

FILED IN OPEN COURT
U.S.D.C. Atlanta

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

APR 26 2012

JAMES N. GATES, Clerk
By *Wilma Shank* Deputy Clerk

UNITED STATES OF AMERICA)
)
 v.)
)
)
)
 BRIAN RICHARDSON)
 _____)

CRIMINAL ACTION
NO. 1:08-CR-139 (CC)

VERDICT

Part I. FINDINGS ON AGE OF DEFENDANT

- (A) We the jury unanimously find beyond a reasonable doubt that the defendant, Brian Richardson, was at least 18 years-old on July 8, 2007.

Paula Baldwin

Foreperson

OR

- (B) We the jury unanimously find beyond a reasonable doubt that the defendant, Brian Richardson, was not at least 18 years-old on July 8, 2007.

Foreperson

(If you do find that the government has not proven that Mr. Richardson was at least 18 years-old on July 8, 2007, report this to the Court and your deliberations are concluded.)

(E) We the jury DO NOT unanimously find beyond a reasonable doubt any of A, B, C or D above.

Foreperson

(If you do find E, report the decision to the Court and your deliberations are concluded.)

PART III. STATUTORY AGGRAVATING FACTORS

(to be proved by the government **beyond a reasonable doubt**)

1. The Defendant has previously been convicted of offenses punishable by imprisonment for a term exceeding one year which involved the use, attempted use, or threatened use of a firearm.

**Proved beyond a reasonable doubt to the jury's
unanimous satisfaction**

Yes PB No _____

2. The Defendant has previously been convicted of two or more offenses punishable by imprisonment for a term exceeding one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

**Proved beyond a reasonable doubt to the jury's
unanimous satisfaction**

Yes _____ No PB

3. The Defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture to the victim.

**Proved beyond a reasonable doubt to the jury's
unanimous satisfaction**

Yes PB No _____

4. The Defendant committed the offense after substantial planning and premeditation to cause the death of a person.

**Proved beyond a reasonable doubt to the jury's
unanimous satisfaction**

Yes PB No _____

5. The Defendant committed the offense upon a victim who was particularly vulnerable due to old age and infirmity.

**Proved beyond a reasonable doubt to the jury's
unanimous satisfaction**

Yes PB No

(You may only continue with your deliberations if you have found at least one listed aggravating circumstance proved to the jury's unanimous satisfaction and beyond a reasonable doubt. If you do not find the aggravating factor or factors to have been proven, report this to the Court and your deliberations are concluded.)

PART IV. NON-STATUTORY AGGRAVATING FACTORS

(to be proved by the government **beyond a reasonable doubt**)

1. Future Dangerousness of the Defendant. The Defendant represents a continuing danger to the lives and safety of other persons. The Defendant has committed the acts alleged in the capital offense charged in the Indictment and in the statutory and non-statutory aggravating factors contained in this Notice, and, in addition, has committed and exhibited acts and characteristics including, but not limited to, the following:
 - (a) Specific threats of violence;
 - (b) Continuing pattern of violence;
 - (c) Specific admissions of violence;
 - (d) Low rehabilitative potential;
 - (e) Lack of remorse;
 - (f) Risk of further acts of violence in custody;
 - (g) Risk of escape;
 - (h) Risk of directing others to commit acts of violence in any setting.

**Proved beyond a reasonable doubt to the jury's
unanimous satisfaction**

Yes PB No _____

2. Participation in Additional Uncharged Attempted Murders or Other Serious Acts of Violence. The Defendant has committed several uncharged serious acts of violence and attempted murder while incarcerated.

**Proved beyond a reasonable doubt to the jury's
unanimous satisfaction**

Yes PB No _____

3. The Defendant has caused the death of another individual. On or about February 1, 2008, the Defendant did convince another inmate to commit suicide by hanging himself.

**Proved beyond a reasonable doubt to the jury's
unanimous satisfaction**

Yes _____ No PB

(Regardless of the finding you have made as to these non-statutory

aggravating factors, proceed to the next part inquiring as to mitigating factors.)

PART V. MITIGATING FACTORS

For each of the mitigating factors below, indicate in the space provided the number of jurors who have found the existence of that mitigating factor to be proved by a preponderance of the evidence. In addition, you may find that a mitigating factor exists which is not listed below. In that event, in the space provided below you should write each mitigating factor so found and the number of jurors who concur in the finding of that mitigating factor.

Your vote with respect to a mitigating factor need not be unanimous. A finding with respect to a mitigating factor may be made by one or more of the members of the jury. Any member of the jury who finds the existence of a mitigating factor may consider such a factor 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.

1. Brian Richardson suffers from mental illness.

Number of jurors who so find 7

2. At the time of the offense, Brian Richardson was not medicated with any psychiatric medications.

Number of jurors who so find 12

3. Dr. Victor Gonzalez, the prison psychiatrist who has treated Brian Richardson since the day of the offense, believed that Brian Richardson was so mentally ill at the time of the offense that if he were on the street he would have needed to be institutionalized.

Number of jurors who so find 10

4. Brian Richardson has been taking Prolixin, an anti-psychotic medication, since December, 2008.

Number of jurors who so find 12

5. Brian Richardson has not committed an act of physical violence since being given the correct psychiatric medications in December, 2008.

Number of jurors who so find 12

6. Brian Richardson has not received a disciplinary write up since being given the correct psychiatric medications in December, 2008.

Number of jurors who so find 12

7. Brian Richardson has demonstrated a strong commitment to following his psychiatric medication regime.

Number of jurors who so find 8

8. Brian Richardson's childhood included chaos, violence, and abuse.

Number of jurors who so find 9

9. Brian Richardson witnessed one or more of his siblings suffer from chaos, violence, and abuse.

Number of jurors who so find 7

10. Brian Richardson's mother had a series of unstable relationships with men when he was growing up.

Number of jurors who so find 12

11. One or more of Susan Upton's children was sexually abused.

Number of jurors who so find 10

12. Brian Richardson's car accident in 1982 was one of the major turning points in his life that led to his addiction to prescription, narcotic pain killers and subsequent criminal conduct in Alabama.

Number of jurors who so find 10

13. Brian Richardson has suffered one or more head injuries.

Number of jurors who so find 12

14. Brian Richardson has a history of substance abuse and addiction.

Number of jurors who so find 12

15. The risk factors in Brian Richardson's life outweighed the protective factors and contributed to his criminal conduct.

Number of jurors who so find 6

16. Brian Richardson's criminal conduct in California was fueled by drug addiction.

Number of jurors who so find 12

17. Brian Richardson is no longer addicted to drugs.

Number of jurors who so find 0

18. Brian Richardson went into the Alabama Prison system when he was 20 years old.

Number of jurors who so find 12

19. Brian Richardson has spent almost his entire adult life in some of the most brutal and overcrowded prisons in the United States.

Number of jurors who so find 12

20. Brian Richardson was subject to constitutionally inadequate mental health support while in the California state prison system.

Number of jurors who so find 8

21. Brian Richardson has spent most of his adult life in prison, yet he has not become a member of a prison gang.

Number of jurors who so find 12

22. Brian Richardson's experiences in prison and his exposure to the convict code and prison culture of various prisons explains, in part, his fatal attack on Steven Obara.

Number of jurors who so find 12

23. The circumstances that led to Steven Obara's death existed, at least in part, because BOP officials put Brian Richardson and Mr. Obara in the same cell when they should not have been housed together.

Number of jurors who so find 4

24. This crime never would have happened if the BOP had paid proper attention to the cell assignments of Brian Richardson and Mr. Obara or if Brian Richardson had been properly medicated prior to the offense.

Number of jurors who so find 1

25. Steven Obara was a sexual predator who molested his young daughter.

Number of jurors who so find 12

26. Brian Richardson would have been targeted for violence if others in prison learned that he was housed with a child molester and failed to take action.

Number of jurors who so find 11

27. The abuse that Brian Richardson and his siblings suffered as children explains, in part, his emotional reaction to child molesters and his attack on Mr. Obara.

Number of jurors who so find 5

28. Brian Richardson's execution would cause others, including his brother Danny Upton, his brother Allen Dusseau, or his sister Christa Upton to suffer grief and loss.

Number of jurors who so find 12

29. Brian Richardson's outlook on life changed for the better after he reconnected with his family after years without contact.

Number of jurors who so find 12

30. Throughout Brian Richardson's life, he has suffered the absence of one or more individuals through death, loss, or abandonment, such as his sister Lisa Dusseau, his brother Allen Dusseau, his father David Richardson, his stepfather Bert Bright, his pastor Pete Crim, his boxing coach Buddy League, the two close

friends who were killed in the car accident, and his sister Amy Bright.

Number of jurors who so find 12

31. If not sentenced to death, Brian Richardson will spend the rest of his life in federal prison without any possibility of release.

Number of jurors who so find 12

32. If sentenced to life in federal prison without release, Brian Richardson will be sent to ADX where he will live in solitary confinement with limited human contact.

Number of jurors who so find 9

33. Brian Richardson can be managed with a combination of medication and secure confinement that will minimize the risk of future dangerousness.

Number of jurors who so find 12

34. BOP staff members who have interacted with Brian Richardson for four years have noticed a positive behavioral change in Brian Richardson since he has been properly medicated.

Number of jurors who so find 11

35. BOP staff members who have interacted with Brian Richardson for four years believe that he can be housed safely, securely, and in a manner that will not pose a danger to others.

Number of jurors who so find 10

36. The evidence does not establish Brian Richardson's guilt of first degree murder with sufficient certainty to justify the imposition of a death sentence.

Number of jurors who so find 0

List any additional Mitigating Factors:

Additional Factor: N/A

Number of jurors who so find _____

Additional Factor: _____

Number of jurors who so find _____

Additional Factor: _____

Number of jurors who so find _____

Additional Factor: _____

Number of jurors who so find _____

(Additional mitigating factors may be handwritten on this form.)

PART VI. DECISION FORMS

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL ACTION
	)	NO. 1:08-CR-139 (CC)
	)	DECISION FORM FOR
BRIAN RICHARDSON	)	UNANIMOUS SENTENCE OF
_____	)	DEATH

We, the jury, as to BRIAN RICHARDSON, unanimously find that
BRIAN RICHARDSON shall be sentenced to death.

FOREPERSON

Date

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA)
)
 v.)
)
 BRIAN RICHARDSON)
 _____)

CRIMINAL ACTION
NO. 1:08-CR-139 (CC)
**DECISION FORM FOR
NON-UNANIMOUS SENTENCE OF
LIFE WITHOUT RELEASE**

We, the jury, having considered and evaluated the evidence presented in light of the instructions of the Court, are not unanimously persuaded on the appropriate sentence.

Kelly J. [Signature]
Kevin S. Beutler
[Signature]
Ernest Taylor
Maurice Alexander
[Signature]
[Signature]
Cynthia A. Bey
[Signature]
Jespering Jensen
Edin Basic
Paula Baldwin
FOREPERSON

4/26/2012
Date

PART VI. CERTIFICATE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA)
)
 v.)
)
 BRIAN RICHARDSON)
 _____)

CRIMINAL ACTION
NO. 1:08-CR-139 (CC)

CERTIFICATE

By signing below, each of us individually hereby certifies that consideration of the race, color, religious beliefs, national origin, or sex of BRIAN RICHARDSON and of the victim, were 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.

Kelly J. [Signature]
Kerri S. Buttle
[Signature]
Ernest Taylor
Maurice Alexander
[Signature]
[Signature]
Cynthia A. Bey
[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
FOREPERSON

4/26/2012
Date