

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANGELA JOHNSON,

Defendant.

No. CR 01-3046-MWB

**FINAL “PENALTY PHASE”
INSTRUCTIONS
TO THE JURY**

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“PENALTY PHASE” VERDICT FORM

**FINAL “PENALTY PHASE” INSTRUCTION
NO. 1 - INTRODUCTION**

Members of the jury, the written instructions I gave you at the beginning of the “penalty phase” and the oral instructions I gave you during the “penalty phase” remain in effect. I will now give you some additional “penalty phase” instructions.

The instructions I am about to give you are in writing and will be available to you in the jury room. *All* instructions, whenever given and whether in writing or not, must be followed. This is true even though some of the instructions I gave you at the beginning of the “penalty phase” are not repeated here.

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 your “penalty phase” decisions duplicate those you followed in reaching your verdict as to guilt or innocence in the “merits phase,” but others are different. The instructions I am giving you now are a complete set of instructions on the law applicable to your “penalty phase” decisions. I have prepared these instructions 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 verdict form details special findings you must make in this case and will help you perform your duties properly.

You must give separate consideration to whether or not the defendant should be sentenced to death or to a sentence of life imprisonment without possibility of

parole on each Count. Therefore, you must return a separate “penalty” verdict on each such Count. *Your determination to impose a death sentence, rather than a sentence of life imprisonment without possibility of parole, on a particular Count must be unanimous.* On the other hand, if any one of you finds that a death sentence should not be imposed on a particular Count, then the death penalty *cannot* be imposed for that Count, and the sentence must, instead, be a sentence of life imprisonment without possibility of parole for that Count

If you find that a death sentence should be imposed on a particular Count, then I am required to impose that sentence. However, you are *never* required to impose a death sentence on any Count. Similarly, if any one of you finds that a death sentence should not be imposed on a particular Count, then I am required to impose a sentence of life imprisonment without possibility of parole on that Count.

Your determination of whether to impose a death sentence or a sentence of life imprisonment without possibility of parole for each Count will proceed in three “steps.” I will explain each of these “steps” in detail in the following instructions.

**FINAL “PENALTY PHASE” INSTRUCTION
NO. 2 - STEP ONE: “NON-STATUTORY
AGGRAVATING FACTORS”**

In **Step One**, for each Count, you must consider whether the prosecution has proved beyond a reasonable doubt *one or more* of the “Non-statutory Aggravating Factors.” These aggravating factors are sometimes called “non-statutory” aggravating factors, because they are not identified by the death penalty statute, although they are identified by other applicable law.

The prosecution contends that the following “Non-statutory Aggravating Factors” have been established beyond a reasonable doubt in this case:

(1) for **Counts 1 through 10**, the defendant would be a danger in the future to the lives and safety of other persons;

(2) for **Counts 1 through 10**, the defendant obstructed justice by preventing the victim from providing testimony or information to law enforcement officers or by retaliating against the victim for cooperating with authorities;

(3) for **Counts 1 through 4 and 6 through 9**, the defendant aided and abetted the intentional killing of more than one person in a single criminal episode;

(4) for **Counts 1 through 10**, the effect of the crime upon the victim’s family was injurious.

You must unanimously agree that a particular “Non-statutory Aggravating Factor” has been proved beyond a reasonable doubt, or you cannot consider that aggravating factor further. You may consider in **Step Three** any “Non-statutory

Aggravating Factor” that you unanimously find that the prosecution has proved beyond a reasonable doubt.

**FINAL “PENALTY PHASE” INSTRUCTION
NO. 3 - STEP TWO: “MITIGATING” FACTORS**

In **Step Two**, for each Count, you must consider whether the defendant has proved by the greater weight of the evidence any “Mitigating Factors.” A “mitigating factor” is any aspect of a defendant’s character or background, any circumstance of the offense in question, or any other relevant fact or circumstance that might indicate that the defendant should receive a sentence of life imprisonment without possibility of parole instead of a death sentence.

Unlike “aggravating factors,” which you must unanimously find have been proved beyond a reasonable doubt, the law does not require unanimous agreement with regard to “mitigating factors.” Any juror who finds the existence of a “mitigating factor” must consider it in this case, regardless of the number of jurors who agree that the factor has been established. Furthermore, any juror may consider a “mitigating factor” found by another juror, even if the first juror did not find that factor to be mitigating.

It is the defendant’s burden to establish any “mitigating factors,” but only by the greater weight of the evidence. This is a lesser standard of proof than proof beyond a reasonable doubt. To prove something “by the greater weight of the evidence” means to prove that it is more likely true than not true. The “greater weight of the evidence” is determined by considering all of the evidence and deciding which evidence is more believable. If you find that the evidence is equally

balanced on any issue in the case, then you cannot find that the issue has been proved.

The “greater weight of the evidence” is not necessarily determined by the greater number of witnesses or exhibits a party has presented. The testimony of a single witness that produces in your mind a belief in the likelihood of truth is sufficient for proof of any fact and would justify a verdict in accordance with such testimony. This is so, even though a number of witnesses may have testified to the contrary, if, after consideration of all of the evidence in the case, you hold a greater belief in the accuracy and reliability of that one witness.

Angela Johnson contends that the following “Mitigating Factors” have been established by the greater weight of the evidence in this case:

(1) even though Angela Johnson is guilty as an aider and abettor, her participation was relatively minor as compared to Dustin Honken’s role in these murders;

(2) Angela Johnson does not have a prior criminal record;

(3) there is a strong maternal bond between Angela Johnson and her daughters, Alyssa and Marvea, and this mother-daughter relationship will continue to survive and flourish if Angela Johnson is sentenced to life imprisonment without possibility of parole;

(4) another person, Dustin Honken, who is equally or more culpable in the murders of Greg Nicholson, Lori Duncan, and Terry DeGeus, will not be punishable by death for those murders;

(5) two victims, Greg Nicholson and Terry DeGeus, consented to the conduct, methamphetamine manufacturing and distribution, that significantly contributed to the circumstances of their deaths;

(6) Angela Johnson was physically and psychologically abused as a child by her mother and other adults who engaged in exorcisms, casting out of spirits, and other unusual religious practices upon her;

(7) Angela Johnson was inappropriately touched, fondled, and sexually abused by Ted Dillo during the time the Johnson family spent with the Dillos in Chanute, Kansas, when Angela Johnson was approximately nine years old;

(8) if Angela Johnson is incarcerated in a federal penitentiary for life, she would not be a danger to the lives and safety of others;

(9) Angela Johnson was raised in a single-parent household by an emotionally unstable mother who subjected her children to unusual fasting practices, long periods of abandonment and physical detachment, and occasional physical abuse, resulting in Angela Johnson being far more susceptible to escape through illicit drug use, a series of unhealthy relationships with men, and chronic feelings of abandonment and poor self-esteem;

(10) Angela Johnson was physically and emotionally abused as an adult by Terry DeGeus, her former boyfriend, causing her great fear and traumatic stress;

(11) Angela Johnson has loving, lasting relationships with her mother, Pearl Jean Johnson, and her four siblings, Wendy Jacobson, Jamie Jo Hays, Jimmy Johnson, and Holly Dirksen, which will continue into old age if Angela Johnson is sentenced to life imprisonment without possibility of parole;

(12) Angela Johnson suffers from anxiety and depression as a result of experiences endured in childhood, and these mental conditions have hampered her ability to make intelligent, thoughtful, and wise choices in many of the important decisions in her life;

(13) Angela Johnson is very much loved by her daughters, Alyssa and Marvea, and that her death would have a profoundly disturbing effect on their young lives, now and for years to come;

(14) Angela Johnson has felt remorse for the role that she played in the deaths of Greg Nicholson, Lori Duncan, Terry DeGeus, and particularly Kandi and Amber Duncan;

(15) Angela Johnson is loved and cherished by her mother, Pearl Jean Johnson, and her siblings, Wendy Jacobson, Jamie Jo Hays, Jimmy Johnson, and Holly Dirksen, all of whom would suffer grievously should Angela Johnson be sentenced to death;

(16) Angela Johnson has been addicted to methamphetamine for most of her adult life, a drug which has profoundly affected her judgment, her personality, her relationships, and her ability to deal with difficult self-esteem and psychological issues, which have plagued her since childhood;

(17) Angela Johnson has demonstrated that she can lead a productive, worthwhile life in prison through her kindness and helpfulness to other inmates, her interest in Bible study and religion, her artistic endeavors, and the furtherance of her education by obtaining a G.E.D. while incarcerated after having dropped out of school years earlier in the ninth grade;

(18) in spite of her problems with drugs, men, and her own depression, Angela Johnson has always held a steady job and has consistently worked to provide for the care and comfort of her daughters, Alyssa and Marvea;

(19) although she is guilty of these murders, Angela Johnson was pregnant by Dustin Honken with her daughter, Marvea, at the time of the murders and, as a result, was in a disadvantaged position to resist Mr. Honken, leave him, or turn him in to authorities, which she offers as an explanation of her conduct, not as an excuse;

(20) despite her own personal problems, past drug addiction, and present incarceration, Angela Johnson has always been a good mother to her daughters, in that she communicates with them regularly, stays as active as possible in their lives, and attempts to pass on the values and beliefs that will help her daughters avoid her own fate;

(21) there are other factors in Angela Johnson's background or character that mitigate in favor of a sentence of life imprisonment without possibility of parole and against the death penalty.

In addition to these "Mitigating Factors," you may also consider any residual or lingering doubts that any of you have as to Angela Johnson's guilt or innocence or her role in the offenses in determining which sentence to impose, even though those doubts did not rise to the level of "reasonable doubts" under the instructions given to you during the "merits phase" of the trial.

Finally, you are permitted to consider *anything* else that is established by the greater weight of the evidence about the commission of the crime or about the defendant's background or character that would indicate that the defendant should

receive a sentence of life imprisonment without possibility of parole instead of a death sentence, whether or not specifically argued by defense counsel.

A juror must find that a particular “Mitigating Factor” has been proved by the greater weight of the evidence, before that juror or any other juror can consider that “Mitigating Factor” in **Step Three**.

**FINAL “PENALTY PHASE” INSTRUCTION
NO. 4 - STEP THREE: WEIGHING THE FACTORS**

It **Step Three**, for each Count, you must consider whether the “Gateway Aggravating Factor” and the one or more “Statutory Aggravating Factors” that you found for that Count during the “eligibility phase,” together with any “Non-statutory Aggravating Factors” for that Count that you find to exist in **Step One** in this “penalty phase,” taken together, sufficiently outweigh any “Mitigating Factors” that you find in **Step Two** so that a sentence of death is justified for that Count. In the absence of any “Mitigating Factors,” you must consider whether the “Aggravating Factors” are themselves sufficient to justify a sentence of death. Based on your weighing of *all* of the factors, you will decide whether to impose a sentence of death or a sentence of life imprisonment without possibility of parole for the Count in question.

For purposes of weighing all of the pertinent factors, I will now remind you of the “Gateway Aggravating Factor” and the “Statutory Aggravating Factors” that you unanimously found beyond a reasonable doubt had been proved in this case. First, for **Counts 1 through 10**, as a “Gateway Aggravating Factor,” you found that the defendant intentionally engaged in conduct intending that the victim in question be killed or that lethal force be employed against the victim, which resulted in the death of the victim. Second, as “Statutory Aggravating Factors,” you found the following: For **Counts 1 and 6**, charging the killing of Gregory Nicholson, **Counts 2 and 7**, charging the killing of Lori Duncan, and **Counts 5 and 10**, charging the

killing of Terry DeGeus, you unanimously found that the defendant committed the offenses in question in an especially heinous, cruel, or depraved manner in that it involved both torture and serious physical abuse; for **Counts 5 and 10**, charging the killing of Terry DeGeus, you also found that the defendant committed the offenses in question after substantial planning and premeditation; and for **Counts 3 and 8**, charging the killing of Kandi Duncan, and **Counts 4 and 9**, charging the killing of Amber Duncan, you found that the victims were particularly vulnerable due to their young age.

In determining the appropriate sentence, all of you must weigh the “Aggravating Factors” that you unanimously find to exist, and each of you must weigh any “Mitigating Factors,” if any, that you individually find to exist. Each of you may also weigh any “Mitigating Factor” or “Mitigating Factors” that another or others of your fellow jurors find to exist, even if you did not yourself find that factor to be mitigating. In engaging in the weighing process, you must avoid any influence of passion, prejudice, or undue sympathy.

The process of weighing “Aggravating Factors” and “Mitigating Factors” against each other—or weighing “Aggravating Factors” alone, if you find no “Mitigating Factors”—in order to determine whether to impose a sentence of death or a sentence of life imprisonment without possibility of parole is not a mechanical process. You must not simply count the number of “Aggravating Factors” and “Mitigating Factors” to reach your decision; rather, you must 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, any of you may find that one “Mitigating Factor” outweighs all “Aggravating Factors” combined, or that the “Aggravating Factors” proved do not, standing alone, justify imposing a sentence of death on a particular Count. If one or more of you so find, then the death penalty *cannot* be imposed for that Count. On the other hand, you may find that a particular “Aggravating Factor” sufficiently outweighs all “Mitigating Factors” combined to justify a sentence of death on a particular Count. Each of you must decide what weight or value is to be given to a particular “Aggravating Factor” or “Mitigating Factor” in your decision-making process.

Your determination of the appropriate sentence for each Count is a decision that each of you must make independently, after consulting with your fellow jurors and individually engaging in the weighing process described in this Instruction. You cannot consider imposing a death sentence unless and until you personally find that the “Aggravating Factors” outweigh the “Mitigating Factors,” or, in the absence of “Mitigating Factors,” that the “Aggravating Factors” are themselves sufficient to justify a sentence of death.

A determination to impose a death sentence must be unanimous. If you each find that a death sentence should be imposed for a particular Count, then I am required to impose a death sentence for that Count.

On the other hand, if, after weighing the “Aggravating Factors” proved in the case and all of the “Mitigating Factors” found by any juror, any one of you finds that a sentence of death is not justified on a particular Count, then the death sentence

cannot be imposed on that Count, and I will impose a sentence of life imprisonment without possibility of parole for that Count.

Regardless of your findings with respect to “Aggravating Factors” and “Mitigating Factors,” you are *never* required to impose a death sentence. Thus, even if you find that a sentence of death would be justified after this weighing process, you are never required to return a verdict imposing a sentence of death.

Again, whether or not the circumstances of a particular Count justify a sentence of death or a sentence of life imprisonment without possibility of parole is a decision that the law leaves entirely to you.

**FINAL “PENALTY PHASE” INSTRUCTION
NO. 5 - EXPERT TESTIMONY REGARDING
DEFENDANT’S MENTAL CONDITION**

You have heard expert testimony concerning Angela Johnson’s mental condition. This evidence has not been offered for the purpose of explaining Angela Johnson’s mental state at the time of the charged killings, and you cannot consider it for that purpose. You may, however, consider it for any other purpose.

**FINAL “PENALTY PHASE” INSTRUCTION
NO. 6 - DEFENDANT’S RIGHT NOT TO TESTIFY**

Angela Johnson did not testify during the “penalty phase.” The defendant has a constitutional right to remain silent. Also, there is no burden upon a defendant to prove that he or she 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 Angela Johnson did not testify must not be considered by you in any way, or even discussed, in arriving at your decision on whether to impose a death sentence or a sentence of life imprisonment without possibility of parole for any Count in this case.

**FINAL “PENALTY PHASE” INSTRUCTION
NO. 7 - JUSTICE WITHOUT DISCRIMINATION**

In your consideration of whether to impose the death sentence or a sentence of life imprisonment without possibility of parole on a particular Count, you must not consider the race, color, religious beliefs, national origin, or sex of either the defendant or the victim in question. 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, the verdict form contains a certification statement. Each of you should carefully read the statement, enter your juror number in the appropriate place in the first signature block, and then sign your name in the appropriate place in the second signature block, if the statement accurately reflects the manner in which each of you reached your decision. The signature block signed with your names will be sealed, which means that it will not be released to the public.

**FINAL “PENALTY PHASE” INSTRUCTION
NO. 8 - VERDICTS**

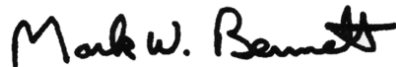
I have prepared a “Penalty Phase Verdict Form,” which is attached to these instructions, to help you during your deliberations and to record your final verdict on whether to impose the death penalty or a sentence of life imprisonment without possibility of parole for each Count. For each Count, the Verdict Form sets out the three “steps” for determination of the sentence to impose. Wherever I have asked you to record “the number of jurors” who so find as to a particular factor or issue, I do *not* mean your juror numbers. Rather, I mean how many of you find that particular factor or issue.

**FINAL “PENALTY PHASE” INSTRUCTION
NO. 9 - CONCLUDING INSTRUCTION**

You have heard emotional testimony presented by both sides in the “penalty phase.” Such testimony may have caused emotional responses from persons present in the courtroom, including spectators, participants in the trial, or other court personnel. However, you must not be swayed by the emotional responses of others to the evidence. Let me remind you again that nothing that I have said in these instructions—and nothing that I have said or done during either the “merits phase” or the “penalty phase” of the trial—has been said or done to suggest to you what I think your decision should be. I have no opinion about what your decision should be. That decision is your exclusive responsibility.

Finally, 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 Court Security Officer (CSO) or marshal in attendance. The CSO or marshal will bring the message 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. However, if you send me a message, do *not* tell me any details of your deliberations or how many of you are voting in a particular way on any issue.

DATED this 20th day of June, 2005.



MARK W. BENNETT
CHIEF JUDGE, U. S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANGELA JOHNSON,

Defendant.

No. CR 01-3046-MWB

**“PENALTY PHASE”
VERDICT FORM**

As to defendant Angela Johnson, on the “penalty phase” issues submitted for our determination, we, the Jury, find as follows:

Step One: “Non-statutory” Aggravating Factors	For each Count, which one or more of the “Non-statutory Aggravating Factors,” if any, do you unanimously find the prosecution has proved beyond a reasonable doubt? “Non-statutory Aggravating Factors” are identified and explained in Final “Penalty Phase” Instruction No. 2. (Please put a check mark in the column for any count for which you find a particular aggravating factor has been proved.)	VICTIMS AND COUNTS									
		Gregory Nicholson		Lori Duncan		Kandi Duncan		Amber Duncan		Terry DeGeus	
		Count 1	Count 6	Count 2	Count 7	Count 3	Count 8	Count 4	Count 9	Count 5	Count 10
	The defendant would be a danger in the future to the lives and safety of other persons.										
	The defendant obstructed justice by preventing the victim from providing testimony or information to law enforcement officers or by retaliating against the victim for cooperating with authorities.										
	The defendant aided and abetted the intentional killing of more than one person in a single criminal episode.										
	The effect of the crime upon the victim’s family was injurious.										
	If you unanimously found at least one “Non-statutory Aggravating Factor” for a particular Count, you may consider that factor or those factors in Step Three , below, for that Count. Whether or not you find any “Non-statutory Aggravating Factor,” go on to Step Two .										

Step Two: “Mitigating” Factors	Which “Mitigating Factors,” if any, do any of you find the defendant has proved by the greater weight of the evidence for a particular count? “Mitigating Factors” specifically asserted by the defendant are identified for you in Final “Penalty Phase” Instruction No. 3. You may also identify any further “Mitigating Factors” that any juror finds. (Please indicate the number of jurors finding any “Mitigating Factor” in the column for any count for which those jurors find that the “Mitigating Factor” applies.)	VICTIMS AND COUNTS									
		Gregory Nicholson		Lori Duncan		Kandi Duncan		Amber Duncan		Terry DeGeus	
	“Mitigating Factor”	Count 1	Count 6	Count 2	Count 7	Count 3	Count 8	Count 4	Count 9	Count 5	Count 10
	(1) even though Angela Johnson is guilty as an aider and abettor, her participation was relatively minor as compared to Dustin Honken’s role in these murders										
	(2) Angela Johnson does not have a prior criminal record										
	(3) there is a strong maternal bond between Angela Johnson and her daughters, Alyssa and Marvea, and this mother-daughter relationship will continue to survive and flourish if Angela Johnson is sentenced to life imprisonment without possibility of parole										
	(4) another person, Dustin Honken, who is equally or more culpable in the murders of Greg Nicholson, Lori Duncan, and Terry DeGeus, will not be punishable by death for those murders										
	(5) two victims, Greg Nicholson and Terry DeGeus, consented to the conduct, methamphetamine manufacturing and distribution, that significantly contributed to the circumstances of their deaths										

Step Two: "Mitigating" Factors (Continued)	VICTIMS AND COUNTS									
	Gregory Nicholson		Lori Duncan		Kandi Duncan		Amber Duncan		Terry DeGeus	
	Count 1	Count 6	Count 2	Count 7	Count 3	Count 8	Count 4	Count 9	Count 5	Count 10
"Mitigating Factor"										
(6) Angela Johnson was physically and psychologically abused as a child by her mother and other adults who engaged in exorcisms, casting out of spirits, and other unusual religious practices upon her										
(7) Angela Johnson was inappropriately touched, fondled, and sexually abused by Ted Dillo during the time the Johnson family spent with the Dillos in Chanute, Kansas, when Angela Johnson was approximately nine years old										
(8) if Angela Johnson is incarcerated in a federal penitentiary for life, she would not be a danger to the lives and safety of others										
(9) Angela Johnson was raised in a single-parent household by an emotionally unstable mother who subjected her children to unusual fasting practices, long periods of abandonment and physical detachment, and occasional physical abuse, resulting in Angela Johnson being far more susceptible to escape through illicit drug use, a series of unhealthy relationships with men, and chronic feelings of abandonment and poor self-esteem										
(10) Angela Johnson was physically and emotionally abused as an adult by Terry DeGeus, her former boyfriend, causing her great fear and traumatic stress										

Step Two: "Mitigating" Factors (Continued)	VICTIMS AND COUNTS									
	Gregory Nicholson		Lori Duncan		Kandi Duncan		Amber Duncan		Terry DeGeus	
	Count 1	Count 6	Count 2	Count 7	Count 3	Count 8	Count 4	Count 9	Count 5	Count 10
"Mitigating Factor"										
(11) Angela Johnson has loving, lasting relationships with her mother, Pearl Jean Johnson, and her four siblings, Wendy Jacobson, Jamie Jo Hays, Jimmy Johnson, and Holly Dirksen, which will continue into old age if Angela Johnson is sentenced to life imprisonment without possibility of parole										
(12) Angela Johnson suffers from anxiety and depression as a result of experiences endured in childhood, and these mental conditions have hampered her ability to make intelligent, thoughtful, and wise choices in many of the important decisions in her life										
(13) Angela Johnson is very much loved by her daughters, Alyssa and Marvea, and that her death would have a profoundly disturbing effect on their young lives, now and for years to come										
(14) Angela Johnson has felt remorse for the role that she played in the deaths of Greg Nicholson, Lori Duncan, Terry DeGeus, and particularly Kandi and Amber Duncan										

Step Two: "Mitigating" Factors (Continued)	VICTIMS AND COUNTS									
	Gregory Nicholson		Lori Duncan		Kandi Duncan		Amber Duncan		Terry DeGeus	
	Count 1	Count 6	Count 2	Count 7	Count 3	Count 8	Count 4	Count 9	Count 5	Count 10
"Mitigating Factor"										
(15) Angela Johnson is loved and cherished by her mother, Pearl Jean Johnson, and her siblings, Wendy Jacobson, Jamie Jo Hays, Jimmy Johnson, and Holly Dirksen, all of whom would suffer grievously should Angela Johnson be sentenced to death										
(16) Angela Johnson has been addicted to methamphetamine for most of her adult life, a drug which has profoundly affected her judgment, her personality, her relationships, and her ability to deal with difficult self-esteem and psychological issues, which have plagued her since childhood										
(17) Angela Johnson has demonstrated that she can lead a productive, worthwhile life in prison through her kindness and helpfulness to other inmates, her interest in Bible study and religion, her artistic endeavors, and the furtherance of her education by obtaining a G.E.D. while incarcerated after having dropped out of school years earlier in the ninth grade										
(18) in spite of her problems with drugs, men, and her own depression, Angela Johnson has always held a steady job and has consistently worked to provide for the care and comfort of her daughters, Alyssa and Marvea										

Step Two: "Mitigating" Factors (Continued)	VICTIMS AND COUNTS									
	Gregory Nicholson		Lori Duncan		Kandi Duncan		Amber Duncan		Terry DeGeus	
	Count 1	Count 6	Count 2	Count 7	Count 3	Count 8	Count 4	Count 9	Count 5	Count 10
"Mitigating Factor"										
(19) although she is guilty of these murders, Angela Johnson was pregnant by Dustin Honken with her daughter, Marvea, at the time of the murders and, as a result, was in a disadvantaged position to resist Mr. Honken, leave him, or turn him in to authorities, which she offers as an explanation of her conduct, not as an excuse										
(20) despite her own personal problems, past drug addiction, and present incarceration, Angela Johnson has always been a good mother to her daughters, in that she communicates with them regularly, stays as active as possible in their lives, and attempts to pass on the values and beliefs that will help her daughters avoid her own fate										
(21) there are other factors in Angela Johnson's background or character that mitigate in favor of a sentence of life imprisonment without possibility of parole and against the death penalty										

Step Two: "Mitigating" Factors (Continued)	VICTIMS AND COUNTS									
	Gregory Nicholson		Lori Duncan		Kandi Duncan		Amber Duncan		Terry DeGeus	
	Count 1	Count 6	Count 2	Count 7	Count 3	Count 8	Count 4	Count 9	Count 5	Count 10
"Mitigating Factor"										
Any residual or lingering doubts as to Angela Johnson's guilt or innocence or her role in the offenses, even though those doubts did not rise to the level of "reasonable doubts" under the instructions given to you during the "merits phase" of the trial										
Additional mitigating factor, if any (please identify):										
Additional mitigating factor, if any (please identify):										
Additional mitigating factor, if any (please identify):										
Additional mitigating factor, if any (please identify):										
Additional mitigating factor, if any (please identify):										
<p>In Step Three, for each Count on which the defendant is "eligible" for consideration of the death penalty, each of you must weigh any mitigating factor or factors that you individually found to exist in this Step. Each of you may also weigh any mitigating factor or factors that another or others of your fellow jurors found to exist.</p>										

Step Three: Weighing The Factors	After weighing the “Aggravating Factors” found in the “eligibility phase,” together with any “Non-statutory Aggravating Factors” found in Step One of this “penalty phase,” and any “Mitigating Factors” found in Step Two , as explained in Final “Penalty Phase” Instruction No. 4, what sentence do you impose for each Count? (Please put a check mark in the column for any count for which you find a particular sentence must be imposed.)	VICTIMS AND COUNTS									
		Gregory Nicholson		Lori Duncan		Kandi Duncan		Amber Duncan		Terry DeGeus	
		Count 1	Count 6	Count 2	Count 7	Count 3	Count 8	Count 4	Count 9	Count 5	Count 10
	A sentence of death										
	A sentence of life imprisonment without possibility of parole										
Certification	By signing below, by juror number, then by name, 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 determination 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 victim or victims. (See Final “Penalty Phase” Instruction No. 7)										

Date

JUROR NUMBERS

Foreperson

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

Juror

JUROR SIGNATURES

_____ Foreperson	_____ Juror	_____ Juror
_____ Juror	_____ Juror	_____ Juror
_____ Juror	_____ Juror	_____ Juror
_____ Juror	_____ Juror	_____ Juror