

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

ROBERT BOWERS

Criminal No. 18-292

ELIGIBILITY PHASE VERDICT FORM

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Section I: Age of Defendant

Section I: Age of Defendant

General Directions for Section I

As used in this section, “capital counts” refers to the following:

Count 1: Obstruction of free exercise of religious beliefs resulting in the death of Joyce Fienberg

Count 2: Obstruction of free exercise of religious beliefs resulting in the death of Richard Gottfried

Count 3: Obstruction of free exercise of religious beliefs resulting in the death of Rose Mallinger

Count 4: Obstruction of free exercise of religious beliefs resulting in the death of Jerry Rabinowitz

Count 5: Obstruction of free exercise of religious beliefs resulting in the death of Cecil Rosenthal

Count 6: Obstruction of free exercise of religious beliefs resulting in the death of David Rosenthal

Count 7: Obstruction of free exercise of religious beliefs resulting in the death of Bernice Simon

Count 8: Obstruction of free exercise of religious beliefs resulting in the death of Sylvan Simon

Count 9: Obstruction of free exercise of religious beliefs resulting in the death of Daniel Stein

Count 10: Obstruction of free exercise of religious beliefs resulting in the death of Melvin Wax

Count 11: Obstruction of free exercise of religious beliefs resulting in the death of Irving Younger

Count 23: Use of a firearm to murder Joyce Fienberg during and in relation to a crime of violence

Count 24: Use of a firearm to murder Richard Gottfried during and in relation to a crime of violence

Section I: Age of Defendant

Count 25: Use of a firearm to murder Rose Mallinger during and in relation to a crime of violence

Count 26: Use of a firearm to murder Jerry Rabinowitz during and in relation to a crime of violence

Count 27: Use of a firearm to murder Cecil Rosenthal during and in relation to a crime of violence

Count 28: Use of a firearm to murder David Rosenthal during and in relation to a crime of violence

Count 29: Use of a firearm to murder Bernice Simon during and in relation to a crime of violence

Count 30: Use of a firearm to murder Sylvan Simon during and in relation to a crime of violence

Count 31: Use of a firearm to murder Daniel Stein during and in relation to a crime of violence

Count 32: Use of a firearm to murder Melvin Wax during and in relation to a crime of violence

Count 33: Use of a firearm to murder Irving Younger during and in relation to a crime of violence

In this section, please indicate whether you unanimously find the Government has established beyond a reasonable doubt that Robert Bowers was eighteen (18) years of age or older at the time of the offense charged under each capital count. You must mark one of the responses.

1. Robert Bowers was eighteen (18) years of age or older at the time of the offense charged under the particular capital count:

_____ We unanimously find that this has been proven beyond a reasonable doubt with regard to ***all*** the capital counts.

_____ We unanimously find that this has not been proven beyond a reasonable doubt with regard to ***any*** of the capital counts.

_____ We unanimously find that this has been proven beyond a reasonable doubt only with regard to the following capital counts. *Identify each count by its number in the space provided below.*

Section I: Age of Defendant

Directions:

- If you unanimously find the Government has proven beyond a reasonable doubt Robert Bowers was eighteen years of age or older at the time of the offense charged with regard to one or more capital counts, continue on to Section II.
- If you unanimously find the Government has not proven beyond a reasonable doubt Robert Bowers was eighteen years of age or older at the time of the offense for all capital counts, skip forward to Section IV and complete that section in accordance with the directions there. Then notify the Court that you have completed your deliberations.
- For any capital count that you unanimously find the Government has not proven beyond a reasonable doubt Robert Bowers was eighteen years of age or older at the time of the offense charged under the particular capital count, then your deliberations are over as to that count.

Section II: Threshold Intent Factors

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General Directions for Section II:

- As used in this section, the term “capital count(s)” refers only to those counts for which you unanimously found Robert Bowers was eighteen years of age or older at the time of the offense charged under the particular count in Section I. Do not consider threshold intent factors in this section with regard to any counts for which you have not found Robert Bowers was eighteen years of age or older at the time of the offense charged under the count in Section I.
- In this section, please indicate whether the Government has proven beyond a reasonable doubt any of the following threshold intent factors.

1. Robert Bowers intentionally killed the victim named in the particular count you are considering:

_____ We unanimously find that this factor has been proven beyond a reasonable doubt with regard to ***all*** of the applicable capital counts.

_____ We unanimously find that this factor has not been proven beyond a reasonable doubt with regard to ***any*** of the applicable capital counts.

_____ We unanimously find that this factor has been proven beyond a reasonable doubt only with regard to the following capital counts. *Identify each count by its number in the space provided below.*

Section II: Threshold Intent Factors

2. Robert Bowers intentionally inflicted serious bodily injury that resulted in the death of the victim named in the particular capital count you are considering:

_____ We unanimously find that this factor has been proven beyond a reasonable doubt with regard to ***all*** of the applicable capital counts.

_____ We unanimously find that this factor has not been proven beyond a reasonable doubt with regard to ***any*** of the applicable capital counts.

_____ We unanimously find that this factor has been proven beyond a reasonable doubt only with regard to the following capital counts. *Identify each count by its number in the space provided below.*

3. Robert Bowers 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 the victim named in the particular capital count you are considering died as a direct result of the act:

_____ We unanimously find that this factor has been proven beyond a reasonable doubt with regard to ***all*** of the applicable capital counts.

_____ We unanimously find that this factor has not been proven beyond a reasonable doubt with regard to ***any*** of the applicable capital counts.

_____ We unanimously find that this factor has been proven beyond a reasonable doubt only with regard to the following capital counts. *Identify each count by its number in the space provided below.*

Section II: Threshold Intent Factors

4. Robert Bowers intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim named in the particular capital count you are considering died as a direct result of the act.

_____ We unanimously find that this factor has been proven beyond a reasonable doubt with regard to *all* of the applicable capital counts.

_____ We unanimously find that this factor has not been proven beyond a reasonable doubt with regard to *any* of the applicable capital counts.

_____ We unanimously find that this factor has been proven beyond a reasonable doubt only with regard to the following capital counts. *Identify each count by its number in the space provided below.*

Directions:

- If you unanimously find at least one threshold intent factor with regard to one or more capital counts, continue on to Section III.
- If you unanimously find the Government has not proven beyond a reasonable doubt at least one threshold intent factor for all capital counts, skip forward to Section IV and complete that section in accordance with the directions there. Then notify the Court that you have completed your deliberations.
- For each capital count you are considering in this section, if you unanimously find the Government has not proven beyond a reasonable doubt at least one of the above threshold intent factors with respect to that count, then your deliberations are over as to that count.

Section III: Statutory Aggravating Factors

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General directions for Section III:

- As used in this section, the term “capital count(s)” refers only to those counts for which you unanimously found Robert Bowers was eighteen years of age or older at the time of the offense, as indicated by your findings in Section I, and at least one threshold intent factor, as indicated by your findings in Section II. Do not consider statutory aggravating factors in this section with regard to any counts for which you have not found Robert Bowers was eighteen years of age or older at the time of the offense charged under the count in Section I and at least one threshold intent factor in Section II.
- In this section, please indicate which, if any, of the following four (4) statutory aggravating factors you unanimously find the Government has proven beyond a reasonable doubt. For each of the four statutory aggravating factors listed below, you must mark one of the responses.

1. In committing the offense charged in the particular count you are considering for the violation of the offense, Robert Bowers knowingly created a grave risk of death to one or more persons in addition to the victim of the specific offense:

_____ We unanimously find that this factor has been proven beyond a reasonable doubt with regard to ***all*** of the applicable capital counts.

_____ We unanimously find that this factor has not been proven beyond a reasonable doubt with regard to ***any*** of the applicable capital counts.

_____ We unanimously find that this factor has been proven beyond a reasonable doubt only with regard to the following capital counts. *Identify each count by its number in the space provided below.*

Section III: Statutory Aggravating Factors

2. Robert Bowers committed the offenses charged in the particular count you are considering after substantial planning and premeditation to cause the death of a person:

_____ We unanimously find that this factor has been proven beyond a reasonable doubt with regard to **all** of the applicable capital counts.

_____ We unanimously find that this factor has not been proven beyond a reasonable doubt with regard to **any** of the applicable capital counts.

_____ We unanimously find that this factor has been proven beyond a reasonable doubt only with regard to the following capital counts. *Identify each count by its number in the space provided below.*

3. Robert Bowers committed the offenses charged in Counts 1 and 23 (relating to killing Joyce Fienberg), Counts 3 and 25 (relating to killing Rose Mallinger), Counts 5 and 27 (relating to killing Cecil Rosenthal), Counts 6 and 28 (relating to killing David Rosenthal), Counts 7 and 29 (relating to killing Bernice Simon), Counts 8 and 30 (relating to killing Sylvan Simon), Counts 9 and 31 (relating to killing Daniel Stein), and Counts 10 and 32 (relating to killing Melvin Wax) on victims who were particularly vulnerable due to old age or infirmity:

_____ We unanimously find that this factor has been proven beyond a reasonable doubt with regard to **all** of the applicable capital counts listed in paragraph 3 (Counts 1, 3, 5, 6, 7, 8, 9, 10, 23, 25, 27, 28, 29, 30, 31, 32).

_____ We unanimously find that this factor has not been proven beyond a reasonable doubt with regard to **any** of the applicable capital counts listed in paragraph 3 (Counts 1, 3, 5, 6, 7, 8, 9, 10, 23, 25, 27, 28, 29, 30, 31, 32).

_____ We unanimously find that this factor has been proven beyond a reasonable doubt only with regard to the following capital counts listed in paragraph 3 (Counts 1, 3, 5, 6, 7, 8, 9, 10, 23, 25, 27, 28, 29, 30, 31, 32). *Identify each count by its number in the space provided below.*

Section III: Statutory Aggravating Factors

4. In committing the offense charged in the particular count you are considering, Robert Bowers intentionally killed and attempted to kill more than one person in a single criminal episode:

_____ We unanimously find that this factor has been proven beyond a reasonable doubt with regard to *all* of the applicable capital counts.

_____ We unanimously find that this factor has not been proven beyond a reasonable doubt with regard to *any* of the applicable capital counts.

_____ We unanimously find that this factor has been proven beyond a reasonable doubt only with regard to the following capital counts. *Identify each count by its number in the space provided below.*

Directions:

- After you have made your determination as to whether at least one statutory aggravating factor applies to each count, continue to Section IV. After completing Section IV, notify the Court that you have completed your deliberations.

Section IV: Justice Without Discrimination

Section IV: Justice Without Discrimination

By signing below, each juror certifies that consideration of the race, color, religious beliefs, national origin, or sex of Robert Bowers or the victims was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime or crimes in question regardless of the race, color, religious beliefs, national origin, or sex of the defendant, or the victims.

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

Foreperson

Date: _____, _____