

UNITED STATES DISTRICT COURT
(NAME OF DISTRICT)

United States :
 :
v. : No. ---(---)
 :
Defendant :

Jury Instructions

Members of the jury, it is again my duty to instruct you on the law applicable to the sentencing phase of this case. Each of the counts on which you found (defendant) guilty carry the potential for the death penalty, that is, they are each "capital counts." The sole question before you is whether (defendant) should be sentenced for his capital offenses to either (1) life imprisonment without the possibility of release, or (2) the death penalty. The selection between these very serious choices is yours and yours alone to make. Whether you determine, as to a particular count, that (defendant) should be sentenced to death, or to life imprisonment without the possibility of release, the Court is required to impose that sentence which you chose as to that count. There is no parole in the federal system, and so a life sentence means precisely that.

You have found (defendant) guilty of the following counts of the Indictment: Count One, conspiracy to commit murder-for-hire; Count Two, murder-for-hire by use of interstate travel;

and Count Five, causing death by use of a firearm during a crime of violence. Even though there are three counts at issue here, you must still approach the sentencing decision before you separately as to each count and with an open mind. I cannot stress to you enough the importance of your giving careful and thorough consideration to all the evidence. And 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 sentencing decision upon any view of the law other than that which is given to you in these instructions.

The instructions I am giving constitute a complete set of instructions on the law applicable to the capital sentencing decision as to (defendant). During your deliberations you should thus rely on these instructions. A Special Verdict Form has been prepared that you must complete. This verdict form details the specific findings you are required to make and will aid you in making your findings in the proper order and in properly performing your deliberative duties.

Now, although Congress has left it wholly to you, the jury, to decide (defendant's) punishment, it has narrowed and channeled your discretion in specific ways, particularly by requiring that you consider and weigh any "aggravating" and "mitigating" factors proved in this case. These factors have to

do with the circumstances of the crime, the personal traits, character, or background of (defendant), or anything else relevant to the sentencing decision. "Aggravating factors" are those that would tend to support imposition of the death penalty. By contrast, "mitigating factors" are those that suggest that life in prison without the possibility of release is the appropriate sentence in this case. The word "mitigate" means "to make less severe" or "to moderate."

Of course, your task is not simply to decide what aggravating and mitigating factors exist here, if any. Rather, you are called upon to evaluate any such factors and to make a unique, individualized choice between the death penalty and life in prison without the possibility of release. In short, the law does not assume that any defendant found guilty of premeditated murder should be sentenced to death. Nor does the law presume that (defendant), in particular, should be sentenced to death. Rather, your decision on the question of his punishment is a uniquely personal judgment which the law leaves up to each of you. However, the decision to impose the death sentence on (defendant) must be a unanimous decision. That is, every juror must agree that a sentence of death should be imposed rather than a sentence of life imprisonment without the possibility of release. If all twelve of you do not

unanimously agree that a sentence of death should be imposed,
then the sentence will be life imprisonment without the
possibility of release.

Burden of Proof

The Government, at all times and as to all counts, has the burden of proving beyond a reasonable doubt that the appropriate sentence for (defendant) is the death penalty. Before you can consider whether the Government has proved that the death penalty is appropriate, the Government must prove beyond a reasonable doubt as to each count all of the following:

1. the existence of one of the mental states claimed by the Government;
2. the existence of at least one aggravating factor claimed by the Government; and
3. that the aggravating factor(s) found to exist sufficiently outweigh(s) the mitigating factor(s) found to exist so as to justify a sentence of death (or, in the absence of any mitigating factor, that the aggravating factors found to exist alone justify a death sentence.)

Even if the Government proves these things, you are not required to impose the death penalty; there is never any such requirement.

The definition of reasonable doubt is the same as that which I instructed you at the guilt phase. You will remember that I said the words almost define themselves. It is a doubt based upon reason and common sense. It is a doubt that a reasonable person has after carefully weighing all of the evidence. It is a doubt which would cause a reasonable person to hesitate to act in

a matter of importance in his or her personal life. Proof beyond a reasonable doubt must, therefore, be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it in the most important of his own affairs. A reasonable doubt is not a caprice or whim; it is not a speculation or suspicion, and it is not sympathy. A reasonable doubt may arise from the evidence itself or lack of evidence.

The burden is at all times upon the government to prove the aggravating factors beyond a reasonable doubt. The law does not require that the government prove the aggravating factors beyond all possible doubt; proof beyond a reasonable doubt is sufficient. This burden never shifts to the defendant; a defendant never has the burden of disproving the existence of anything on which the Government bears the burden of proof beyond a reasonable doubt. The law does not require a defendant to produce any evidence that a particular aggravating factor does not exist or that death is not an appropriate sentence

(Defendant) is entitled to, but is not required to, present evidence to establish any mitigating factors. Here, (defendant) asserts a number of mitigating factors, and it is his burden to establish any mitigating factors by a preponderance of the evidence. To prove something by a preponderance of the evidence is a lesser standard of proof than

proof beyond a reasonable doubt. To prove something by a 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 what evidence is more believable. It is proof that a fact is more than 50% likely to be true.

The preponderance of the evidence is not determined by the greater number of witnesses or exhibits presented by the Government or the defense. Rather, it is the quality and persuasiveness of the information which controls.

Evidence

In making all the determinations you are required to make in this phase of the trial, you may consider any information presented during this penalty phase and the previous phase of the trial. Recall that for our purposes here the terms "evidence" and "information" have the same meaning.

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 see or hear the things testified about, the witness's memory, any motives that the 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. You also decide what weight or significance you will give to each witness's testimony.

Because the law does not permit a witness to state whether he/she personally favors or opposes the death penalty in this case, you should draw no inference from the fact that no witness has testified as to his/her view on this subject.

Finding As to Defendant's Age

Before you may consider the imposition of the death penalty, you must first unanimously agree that the defendant was eighteen years of age or older at the time of the offense. The parties have stipulated that (defendant) was born on (date, year).

If you make a finding that he was over eighteen at the time of the offense, you will so indicate in Section I of the Special Verdict Form and continue your deliberations.

Finding of Mental State Element

Before you may consider the imposition of the death penalty for any count, you must first unanimously find, beyond a reasonable doubt, the existence as to that count of at least one of the four mental states identified by the Government. If you do not find any of the mental states proved, you may not go further to consider a death sentence. The mental states applicable here are:

1. That the defendant, (defendant), intentionally killed (victim);
2. That (defendant) intentionally inflicted serious bodily injury that resulted in the death of (victim);
3. That (defendant) intentionally participated in acts, contemplating that the life of (victim) would be taken and intending that lethal force would be used in connection with (victim), a person other than one of the participants in the offense, and (victim) died as a direct result of the acts; or
4. That (defendant) intentionally and specifically engaged in acts of violence, knowing that the acts created a grave risk of death to (victim), a person other than one of the participants in the offense, such that participation in the acts constituted a reckless disregard for human life, and (victim) died as a direct result of the acts.

Your findings as to whether the Government has proven the existence, beyond a reasonable doubt, of a particular mental state from among these four must be separate and unanimous as to each capital count. And, with regard to your findings, you may

not rely solely upon your earlier verdict of guilt or your factual determinations in the previous phase of the trial. Instead you must now each decide this issue for yourselves again.

Any finding that a mental state has been proven as to a particular count must be based on (defendant's) personal actions and intent. Intent or knowledge may be proven like anything else: you may consider any statements made and acts done by (defendant), and all the facts and circumstances in evidence which may aid in a determination of his 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.

In the event you unanimously find, beyond a reasonable doubt, that one of the claimed mental state exists as to any count or counts, you will indicate that finding on the appropriate line in Section II of the Special Verdict Form, which provides a space for you to indicate whether you find the government has proved one of the claimed mental states in regard to each count. If you do not unanimously find that at least one claimed mental state has been proved with respect to any of the counts, you will deliberate no further and just complete the Certification in Section VII of the Special Verdict Form. For any count, if you do not

unanimously find that the Government has proven the existence of at least one claimed mental state, your deliberative task as to that count will be over and the Court will impose a mandatory sentence of life imprisonment without the possibility of release on that count.

I instruct you that if you find that at least one claimed mental state is proved to exist, it is not an aggravating factor and may not be weighed by you in deciding whether or not to impose a sentence of death. It is simply a separate requirement, which must be fulfilled before you are required to make any further findings.

The law requires you to make a finding with regard to the mental state element because Congress has determined that not all murders are eligible for the death penalty. Only those murders that also satisfy a mental state element justify consideration of the death penalty. However, a finding that a claimed mental state has been proved beyond a reasonable doubt cannot, in and of itself, justify a death penalty, precisely because it is not an aggravating factor to be weighed. As I will explain to you, more is required before you may decide that the death penalty is to be imposed rather than a sentence of life in prison without the possibility of release.

Aggravating Factors: Introduction

If and only if you unanimously find that the Government has proven the mental state element as to a particular count or counts, you must proceed to determine whether the Government has proven, beyond a reasonable doubt, the existence of at least one aggravating factor. In this case, the Government alleges the following two aggravating factors with respect to each count:

1. That (defendant) committed the offense as consideration for the receipt, and in expectation of the receipt, of something of pecuniary value; or
2. That (defendant) committed the offense after substantial planning and premeditation to cause the death of (victim).

The law directs you to consider and decide separately, as to each count for which you have found the existence of the mental state element, whether the Government has proved the existence of either of the aggravating factors it claims. You are reminded that to find the existence of an aggravating factor as to a particular count, your decision must be unanimous and beyond a reasonable doubt as to that aggravating factor. If you are not unanimous on the aggravating factor under consideration, that factor cannot be used in your deliberations. Any finding that one or both of these factors has been proven must be based on (defendant's) personal actions and intent.

If you find that one or both aggravating factors exist as

to any count or counts, you are to indicate that finding on the appropriate line in Section III of the Special Verdict Form for that count. If you do not unanimously find that either aggravating factor has been proved with respect to any of the counts, your deliberations are finished and you should proceed directly to the Certification in Section VII of the Special Verdict Form.

For any count, if you do not unanimously find that the Government has proven either aggravating factor as to a particular count, your deliberative task as to that count will be over and the Court will impose a mandatory sentence of life imprisonment without the possibility of release on that count.

Let me now instruct you in detail on the specific elements necessary for the Government to prove either of these aggravating factors beyond a reasonable doubt.

Pecuniary Gain

The first aggravating factor alleged by the Government is that (defendant) committed the offenses of conviction as consideration for the receipt, and in expectation of the receipt, of something of pecuniary value.

"Something of pecuniary value" means anything in the form of money, property, or anything else having some economic value, benefit or advantage.

Your finding as to this aggravating factor must be indicated in the appropriate space in Section III of the Special Verdict Form.

Substantial Planning and Premeditation

The second aggravating factor alleged by the government is that (defendant) committed the offense after substantial planning and premeditation to cause the death of (victim).

"Planning" means mentally formulating a method for doing something or achieving some end.

"Premeditation" means thinking or deliberating about something and deciding beforehand whether to do it.

"Substantial" planning and premeditation means a considerable or significant amount of planning and premeditation.

If you have reached the stage where you are considering aggravating factors, you will necessarily have found both that (defendant) is guilty of participation in the murder, and that he intended to commit the murder with one of the requisite mental states. However, the "substantial planning and premeditation" aggravating factor requires more. To find that the Government has satisfied its burden of proving that (defendant) engaged in substantial planning and premeditation to cause the death of (victim), you must find that (defendant's) actual planning and premeditation was "considerable," or "large" in relation to that which would be necessary to commit the underlying offense.

Additionally, in order to find this aggravating factor, you must also find beyond a reasonable doubt that (defendant) personally engaged in "substantial planning and premeditation." You may not find this aggravating factor based on any substantial planning and premeditation by any other persons involved in (victim's) murder.

Finally, let me reiterate that if with respect to any count you do not unanimously find that the Government has proven beyond a reasonable doubt at least one aggravating factor, your deliberations as to that particular count are concluded.

Mitigating Factors

Before you may consider the appropriate punishment for any counts for which you have found the existence of the mental state element and at least one aggravating factor, you must consider whether (defendant) has proven the existence of any mitigating factors. The word "mitigate" means "to make less severe," "to moderate," or "to lessen, soften, mollify, or temper." A mitigating factor is not offered to justify or excuse (defendant's) conduct with respect to the offenses of conviction. Instead, a mitigating factor is a fact about (defendant's) life or character, or about the circumstances surrounding the particular capital offense, or anything else relevant that would suggest, in fairness, that life in prison without the possibility of release is a more appropriate punishment than a sentence of death.

Unlike aggravating factors, which you must unanimously find proven beyond a reasonable doubt in order for you even to consider them in your deliberations, the law does not require unanimity with regard to mitigating factors. Any one juror who is persuaded of the existence of a mitigating factor must consider it in his or her sentencing decision.

Furthermore, it is the defendant's burden to establish a mitigating factor only by a preponderance of the evidence. This

is a less demanding standard of proof 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, that is, if the likelihood that the factor is true is at least slightly more than 50 percent.

In this case, (defendant) claims the following sixteen mitigating factors:

1. (Associate #1) was extensively involved in all aspects of this crime. As such, he is at least as responsible as (defendant) in (victim's) murder, but (Assoc. #1) is not being prosecuted at all for his participation and involvement in this crime. Furthermore, he may well receive a sentence reduction on his 11-year drug sentence.
2. (Associate #2) was a willing, active, and key participant in the murder of (victim). For these reasons, he is at least as responsible as (defendant) for this crime. (Assoc. #2) is also a career criminal with multiple criminal convictions over an extensive time span, who admits to being involved in another murder of a seventeen-year-old victim. Despite his central role in this murder and his extensive criminal history, he is not facing the death penalty in this or any other case.
3. (Associate #3) was actively involved in planning and arranging for this murder, and was actively involved in the getaway. (Assoc. #3) is a key participant in this murder, and he is not facing the death penalty in this case.
4. (Associate #4) ordered or authorized the murder of (victim). He provided the money that was used to hire the killers of (victim). (Assoc. #4) is as responsible as (defendant) for this crime. He was prosecuted and convicted for his participation and involvement in this murder. He will not be subject to the death penalty but faces a sentence of mandatory

life in prison.

5. (Associate #5) ordered or authorized the murder of (victim). He was a key participant in this murder. He was prosecuted and convicted for his participation and involvement in this murder. He will not be subject to the death penalty but faces a sentence of mandatory life in prison.
6. There is no physical, scientific or forensic evidence that absolutely proves (defendant's) guilt. The case against (defendant) relies on the testimony of cooperators who have motives to give untrue or incomplete testimony, and who made deals with the government to help their own cases.
7. There is a lack of investigation to corroborate the testimony of the cooperating witnesses.
8. The eyewitness testimony, deficiencies in forensic evidence and corroborating investigation, and the biases of the cooperating witnesses, leave lingering doubts about (defendant's) guilt, even though those doubts did not rise to the level of "reasonable doubt" in deliberation of the guilt phase evidence.
9. (Victim) contributed directly to the chain of events that led to his death, as he committed acts of violence against (Assoc. #1) and others and threatened additional acts of violence.
10. (Defendant) plays a central role in the emotional life and health of his mother, (name). For (defendant's mother) to lose (defendant) to execution would have a particularly harsh impact on her.
11. Prior to and since his incarceration (defendant) has been a loving father to his two sons, (son #1) and (son #2), and his stepson (son #3). They love him deeply as he continues to play a role in their lives. The execution of (defendant) would have a particularly harsh impact on these boys and would be detrimental to their well-being and development.
12. Prior to and during his incarceration (defendant) has been a loving father, son, uncle and cousin to his

family members, and his execution would have a harsh impact on his entire family.

13. (Defendant) is a person of low IQ with a long history of learning disabilities which limit his intellectual functioning.
14. (Defendant) is a human being who is important to his family.
15. If sentenced to life imprisonment without possibility of release, (defendant) will spend the remainder of his life confined to a prison environment that is restrictive and punitive.
16. The evidence has established other factors, in addition to those listed above, that support a sentence of life imprisonment.

One mitigating factor on which (defendant) relies, "that another person, equally culpable in the crime, will not be punished by death," allows you to take into account as a reason not to impose the death penalty the fact that other participants in the murder will not be sentenced to death and executed, even though they might be equally responsible for (victim's) death.

The law requires consideration of this mitigating factor to allow juries to consider what is fair, considering all of the persons responsible for an intentional killing, before imposing a sentence of death.

(Defendant) has also claimed as a mitigating factor lingering doubt. You have found (defendant) guilty of capital crimes. Your consideration of guilt or innocence has,

therefore, been completed. However, because the death penalty is utterly final and irrevocable, the consequences of a mistake in the determination of a person's guilt is something that a sentencing jury must consider in deciding the ultimate sentence to be imposed. Just as the law requires a greater degree of certainty in order to convict a person of a crime than to find him liable civilly for money damages, so may each juror require an even greater degree of certainty when the outcome of his or her decision is the death of the person. Thus, you may consider any lingering doubts that any of you may have had as to the guilt of the defendant, even though those doubts did not rise to the level of "reasonable doubts" under the instructions previously given to you, in determining whether to recommend a sentence of life imprisonment without release.

In Section IV of the Special Verdict Form, you are asked to report for each mitigating factor considered whether one or more members of the jury found a particular mitigating factor to be established by a preponderance of the evidence. In addition to the sixteen mitigating factors specifically raised by the Defendant, the law permits each of you to consider anything about the circumstances of the offense, or anything about (defendant's) background, record, or character, or anything else relevant that you individually believe mitigates against the

imposition of the death penalty. The law does not limit your consideration of mitigating factors to those that can be articulated in advance. As such, if there are any mitigating factors not argued by the attorneys for (defendant) but which any juror, on his or her own or with others, finds to have been established by a preponderance of the evidence, that juror must consider it in his or her sentencing determination. In short, your discretion in considering mitigating factors is much broader than your discretion in considering aggravating factors. This was a choice expressly made by Congress in enacting the Federal Death Penalty Act. In Section IV of the Special Verdict Form, you are asked to identify any such additional mitigating factors that one or more of you independently finds to exist.

At this time, I wish to make a clarifying point: the existence of a mitigating factor is a distinct consideration from whatever weight, if any, should ultimately be given that factor in your deliberations. For example, any number of jurors might first find that a particular mitigating factor is proved to exist, but those individual jurors might later choose to give that particular mitigating factor differing levels of significance during the weighing process. With this distinction in mind, Section IV of the Special Verdict Form

only asks you to report if one or more jurors find the existence of a particular mitigating factor to be established by a preponderance of the evidence.

After you have completed your findings regarding the existence or non-existence of mitigating factors, you should proceed to weigh the aggravating factors and mitigating factors with regard to each of the counts for which you have unanimously found the mental state element and at least one aggravating factor.

Weighing Aggravating and Mitigating Factors

If, and only if, you unanimously find, beyond a reasonable doubt, that the Government has proven the existence of the mental state element and at least one aggravating factor, with regard to any count, and after you have determined whether (defendant) has proven by a preponderance of the evidence the existence of any mitigating factors, then you must engage in a weighing process. This weighing process asks whether you are unanimously persuaded, beyond a reasonable doubt, that the aggravating factors sufficiently outweigh any mitigating factors or, in the absence of any mitigating factors, that the aggravating factors are in themselves sufficient to justify a sentence of death. Each juror must individually decide whether under all the facts and circumstances in this case a sentence of death has been proved justified.

You are to conduct this weighing process separately with regard to each of the counts for which you have found the mental state element and at least one aggravating factor. The specific offenses in the counts for which you are considering the sentence may not be considered themselves as factors in your weighing process.

You must independently weigh the aggravating factor or factors that you unanimously found to exist, and each of you must weigh any mitigating factors that you individually or with others

found to exist. You are not to weigh the mental state element as any part of this process, nor any aggravating factor you did not find proved, nor the nature of the specific counts. In engaging in the weighing process, you must avoid any influence of passion, prejudice, or any other arbitrary consideration. Your deliberations should be based upon the evidence you have seen and heard, and the law on which I have instructed you.

The process of weighing aggravating and mitigating factors, or weighing aggravating factors alone if you find no mitigating factors, in order to determine if a death sentence is justified, is by no means a mechanical process. In other words, you should not simply count the total number of aggravating and mitigating factors and reach a decision based on which number is greater; rather, 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 beyond a reasonable doubt. Similarly, you may instead find that a single aggravating factor sufficiently outweighs, beyond a reasonable doubt, all mitigating factors combined so as to justify a sentence of death. Each juror is to decide individually what

weight or value is to be given to a particular aggravating or mitigating factor in the decision-making process. You will reflect your determination in Section V.

Remember that even a finding that the aggravating factor(s) sufficiently outweigh the mitigating factors to justify a sentence of death does not require that you impose a sentence of death; there is never any requirement that a death sentence be imposed. Your determination of what sentence shall be imposed will be the result of your carefully weighing these various factors, and making a unique, individual judgment about the sentence that shall be imposed on (defendant).

Determination of Sentence

Whether or not the circumstances in this case persuade you that a sentence of death is called for is a decision that the law leaves entirely to you. Remember that before a sentence of death can be imposed, all 12 jurors must agree beyond a reasonable doubt that death is in fact the appropriate sentence, but that no juror is ever required by the law to impose a death sentence. The decision is yours as individuals to make. Any one of you may decline to impose a death sentence, even where your findings make consideration of the death penalty possible. You do not have to give a reason for your decision. The law has given each of you the discretion to temper justice with mercy.

Bear in mind that in order to find unanimously that a sentence of death should be imposed on (defendant), the jurors must also have unanimously concluded that a death sentence is justified because the aggravating factor or factors sufficiently outweigh any mitigating factors, as I discussed in the previous section. A death sentence is never mandatory, but once it is imposed, I cannot change it. I will have no discretion, and I must then sentence (defendant) to death.

If you unanimously determine (defendant) shall be

sentenced to life imprisonment without possibility of release, you must record your determination in Section VI(A) of the Special Verdict Form.

If you unanimously conclude beyond a reasonable doubt that (defendant) shall be sentenced to death, then you must record your determination in Section VI(B) of the Special Verdict Form.

If all twelve members of the jury cannot unanimously find either that (defendant) should be sentenced to life imprisonment without possibility of release or to death, then you should indicate this circumstance in Section VI(C) of the Special Verdict Form. In that event, Congress has provided that the Court will impose the mandatory sentence of life imprisonment without any possibility of release.

Before you reach any conclusion based on a lack of unanimity (on any count), you should continue your discussions until you are fully satisfied that no further discussion will lead to a unanimous decision.

As I have told you, if you unanimously decide to impose the death penalty or to impose life imprisonment without any possibility of release, I am required by law to abide by your decision and to sentence (defendant) accordingly.

Duty to Deliberate

It is your duty as jurors to discuss the issue of punishment with one another in an effort to reach agreement, if you can do so. Each of you must decide the question of punishment for yourselves, but only after full consideration of the evidence with the other members of the jury. While you are discussing this matter, do not hesitate to re-examine your own opinion, and to change your mind if you become convinced that you are wrong. But do not give up your honest beliefs as to the weight or the effect of the evidence or the appropriate sentence for (defendant) solely because others think differently, or simply to get the case over with.

Justice Without Discrimination

In your consideration of whether the death sentence is appropriate, you must not consider the race, color, religious beliefs, national origin, or sex of either (defendant) or (victim). 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 (defendant) or (victim).

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

Special Verdict Form

As referenced throughout these instructions, a "Special Verdict Form" has been prepared 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 finding as to the defendant's age. Section II of the Special Verdict Form contains space to record your findings on the mental state element; Section III contains space to record your findings on aggravating factors. Section IV contains space to record your findings on mitigating factors. Section V contains space to record your findings as to your weighing process. Section VI of the Special Verdict Form contains space to record your determination of the sentence. Section VII of the Special Verdict Form contains a certification statement.

You are each required to sign the Special Verdict Form in Section VI to reflect your sentencing determination, and in Section VII to reflect your certification.

Conclusion

I have now outlined for you the rules of law applicable to your consideration of the death penalty and the process by which you should determine the facts and weigh the evidence. In a moment you will retire to the jury room.

The importance of your deliberations should be obvious. I remind you that you can return a decision sentencing (defendant) to death only if all 12 of you are unanimously persuaded, beyond a reasonable doubt, that the death sentence is in fact appropriate in his case.

When you are in the jury room, please discuss all aspects of these sentencing issues among yourselves with candor and frankness, but also with a due regard and respect for the opinions of one another. Each of you must decide this question for yourself and not merely go along with the conclusion of your fellow jurors. In the course of your deliberations, no juror should surrender his or her conscientious beliefs of what is the truth, of what is the weight and effect of the evidence, and what should be the outcome as determined by that juror's individual conscience and evaluation of the case. Remember that the parties and the Court are relying upon you to give full, considered, and mature consideration to this sentencing decision. By so doing, you carry out to the fullest your oaths

as jurors: that you will render a true and just verdict.

If it becomes necessary during your deliberations for you to ask questions or seek clarification or to communicate with me for any reason, simply send me a note signed by your foreperson. Do not attempt to communicate with the Court or any other court personnel by any means other than a signed note. I will never communicate with any member of the jury on any subject touching on your sentencing decision other than in writing or orally here in open court.

When you have reached a decision, send me a note signed by your foreperson that you have completed your deliberations. Do not indicate what your determination is in the note. In no communication with the Court prior to a verdict should you ever give a numerical count of where the jury stands in its deliberations.

Whichever of these possible determinations you reach, the foreperson must complete the Special Verdict Form accordingly and be prepared to report to the Court the jurors' findings as to the mental state element, the aggravating and mitigating factors, and the sentencing decision. The foreperson will sign where indicated; all jurors will sign the sentence determination and the certification sections.

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 the outcome should be. What the sentencing decision should be is your exclusive duty and responsibility.