

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

United States of America

v.

Criminal No.

Defendant

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW, the United States of America, by and through the United States Attorney for the Northern District of Texas, and files, pursuant to Title 18, United States Code, Sections 3591 through 3593, this notice of its intent to seek the death penalty against the defendant, _____, in the event [Defendant] is convicted of Count One of the Indictment, which charges kidnapping resulting in death, in violation of Title 18, United States Code, Section 1201(a), and would show the Court and the jury as follows:

I.

The United States of America believes that the circumstances of the instant offense of kidnapping resulting in death are such that, if the defendant, _____, is convicted, a sentence of death is justified under Chapter 228 of Title 18, United States Code, Sections 3591(a), 3592(a), and 3592(c).

II.

The United States of America will prove, at a hearing to be held pursuant to Title 18, United States Code, Section 3593, that:

a. the defendant, _____, on or about February 19, 1995, did intentionally kill _____ by hitting her in the head with a tire iron;

b. the defendant, _____, on or about February 19, 1995, did intentionally inflict serious bodily injury, that resulted in the death of the victim, _____, by hitting her in the head with a tire iron;

c. the defendant, _____, on or about February 19, 1995, did intentionally participate in an act, namely hitting _____ in the head with a tire iron, contemplating that the life of _____ would be taken and intending that lethal force would be used in connection with _____, and the victim, _____, a person other than one of the participants in the offense, died as a direct result of the act;

d. the defendant, _____, on or about February 19, 1995, did intentionally and specifically engage in an act of violence, namely hitting _____ in the head with a tire iron, 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, _____, died as a direct result of the act.

III.

The United States of America will prove the following statutory aggravating factors to justify a sentence of death:

a. the defendant, _____, caused the death and the injury resulting in the death of _____, during the commission of the offense of kidnapping (Title 18, United States Code, Section 3592(c)(1));

b. the defendant, _____, in the commission of this offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense, _____ (Title 18, United States Code, Section 3592(c)(5));

c. the defendant, _____, committed the offense in an especially heinous, cruel, and depraved manner in that it involved torture and serious physical abuse to the victim, _____ (Title 18, United States Code, Section 3592(c)(6)); and

d. the defendant, _____, committed the offense after substantial planning and premeditation to cause the death of _____ (Title 18, United States Code, Section 3592(c) (9));

IV.

The United States of America will prove the following non- statutory aggravating factors to justify a sentence of death:

a. future dangerousness to the lives and safety of other persons, as evidenced by specific threats and acts of violence, including, but not limited to the following:

1. In or about 1968, the defendant, _____, was convicted of the offense of Battery in the State of Illinois;

2. In or about 1970, the defendant, _____, in the Chicago, Illinois area, assaulted _____;

3. In or about February, 1994, the defendant, _____, in the San

Angelo, Texas area did assault _____ (both physically and sexually) and _____;

4. In or about March, 1994, the defendant, _____, in the San Angelo, Texas area did become involved in a confrontation with _____ on Goodfellow Air Force Base;

5. On or about February 16, 1995, the defendant, _____, in San Angelo, Texas did abduct _____ from her home at gunpoint. During the course of this abduction and prior to her release, [Defendant] among other acts, robbed and sexually assaulted _____;

6. During the years 1988 through 1995, inclusive, the defendant, _____, engaged in assaultive behavior directed towards _____;
See Jurek v. Texas, 428 U.S. 262, 272-273, 96 S.Ct. 2950, 2956-2957 (1976) (“probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society”).

b. [Victim] was 19 years old at the time of her death. She was small in stature weighing only 99 pounds and measuring 61 inches at the time of her autopsy on March 3, 1995. This is in contrast to the defendant, _____, who served over twenty years in the Army and was a member of the Army Airborne Rangers. [Defendant] was highly trained in many areas including hand-to-hand combat.

[Victim] was new to Texas and was unfamiliar with the area. She had been stationed in San Angelo, Texas at Goodfellow Air Force Base approximately 10 days prior to her abduction and had only been off base twice to receive physical therapy for knee problems.

c. [Victim’s] personal characteristics and the effect of the instant offense on [Victim’s] family. See Title 18, United States Code, Section 3593(a) and Payne v. Tennessee, 501 U.S. 808, 111 S.Ct. 2597 (1991).

WHEREFORE, the United States of America, by and through the United States Attorney for the Northern District of Texas, hereby gives notice of its intent to seek the death penalty as to Defendant and to introduce evidence to the jury in support of such punishment.

Respectfully submitted,

UNITED STATES ATTORNEY

Assistant United States Attorney