Paul Cortez, Spc. James Barker, and PFC Jesse Spielman for their involvement in the murders, the United States did not even seek the death penalty, despite the fact that they were equally or more culpable in the offenses charged.

Number of jurors who so find _____

- (3) In its criminal prosecutions of Sgt. Paul Cortez, Spc. James Barker, and PFC Jesse Spielman for their involvement in the murders, the United States imposed sentences that will make each of them eligible for parole in 10 years. The mandatory *minimum* sentence that Steven Green can receive in this case is life imprisonment without the possibility of release. He will never be eligible for parole.

Number of jurors who so find _____

- (4) The United States could have tried Sgt. Paul Cortez, Spc. James Barker, PFC Bryan Howard, PFC Jesse Spielman, and PFC Steven Green together in this court under civilian law and procedures before a civilian judge and jury for their involvement in the murders; or it could have tried all of them in military court under the law and procedures of the Uniform Code of Military Justice before a military judge and jury, but chose to try only Steven Green in civilian court and the others in military court.

Number of jurors who so find _____

- (5) PFC Steven Green did not have a significant history of criminal conduct prior to the offenses charged. This is a statutory mitigating factor.

Number of jurors who so find _____

- (6) PFC Steven Green was drawn into criminal conduct by his military superiors.

Number of jurors who so find _____

- (7) PFC Steven Green was only 19 years of age when he committed the charged offenses.

Number of jurors who so find _____

- (6) PFC Steven Green committed the offenses while he was under the influence and control of his military superiors.

Number of jurors who so find _____

- (7) PFC Steven Green was suffering from psychological impairments which were identified by the United States Army and could have been properly treated, but were not.

Number of jurors who so find _____

- (8) The Army recognizes the detrimental physical and psychological effects of combat on soldiers and has put into place detailed and specific procedures for the prevention, identification, and management of combat stress related conditions or behavioral disorders in order to prevent illegal conduct. The Army was aware that PFC Steven Green exhibited many, if not all, of the risk factors preceding illegal violence in combat. The Army knew that PFC Steven Green was at a high risk of homicidal conduct against Iraqi civilians. Nevertheless, it failed to follow its own rules and procedures and returned him to the field without proper treatment or follow-up. Had it followed its own required procedures for combat stress control, it is unlikely that PFC Steven Green would have been involved in the murders.

Number of jurors who so find _____

- (9) Other factors in PFC Steven Green’s childhood, background, or character or any other circumstance of the offense mitigate against imposition of the death sentence. This is a statutory mitigating factor.

Number of jurors who so find _____

(10)

_____.

Number of jurors who so find _____

(11)

_____.

Number of jurors who so find _____

(12)

_____.

Number of jurors who so find _____

(13)

_____.

Number of jurors who so find _____

Please proceed to Section V: Sentencing Decisions. Continue your deliberations by filling out either Decision Form A recommending life imprisonment without the possibility of release, Decision Form B recommending death, or Decision Form C indicating that the jury could not reach a unanimous decision.

**Decision Form C
Deadlock as to Sentence**

We, the jury, are unable to unanimously agree.

Foreperson

Date: _____, 2009.

Please proceed to Section VI: Certificate.

Section VI: Certificate

By signing below, each of us individually certifies that consideration of the race, color, religious beliefs, national origin, or sex of Steven Dale Green and of the victims, was not involved in reaching our respective individual decisions. Each of us individually further certifies that the same decision regarding a sentence would have been made no matter what the race, color, religious beliefs, national origin, or sex of the defendant or victims may have been.

Foreperson

Date: _____, 2009.

Please proceed to Special Verdict Form for Using a Firearm During and in

Relation to the Premeditated Murder of Hadeel Kassem Hamza Al-Janabi (Count 14).

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT PADUCAH

CRIMINAL ACTION NO. 5:06CR-19-R
UNITED STATES OF AMERICA,

PLAINTIFF,

vs.

STEVEN DALE GREEN,

DEFENDANT.

Special Verdict Form for Using a Firearm During and in Relation
to the Premeditated Murder of Hadeel Kassem Hamza Al-Janabi (Count 14)

Section I. Threshold Mental State Factors

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

(A) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant,
Steven Dale Green, intentionally killed Hadeel Kassem Hamza Al-Janabi?

YES _____

NO _____

Foreperson

(B) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant,
Steven Dale Green, intentionally inflicted serious bodily injury that resulted in the death of
Hadeel Kassem Hamza Al-Janabi?

YES _____

NO _____

Foreperson

(C) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant, Steven Dale Green, 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 that Hadeel Kassem Hamza Al-Janabi died as a direct result of the act?

YES _____

NO _____

Foreperson

(D) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant, Steven Dale Green, 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 Kassem Hamza Al-Janabi died as a direct result of the act?

YES _____

NO _____

Foreperson

If you have answered “YES” to either A, B, C, or D, please continue to Section II: Statutory Aggravating Factors. If you have answered “NO” to A, B, C, and D, cease your deliberations with respect to the murder of Hadeel Kassem Hamza Al-Janabi and proceed to Section VI.

Section II. Statutory Aggravating Factors

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

(1) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, committed the offense in an especially heinous, cruel, and depraved manner in that it involved torture and serious physical abuse to Hadeel Kassem Hamza Al-Janabi?

YES _____ NO _____

Foreperson

(2) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism?

YES _____ NO _____

Foreperson

(3) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that Hadeel Kassem Hamza Al-Janabi was particularly vulnerable due to youth?

YES _____ NO _____

Foreperson

(4) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, intentionally killed or attempted to kill more than one person when he killed Hadeel Kassem Hamza Al-Janabi?

YES _____

NO _____

Foreperson

If you have answered “YES” with respect to one or more of the Statutory Aggravating Factors, please proceed to Section III: Non-Statutory Aggravating Factors. If you have answered “NO” to with respect to ALL of the Statutory Aggravating Factors, then stop your deliberations with respect to the murder of Hadeel Kassem Hamza Al-Janabi and proceed to Section VI.

Section III. Non-Statutory Aggravating Factors

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

(1) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, killed Hadeel Kassem Hamza Al-Janabi in order to eliminate her as a possible witness to his crimes?

YES _____ NO _____

Foreperson

(2) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, caused injury, harm, and loss to the family of Hadeel Kassem Hamza Al-Janabi, as evidenced by her personal characteristics as a human being and the impact of her death on her family?

YES _____ NO _____

Foreperson

Regardless of whether you answered “YES” or “NO” with respect to these non-statutory aggravating factors, please proceed to Section IV: Mitigating Factors.

Section IV. Mitigating Factors

Instructions: For each of the following mitigating factors, 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. Extra spaces are also provided at the end of the section to write additional mitigating factors found by one or more jurors.

- (1) Sgt. Paul Cortez, Spc. James Barker, and PFC Jesse Spielman, persons equally or more culpable in the offenses charged, will not face the death penalty for their involvement in the murders. This is a statutory mitigating factor.

Number of jurors who so find _____

- (2) In its criminal prosecutions of Sgt. Paul Cortez, Spc. James Barker, and PFC Jesse Spielman for their involvement in the murders, the United States did not even seek the death penalty, despite the fact that they were equally or more culpable in the offenses charged.

Number of jurors who so find _____

- (3) In its criminal prosecutions of Sgt. Paul Cortez, Spc. James Barker, and PFC Jesse Spielman for their involvement in the murders, the United States imposed sentences that will make each of them eligible for parole in 10 years. The mandatory *minimum* sentence that Steven Green can receive in this case is life imprisonment without the possibility of release. He will never be eligible for parole.

Number of jurors who so find _____

- (4) The United States could have tried Sgt. Paul Cortez, Spc. James Barker, PFC Bryan Howard, PFC Jesse Spielman, and PFC Steven Green together in this court under civilian law and procedures before a civilian judge and jury for their involvement in the murders; or it could have tried all of them in military court under the law and procedures of the Uniform Code of Military Justice before a military judge and jury, but chose to try only Steven Green in civilian court and the others in military court.

Number of jurors who so find _____

- (5) PFC Steven Green did not have a significant history of criminal conduct prior to the offenses charged. This is a statutory mitigating factor.

Number of jurors who so find _____

- (6) PFC Steven Green was drawn into criminal conduct by his military superiors.

Number of jurors who so find _____

- (7) PFC Steven Green was only 19 years of age when he committed the charged offenses.

Number of jurors who so find _____

- (6) PFC Steven Green committed the offenses while he was under the influence and control of his military superiors.

Number of jurors who so find _____

- (7) PFC Steven Green was suffering from psychological impairments which were identified by the United States Army and could have been properly treated, but were not.

Number of jurors who so find _____

- (8) The Army recognizes the detrimental physical and psychological effects of combat on soldiers and has put into place detailed and specific procedures for the prevention, identification, and management of combat stress related conditions or behavioral disorders in order to prevent illegal conduct. The Army was aware that PFC Steven Green exhibited many, if not all, of the risk factors preceding illegal violence in combat. The Army knew that PFC Steven Green was at a high risk of homicidal conduct against Iraqi civilians. Nevertheless, it failed to follow its own rules and procedures and returned him to the field without proper treatment or follow-up. Had it followed its own required procedures for combat stress control, it is unlikely that PFC Steven Green would have been involved in the murders.

Number of jurors who so find _____

- (9) Other factors in PFC Steven Green's childhood, background, or character or any other circumstance of the offense mitigate against imposition of the death sentence. This is a statutory mitigating factor.

Number of jurors who so find _____

(10)

_____.

Number of jurors who so find _____

(11)

_____.

Number of jurors who so find _____

(12)

_____.

Number of jurors who so find _____

(13)

_____.

Number of jurors who so find _____

Please proceed to Section V: Sentencing Decisions. Continue your deliberations by filling out either Decision Form A recommending life imprisonment without the possibility of release, Decision Form B recommending death, or Decision Form C indicating that the jury could not reach a unanimous decision.

**Decision Form C
Deadlock as to Sentence**

We, the jury, are unable to unanimously agree.

Foreperson

Date: _____, 2009.

Please proceed to Section VI: Certificate.

Section VI: Certificate

By signing below, each of us individually certifies that consideration of the race, color, religious beliefs, national origin, or sex of Steven Dale Green and of the victims, was not involved in reaching our respective individual decisions. Each of us individually further certifies that the same decision regarding a sentence would have been made no matter what the race, color, religious beliefs, national origin, or sex of the defendant or victims may have been.

Foreperson

Date: _____, 2009.

Please proceed to Special Verdict Form for Using a Firearm During and in

Relation to the Premeditated Murder of Kassem Hamza Rachid Al-Janabi (Count 15).

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT PADUCAH

CRIMINAL ACTION NO. 5:06CR-19-R
UNITED STATES OF AMERICA,

PLAINTIFF,

vs.

STEVEN DALE GREEN,

DEFENDANT.

Special Verdict Form for Using a Firearm During and in Relation
to the Premeditated Murder of Kassem Hamza Rachid Al-Janabi (Count 15)

Section I. Threshold Mental State Factors

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

(A) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant,
Steven Dale Green, intentionally killed Kassem Hamza Rachid Al-Janabi?

YES _____

NO _____

Foreperson

(B) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant,
Steven Dale Green, intentionally inflicted serious bodily injury that resulted in the death of
Kassem Hamza Rachid Al-Janabi?

YES _____

NO _____

Foreperson

(C) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant, Steven Dale Green, 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 that Kassem Hamza Rachid Al-Janabi died as a direct result of the act?

YES _____

NO _____

Foreperson

(D) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant, Steven Dale Green, 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 Hamza Rachid Al-Janabi died as a direct result of the act?

YES _____

NO _____

Foreperson

If you have answered “YES” to either A, B, C, or D, please continue to Section II: Statutory Aggravating Factors. If you have answered “NO” to A, B, C, and D, cease your deliberations with respect to the murder of Kassem Hamza Rachid Al-Janabi and proceed to Section VI.

Section II. Statutory Aggravating Factors

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

(1) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, committed the offense in an especially heinous, cruel, and depraved manner in that it involved torture and serious physical abuse to Kassem Hamza Rachid Al-Janabi?

YES _____ NO _____

Foreperson

(2) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism?

YES _____ NO _____

Foreperson

(3) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, intentionally killed or attempted to kill more than one person when he killed Kassem Hamza Rachid Al-Janabi?

YES _____ NO _____

Foreperson

If you have answered “YES” with respect to one or more of the Statutory Aggravating Factors, please proceed to Section III: Non-Statutory Aggravating Factors. If you have answered “NO” to with respect to ALL of the Statutory Aggravating Factors, then stop your deliberations with respect to the murder of Kassem Hamza Rachid Al-Janabi and proceed to Section VI.

Section III. Non-Statutory Aggravating Factors

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

(1) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, killed Kassem Hamza Rachid Al-Janabi in order to eliminate him as a possible witness to his crimes?

YES _____ NO _____

Foreperson

(2) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, caused injury, harm, and loss to the family of Kassem Hamza Rachid Al-Janabi, as evidenced by his personal characteristics as a human being and the impact of his death on his family?

YES _____ NO _____

Foreperson

(3) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the injuries caused by defendant extend especially to the two minor children orphaned as a result of their parents’ death and to those presently caring for the children?

YES _____ NO _____

Foreperson

Regardless of whether you answered “YES” or “NO” with respect to these non-statutory aggravating factors, please proceed to Section IV: Mitigating Factors.

Section IV. Mitigating Factors

Instructions: For each of the following mitigating factors, 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. Extra spaces are also provided at the end of the section to write additional mitigating factors found by one or more jurors.

- (1) Sgt. Paul Cortez, Spc. James Barker, and PFC Jesse Spielman, persons equally or more culpable in the offenses charged, will not face the death penalty for their involvement in the murders. This is a statutory mitigating factor.

Number of jurors who so find _____

- (2) In its criminal prosecutions of Sgt. Paul Cortez, Spc. James Barker, and PFC Jesse Spielman for their involvement in the murders, the United States did not even seek the death penalty, despite the fact that they were equally or more culpable in the offenses charged.

Number of jurors who so find _____

- (3) In its criminal prosecutions of Sgt. Paul Cortez, Spc. James Barker, and PFC Jesse Spielman for their involvement in the murders, the United States imposed sentences that will make each of them eligible for parole in 10 years. The mandatory *minimum* sentence that Steven Green can receive in this case is life imprisonment without the possibility of release. He will never be eligible for parole.

Number of jurors who so find _____

- (4) The United States could have tried Sgt. Paul Cortez, Spc. James Barker, PFC Bryan Howard, PFC Jesse Spielman, and PFC Steven Green together in this court under civilian law and procedures before a civilian judge and jury for their involvement in the murders; or it could have tried all of them in military court under the law and procedures of the Uniform Code of Military Justice before a military judge and jury, but chose to try only Steven Green in civilian court and the others in military court.

Number of jurors who so find _____

- (5) PFC Steven Green did not have a significant history of criminal conduct prior to the offenses charged. This is a statutory mitigating factor.

Number of jurors who so find _____

- (6) PFC Steven Green was drawn into criminal conduct by his military superiors.

Number of jurors who so find _____

- (7) PFC Steven Green was only 19 years of age when he committed the charged offenses.

Number of jurors who so find _____

- (6) PFC Steven Green committed the offenses while he was under the influence and control of his military superiors.

Number of jurors who so find _____

- (7) PFC Steven Green was suffering from psychological impairments which were identified by the United States Army and could have been properly treated, but were not.

Number of jurors who so find _____

- (8) The Army recognizes the detrimental physical and psychological effects of combat on soldiers and has put into place detailed and specific procedures for the prevention, identification, and management of combat stress related conditions or behavioral disorders in order to prevent illegal conduct. The Army was aware that PFC Steven Green exhibited many, if not all, of the risk factors preceding illegal violence in combat. The Army knew that PFC Steven Green was at a high risk of homicidal conduct against Iraqi civilians. Nevertheless, it failed to follow its own rules and procedures and returned him to the field without proper treatment or follow-up. Had it followed its own required procedures for combat stress control, it is unlikely that PFC Steven Green would have been involved in the murders.

Number of jurors who so find _____

- (9) Other factors in PFC Steven Green's childhood, background, or character or any other circumstance of the offense mitigate against imposition of the death sentence. This is a statutory mitigating factor.

Number of jurors who so find _____

(10)

_____.

Number of jurors who so find _____

(11)

_____.

Number of jurors who so find _____

(12)

_____.

Number of jurors who so find _____

(13)

_____.

Number of jurors who so find _____

Please proceed to Section V: Sentencing Decisions. Continue your deliberations by filling out either Decision Form A recommending life imprisonment without the possibility of release, Decision Form B recommending death, or Decision Form C indicating that the jury could not reach a unanimous decision.

**Decision Form C
Deadlock as to Sentence**

We, the jury, are unable to unanimously agree.

Foreperson

Date: _____, 2009.

Please proceed to Section VI: Certificate.

**and in Relation to the Premeditated Murder of Fakhriya Taha Mohsine Al-Janabi
Count 16).**

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT PADUCAH

CRIMINAL ACTION NO. 5:06CR-19-R
UNITED STATES OF AMERICA,

PLAINTIFF,

vs.

STEVEN DALE GREEN,

DEFENDANT.

Special Verdict Form for Using a Firearm During and in Relation
to the Premeditated Murder of Fakhriya Taha Mohsine Al-Janabi (Count 16)

Section I. Threshold Mental State Factors

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

(A) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant,
Steven Dale Green, intentionally killed Fakhriya Taha Mohsine Al-Janabi?

YES _____

NO _____

Foreperson

(B) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant,
Steven Dale Green, intentionally inflicted serious bodily injury that resulted in the death of
Fakhriya Taha Mohsine Al-Janabi?

YES _____

NO _____

Foreperson

(C) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant, Steven Dale Green, 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 that Fakhriya Taha Mohsine Al-Janabi died as a direct result of the act?

YES _____

NO _____

Foreperson

(D) Do you, the jury, unanimously find beyond a reasonable doubt that the defendant, Steven Dale Green, 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 Taha Mohsine Al-Janabi died as a direct result of the act?

YES _____

NO _____

Foreperson

If you have answered “YES” to either A, B, C, or D, please continue to Section II: Statutory Aggravating Factors. If you have answered “NO” to A, B, C, and D, cease your deliberations with respect to the murder of Fakhriya Taha Mohsine Al-Janabi and proceed to Section VI.

Section II. Statutory Aggravating Factors

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

(1) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, committed the offense in an especially heinous, cruel, and depraved manner in that it involved torture and serious physical abuse to Fakhriya Taha Mohsine Al-Janabi?

YES _____ NO _____

Foreperson

(2) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism?

YES _____ NO _____

Foreperson

(3) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, intentionally killed or attempted to kill more than one person when he killed Fakhriya Taha Mohsine Al-Janabi?

YES _____ NO _____

Foreperson

If you have answered “YES” with respect to one or more of the Statutory Aggravating Factors, please proceed to Section III: Non-Statutory Aggravating Factors. If you have answered “NO” to with respect to ALL of the Statutory Aggravating Factors, then stop your deliberations with respect to the murder of Fakhriya Taha Mohsine Al-Janabi and proceed to Section VI.

Section III. Non-Statutory Aggravating Factors

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

(1) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, killed Fakhriya Taha Mohsine Al-Janabi in order to eliminate her as a possible witness to his crimes?

YES _____ NO _____

Foreperson

(2) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the defendant, Steven Dale Green, caused injury, harm, and loss to the family of Fakhriya Taha Mohsine Al-Janabi, as evidenced by her personal characteristics as a human being and the impact of her death on her family?

YES _____ NO _____

Foreperson

(3) Do you, the jury, unanimously find the government has proved beyond a reasonable doubt that the injuries caused by defendant extend especially to the two minor children orphaned as a result of their parents’ death and to those presently caring for the children?

YES _____ NO _____

Foreperson

Regardless of whether you answered “YES” or “NO” with respect to these non-statutory aggravating factors, please proceed to Section IV: Mitigating Factors.

Section IV. Mitigating Factors

Instructions: For each of the following mitigating factors, 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. Extra spaces are also provided at the end of the section to write additional mitigating factors found by one or more jurors.

- (1) Sgt. Paul Cortez, Spc. James Barker, and PFC Jesse Spielman, persons equally or more culpable in the offenses charged, will not face the death penalty for their involvement in the murders. This is a statutory mitigating factor.

Number of jurors who so find _____

- (2) In its criminal prosecutions of Sgt. Paul Cortez, Spc. James Barker, and PFC Jesse Spielman for their involvement in the murders, the United States did not even seek the death penalty, despite the fact that they were equally or more culpable in the offenses charged.

Number of jurors who so find _____

- (3) In its criminal prosecutions of Sgt. Paul Cortez, Spc. James Barker, and PFC Jesse Spielman for their involvement in the murders, the United States imposed sentences that will make each of them eligible for parole in 10 years. The mandatory *minimum* sentence that Steven Green can receive in this case is life imprisonment without the possibility of release. He will never be eligible for parole.

Number of jurors who so find _____

- (4) The United States could have tried Sgt. Paul Cortez, Spc. James Barker, PFC Bryan Howard, PFC Jesse Spielman, and PFC Steven Green together in this court under civilian law and procedures before a civilian judge and jury for their involvement in the murders; or it could have tried all of them in military court under the law and procedures of the Uniform Code of Military Justice before a military judge and jury, but chose to try only Steven Green in civilian court and the others in military court.

Number of jurors who so find _____

- (5) PFC Steven Green did not have a significant history of criminal conduct prior to the offenses charged. This is a statutory mitigating factor.

Number of jurors who so find _____

- (6) PFC Steven Green was drawn into criminal conduct by his military superiors.

Number of jurors who so find _____

- (7) PFC Steven Green was only 19 years of age when he committed the charged offenses.

Number of jurors who so find _____

- (6) PFC Steven Green committed the offenses while he was under the influence and control of his military superiors.

Number of jurors who so find _____

- (7) PFC Steven Green was suffering from psychological impairments which were identified by the United States Army and could have been properly treated, but were not.

Number of jurors who so find _____

- (8) The Army recognizes the detrimental physical and psychological effects of combat on soldiers and has put into place detailed and specific procedures for the prevention, identification, and management of combat stress related conditions or behavioral disorders in order to prevent illegal conduct. The Army was aware that PFC Steven Green exhibited many, if not all, of the risk factors preceding illegal violence in combat. The Army knew that PFC Steven Green was at a high risk of homicidal conduct against Iraqi civilians. Nevertheless, it failed to follow its own rules and procedures and returned him to the field without proper treatment or follow-up. Had it followed its own required procedures for combat stress control, it is unlikely that PFC Steven Green would have been involved in the murders.

Number of jurors who so find _____

- (9) Other factors in PFC Steven Green's childhood, background, or character or any other circumstance of the offense mitigate against imposition of the death sentence. This is a statutory mitigating factor.

Number of jurors who so find _____

(10)

_____.

Number of jurors who so find _____

(11)

_____.

Number of jurors who so find _____

(12)

_____.

Number of jurors who so find _____

(13)

_____.

Number of jurors who so find _____

Please proceed to Section V: Sentencing Decisions. Continue your deliberations by filling out either Decision Form A recommending life imprisonment without the possibility of release, Decision Form B recommending death, or Decision Form C indicating that the jury could not reach a unanimous decision.

**Decision Form C
Deadlock as to Sentence**

We, the jury, are unable to unanimously agree.

Foreperson

Date: _____, 2009.

Please proceed to Section VI: Certificate.

