

DATE FILED: 7/1/96
(to be indicated by Clerk of Supreme Court)

Questionnaire approved
for use pursuant to Laws
of 1981, ch. 138, § 12.

REPORT OF THE TRIAL JUDGE
Aggravated First Degree Murder Case

Superior Court of DOUGLAS County, Washington
Cause No. 95-1-00066-9
State v. JACK OWEN SPILLMAN, III

INSTRUCTIONS: Please answer each question. If you do not have sufficient information to supply an answer, please so indicate after the specific question. If sufficient space is not allowed on the questionnaire form for answer to the question, use the back of the page, indicating the number of the question which you are answering, or attach additional sheets.

If more than one defendant was convicted of aggravated first degree murder in this case, please make out a separate questionnaire for each such defendant.

The statute specifies that this report shall, within thirty (30) days after the entry of the judgment and sentence, be submitted to the Clerk of the Supreme Court, to the defendant or his or her attorney, and to the prosecuting attorney.

(1) Information about the Defendant

JACK OWEN III

(a) Name: SPILLMAN, Date of Birth: 8/30/69
Last, First Middle

Sex: M [] F [] Marital Status: Never Married [] Married [] SINGLE Separated [] Divorced [] Spouse Deceased []

Race or ethnic origin of defendant: CAUCASIAN (Specify)

(b) Number and ages of defendant's children: NO CHILDREN

(c) Defendant's Father living: Yes [] No [] If deceased, date of death: Defendant's Mother living: Yes [] No [] If deceased, date of death:

(d) Number of children born to defendant's parents:

UNKNOWN FOR CERTAIN. DEFENDANT'S MOTHER HAD FOUR HUSBANDS AND FOUR CHILDREN. DEFENDANT AND SIBLINGS NEVER KNEW FOR CERTAIN WHICH HUSBAND WAS THE FATHER OF WHICH CHILD.

(e) Defendant's education--check highest grade completed:

[] []2 []3 []4 []5 []6 []7 []8 []9 []10 []11 []12 College: [] [] [] [] 1 2 3 4

Intelligence Level: Low [] Medium [] Above Average [] High [] IQ Score: -----

Further explanation or comment:

LOW AVERAGE; OVERALL IQ WAS TESTED WHEN DEFENDANT WAS AGE 16 YEARS, ONE MONTH. AT THAT TIME, THE TESTING INDICATED 87 FOR PERFORMANCE AND 74 FOR VERBAL. AT THE SAME TIME HE WAS GIVEN THE PEABODY ACHIEVEMENT TEST WHICH INDICATED THAT HIS HIGHEST PERFORMANCE LEVEL AS FIFTH GRADE.

(f) Was a psychiatric evaluation performed: Yes No

If yes, did the evaluation indicate that the defendant was:
able to distinguish right from wrong?

(i) Yes No

able to perceive the nature and quality of
(ii) his or her act? Yes No

able to cooperate intelligently in his or
(iii) her own defense? Yes No

(g) Please describe any character or behavior disorders found or other
pertinent psychiatric or psychological information:

N/A

(h) Please describe the work record of the defendant:

MANUAL LABOR

(i) If the defendant has a record of prior convictions, please list:

<u>Offense</u>	<u>Date</u>	<u>Sentence Imposed</u>
INDECENT EXPOSURE	8/94	-----
ASSAULT 4	10/93	
ESCAPE 1	10/91	
BURGLARY 2	4/90	
THEFT 3	10/89	
THEFT 2 3 CTS BURGLARY 2	12/87	
ESCAPE 2	9/85	
INDECENT LIBERTIES	9/85	
TMVWOP	7/85	
2 CTS MALICIOUS MISCHIEF 2		
BURGLARY 2, THEFT 3	6/85	
ILLEGAL CONSUMPTION OF ALCOHOL	6/85	
INDECENT EXPOSURE	2/85	
MALICIOUS MISCHIEF 3	11/84	-----
INDECENT EXPOSURE	2/84	-----
THEFT 3	1/83	-----
THEFT 3, CONSPIRACY	11/82	

(j) Length of time defendant has resided in:

Washington: VIRTUALLY ENTIRE
LIFE

County of
conviction:

INTERMITTENTLY
FOR FIVE TO TEN
YEARS

(2) Information about the Trial

(a) How did the defendant plead to the charge of aggravated first degree

murder?: THE DEFENDANT WAS CHARGED BY INFORMATION (COPY ATTACHED) WITH TWO COUNTS OF AGGRAVATED FIRST DEGREE MURDER (COUNTS I AND III) AND TWO COUNTS OF THE RELATED CHARGE OF FIRST DEGREE FELONY MURDER (COUNTS II AND IV). HE PLED GUILTY TO COUNT I (AGGRAVATED MURDER OF RITA HUFFMAN) AND COUNT IV (FELONY MURDER OF AMANDA HUFFMAN).

Guilty

Not Guilty

Not Guilty by reason of insanity

(b) Was the defendant represented by counsel?: Yes No

(c) Please indicate if there was evidence introduced or instructions given as to any defense(s) to the crime of aggravated first degree murder:

THE DEFENDANT PLED GUILTY, HENCE THERE WAS NO EVIDENCE INTRODUCED OR INSTRUCTIONS GIVEN PERTAINING TO EXCUSABLE HOMICIDE, JUSTIFIABLE HOMICIDE, INSANITY, DURESS, ENTRAPMENT, ALIBI, INTOXICATION, OR OTHER SPECIFIC DEFENSES. DEFENSE COUNSEL INDICATED THAT, IF THE CASE HAD PROCEEDED TO TRIAL, EVIDENCE OF ALIBI WOULD HAVE BEEN PRESENTED.

	<u>Evidence</u>	<u>Instruction(s)</u>
Excusable Homicide	<input type="checkbox"/>	<input type="checkbox"/>
Justifiable Homicide	<input type="checkbox"/>	<input type="checkbox"/>
Insanity	<input type="checkbox"/>	<input type="checkbox"/>
Duress	<input type="checkbox"/>	<input type="checkbox"/>
Entrapment	<input type="checkbox"/>	<input type="checkbox"/>
Alibi	<input type="checkbox"/>	<input type="checkbox"/>
Intoxication	<input type="checkbox"/>	<input type="checkbox"/>
Other specific defenses:		
-----	<input type="checkbox"/>	<input type="checkbox"/>

(d) If the defendant was charged with other offenses which were tried in the same trial, list the other offenses below and indicate whether defendant was convicted:

AS NOTED ABOVE, THE DEFENDANT WAS CHARGED BY INFORMATION (COPY ATTACHED) WITH TWO COUNTS OF AGGRAVATED FIRST DEGREE MURDER (COUNTS I AND III) AND TWO COUNTS OF THE RELATED CHARGE OF FIRST DEGREE FELONY MURDER (COUNTS II AND IV). HE PLED GUILTY TO COUNT I (AGGRAVATED MURDER OF RITA HUFFMAN) AND COUNT IV (FELONY MURDER OF AMANDA HUFFMAN). DEFENDANT WAS ALSO CHARGED WITH FIRST DEGREE MURDER IN AN UNRELATED CASE ARISING OUT OF A CRIME COMMITTED IN OKANOGAN COUNTY (COPY OF THE INFORMATION IS ATTACHED). DEFENDANT WAS CHARGED WITH, PLED GUILTY TO AND SENTENCED FOR THIS UNRELATED MURDER AFTER HE WAS SENTENCED FOR AGGRAVATED FIRST DEGREE MURDER AND FELONY MURDER. DEFENDANT WAS SENTENCED TO 45.6 CONSECUTIVE YEARS TO THE OTHER SENTENCES IMPOSED. THIS DISPOSITION WAS COMPLETED AT THE REQUEST OF ALL PARTIES, INCLUDING DEFENDANT.

	<u>Convicted</u>	
----- _____	Yes <input type="checkbox"/>	No <input type="checkbox"/>
----- _____	Yes <input type="checkbox"/>	No <input type="checkbox"/>

(e) What aggravating circumstances, as set forth in Laws of 1981, ch. 138 § 2, were alleged against the defendant and which of these circumstances were found to have been applicable?:

<u>Aggravating Circumstances Alleged</u>	<u>Found Applicable</u> <u>IN PLEA</u>	
MORE THAN ONE VICTIM, COMMON SCHEME OR PLAN _____	Yes <input type="checkbox"/>	No <input type="checkbox"/>
DURING COURSE OF BURGLARY _____	Yes <input type="checkbox"/>	No <input type="checkbox"/>
----- _____	Yes <input type="checkbox"/>	No <input type="checkbox"/>

(f) Please provide the names of each other defendant tried jointly with this defendant, the charges filed against each other defendant, and the disposition of each charge:

Name: THERE WERE NO OTHER DEFENDANTS

<u>Offenses Charged</u>	<u>Disposition</u>
----- _____	----- _____
----- _____	----- _____

Name: -----

<u>Offenses Charged</u>	<u>Disposition</u>
-----	-----
-----	-----
-----	-----
-----	-----

(3) Information Concerning the Special Sentencing Proceeding

(a) Date of Conviction: 4/29/96

Date special sentencing proceeding commenced: 4/29/96

(b) Was the jury for the special sentencing proceeding composed of the same jurors as the jury that returned the verdict to the charge of aggravated first degree murder? Yes No

THE DEFENDANT PLED GUILTY, AS NOTED ABOVE. WITH THE CONSENT OF THE STATE, HE THEN WAIVED JURY FOR THE SPECIAL SENTENCING PROCEEDING.

If the answer to the above question is no, please explain:

(c) Was there, in the court's opinion, credible evidence of any mitigating circumstances as provided in Laws of 1981, ch. 138, § 7?

Yes No

THE DEFENDANT AND THE STATE STIPULATED THAT THE STATE COULD NOT PROVE BEYOND A REASONABLE DOUBT THAT THERE WERE NOT SUFFICIENT MITIGATING CIRCUMSTANCES TO MERIT LENIENCY.

If yes, please describe:

- (d) Was there evidence of mitigating circumstances, whether or not of a type listed in Laws of 1981, ch. 138, § 7, not described in answer to (3)(c) above? Yes No
- If yes, please describe:

THE DEFENDANT AND THE STATE STIPULATED THAT THE STATE COULD NOT PROVE BEYOND A REASONABLE DOUBT THAT THERE WERE NOT SUFFICIENT MITIGATING CIRCUMSTANCES TO MERIT LENIENCY.

- (e) How did the jury answer the question posed in Laws of 1981, ch. 138, § 6(4), that is: "Having in mind the crime of which the defendant has been found guilty, are you convinced beyond a reasonable doubt that there are not sufficient mitigating circumstances to merit leniency?"

AS NOTED ABOVE, THE DEFENDANT WAIVED JURY AND THE STATE AND THE DEFENDANT STIPULATED THAT THE STATE COULD NOT PROVE BEYOND A REASONABLE DOUBT THAT THERE WERE NOT SUFFICIENT MITIGATING CIRCUMSTANCES TO MERIT LENIENCY. BASED ON THIS STIPULATION, THE COURT CONCLUDED THAT THE STATE HAD NOT PROVED THE ABSENCE OF MITIGATION.

Yes No

- (f) What sentence was imposed? FOR THE AGGRAVATED MURDER CONVICTION, LIFE WITHOUT POSSIBILITY OF PAROLE.

AS NOTED ABOVE, THE DEFENDANT ALSO PLED GUILTY TO FIRST DEGREE FELONY MURDER AND WAS SENTENCED TO 70 YEARS, CONSECUTIVE TO THE SENTENCE OF LWOP. DEFENDANT ALSO PLED GUILTY TO AN UNRELATED FIRST DEGREE MURDER, AND RECEIVED ANOTHER CONSECUTIVE SENTENCE, OF 45.6 YEARS.

(4) Information about the Victim

- (a) Was the victim related to the defendant by blood or marriage? Yes No

If yes, please describe the relationship: -----

- (b) What was the victim's occupation, and was the victim an employer or employee of the defendant?
 RITA HUFFMAN WAS A CAR SALESPERSON. AMANDA HUFFMAN WAS A STUDENT IN JUNIOR HIGH SCHOOL. THE VICTIM IN THE UNRELATED CASE WAS ALSO A STUDENT. THERE WAS NO EMPLOYER - EMPLOYEE RELATIONSHIP.

(c) Was the victim acquainted with the defendant, and if so, how well?
RITA AND AMANDA HUFFMAN DID NOT KNOW THE DEFENDANT. HOWEVER, IT IS ALLEGED BY THE STATE THAT THE DEFENDANT STALKED THEM BEFORE MURDERING THEM.

(d) If the victim was a resident of Washington, please state:

Length of Washington residency: LIFELONG RESIDENTS

County of residence: DOUGLAS

Length of residency in that county: RITA HUFFMAN HAD RESIDED IN DOUGLAS COUNTY THE MAJORITY OF HER ADULT LIFE; AMANDA HUFFMAN HAD RESIDED IN DOUGLAS COUNTY HER ENTIRE LIFE.

(e) Was the victim of the same race or ethnic origin as the defendant?

Yes No

If no, please state the victim's race or ethnic origin:

(f) Was the victim of the same sex as the defendant?

THE VICTIMS WERE FEMALE AND THE DEFENDANT IS MALE. Yes No

(g) Was the victim held hostage during the crime?

THE EVIDENCE IS NOT DEFINITE, BUT BECAUSE OF THE NATURE OF THE CRIMES, IT IS POSSIBLE THAT AMANDA HUFFMAN WAS HELD HOSTAGE FOR A SHORT PERIOD OF TIME. Yes No

If yes, for how long: -----

(h) Please describe the nature and extent of any physical harm or torture

inflicted upon the victim prior to death:

RITA HUFFMAN WAS STABBED MULTIPLE TIMES IN THE UPPER CHEST AND LOWER NECK, WHICH SEVERED OR DAMAGED MAJOR BLOOD VESSELS. THE STAB WOUNDS WERE CAUSED BY A SINGLE-EDGED INSTRUMENT, PRESUMPTIVELY A KNIFE. SHE SUSTAINED WOUNDS ON HER ARMS AND HANDS THAT WERE CONSISTENT WITH DEFENSIVE ACTIONS, INDICATING THAT SHE WAS AWARE OF BEING ATTACKED. SHE DIED OF EXSANGUINATION AND LOST CONSCIOUSNESS QUICKLY AS A RESULT OF THE STAB WOUNDS.

AMANDA HUFFMAN WAS KILLED BY A BLOW TO HER SKULL FROM A BLUNT INSTRUMENT, PRESUMABLY A BASEBALL BAT WHICH WAS FOUND PUSHED INTO HER VAGINA.

POST MORTEM, THE DEFENDANT SEXUALLY MUTILATED BOTH VICTIMS BY CUTTING OFF THEIR BREASTS AND EXTERNAL GENITALIA. HE ALSO EVISCERATED BOTH VICTIMS. ALTHOUGH THESE INJURIES WERE NOT INFLECTED PRIOR TO DEATH, THEY ARE DESCRIBED HEREIN BECAUSE THE DEFENDANT HAD DISCUSSED WITH VARIOUS FORMER CELLMATES THAT HE WANTED TO COMMIT THE SAME TYPE OF MUTILATION-MURDERS, WHICH PROVIDES INSIGHT INTO THE NATURE AND DEGREE OF DEFENDANT'S PREMEDITATION.

- (i) What was the age of the victim? AMANDA HUFFMAN WAS 15; RITA WAS 48.
- (j) What type of weapon, if any, was used in the crime?
A SHARP-EDGED INSTRUMENT, PRESUMABLY A KNIFE, AND A BLUNT INSTRUMENT,
PRESUMABLY A BASEBALL BAT.

(5) Information about the Representation of Defendant

(If more than one counsel represented the defendant, answer each question separately as to each counsel. Attach separate sheets containing answers for additional counsel.)

- (a) Name of counsel: KEITH HOWARD, MICHAEL IARIA, FREDERICK LEATHERMAN
- (b) Date on which counsel was secured: HOWARD - 4/20/95, DISQUALIFIED DUE TO CONFLICT 3/26/96
IARIA - 7/26/95
LEATHERMAN - 2/96 FOR PURPOSES OF LITIGATING DNA ISSUES, 3/26/96 AS FULL CO-COUNSEL AFTER MR. HOWARD WAS DISQUALIFIED
- (c) Was counsel retained or appointed? If appointed, please state the reason therefor:
APPOINTED BECAUSE THE DEFENDANT WAS INDIGENT.
- (d) How long has counsel practiced law, and what is the nature of counsel's practice?
HOWARD - APPROXIMATELY FIVE YEARS. CRIMINAL PRACTICE.
IARIA - APPROXIMATELY FOURTEEN YEARS. CRIMINAL PRACTICE.
LEATHERMAN - APPROXIMATELY TWENTY YEARS. CRIMINAL PRACTICE.
- (e) Did the same counsel serve at both the trial and the special sentencing proceeding, and if not, why not?
AS NOTED ABOVE, MR. HOWARD WAS DISQUALIFIED (BECAUSE OF PRIOR REPRESENTATION OF A STATE'S WITNESS). MR. IARIA AND MR. LEATHERMAN REPRESENTED THE DEFENDANT THEREAFTER, AND BOTH REPRESENTED HIM AT THE ENTRY OF THE PLEA AND AT THE SPECIAL SENTENCING PROCEEDING.

(6) General Considerations

(a) Was the race or ethnic origin of the defendant, victim, or any witness an apparent factor at trial?

Yes No

If yes, please explain:

NOR DO THE PARTIES REPORT THAT IT WAS A FACTOR IN ANY ASPECT OF THE CASE.

(b) What percentage of the population of the county is the same race or ethnic origin as the defendant?

	<u>Race</u>	<u>Ethnic Origin</u>
Under 10%	<input type="checkbox"/>	<input type="checkbox"/>
10 - 25%	<input type="checkbox"/>	<input type="checkbox"/>
25 - 50%	<input type="checkbox"/>	<input type="checkbox"/>
50 - 75%	<input type="checkbox"/>	<input type="checkbox"/>
75 - 90%	<input type="checkbox"/>	<input type="checkbox"/>
Over 90%	<input type="checkbox"/>	<input type="checkbox"/>

If there appears to be any reason to answer this question with respect to a county other than the county in which the trial was held, please explain:

(c) How many persons of the defendant's or victim's race or ethnic origin were represented on the jury? AS NOTED, THE DEFENDANT PLED GUILTY AND WAS SENTENCED BY THE COURT. I AM FEMALE AND CAUCASIAN.

Defendant: -----

Victim: -----

Further explanation or comment:

(d) Was there any evidence that persons of any particular race or ethnic origin were systematically excluded from the jury?

AGAIN, THERE WAS NO JURY.

Yes

No

If yes, please explain:

(e) Was the sexual orientation of the defendant, victim, or any witness an apparent factor at trial?

Yes

No

If yes, please explain:

(f) Was the jury specifically instructed to exclude race, ethnic origin, or sexual preference as an issue?

NOT APPLICABLE

Yes

No

(g) Was there extensive publicity in the community concerning this case?

AT THE TIME OF THE DEFENDANT'S PLEA, THERE WAS A MOTION FOR CHANGE OF VENUE PENDING.

Yes

No

(h) Was the jury instructed to disregard such publicity?

NOT APPLICABLE

Yes

No

(i) Was the jury instructed to avoid any influence of passion, prejudice or any other arbitrary factor when considering its verdict or its findings in the special sentencing proceeding?

NOT APPLICABLE

Yes

No

(j) Please describe the nature of any evidence suggesting the necessity for instructions of the type described in 6(f) through 6(i) above which were given:

NOT APPLICABLE

(k) General comments of the trial judge concerning the appropriateness of the sentence, considering the crime, the defendant, and other relevant factors:

OTHER RELEVANT FACTORS NOT DISCUSSED ABOVE INCLUDE:

THE STIPULATIONS OF COUNSEL AND DEFENDANT.

THE COURT WAS INFORMED THAT THE PROSECUTION'S CASE DID NOT INCLUDE DIRECT EVIDENCE OF DEFENDANT'S INVOLVEMENT IN THE MURDERS. THERE WAS STRONG CIRCUMSTANTIAL EVIDENCE OF HIS INVOLVEMENT.

MEMBERS OF THE VICTIMS' FAMILY SPOKE AT THE SENTENCING HEARING IN SUPPORT OF THE LIFE SENTENCE AND RESOLUTION OF THE CASE.

THERE HAD BEEN SCHEDULED BUT NOT YET HELD A 3.6 HEARING AND A FRYE HEARING WHICH BECAME UNNECESSARY.

(7) Information about the Chronology of the Case

- | | |
|---|-----------------------|
| (a) Date of offense: | <u>4/12-13/95</u> |
| (b) Date of arrest: | <u>4/20/95</u> |
| (c) Date trial began: PLED GUILTY | <u>4/29/96</u> |
| (d) Date jury returned verdict: | <u>NOT APPLICABLE</u> |
| (e) Date post-trial motions ruled on: | <u>NOT APPLICABLE</u> |
| (f) Date special sentencing proceeding began: | <u>4/29/96</u> |
| (g) Date sentence was imposed: | <u>4/29/96</u> |
| (h) Date this trial judge's report was completed: | <u>6/27/96</u> |

CAROL A. WARDELL

TRIAL JUDGE