

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

MARSHALL DIVISION

UNITED STATES OF AMERICA §
 /
VS. § NO.
 §
DEFENDANT (01) §

**UNITED STATES NOTICE OF INTENT TO SEEK THE DEATH PENALTY
AGAINST [DEFENDANT]**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now the United States of America, by and through _____,
United States Attorney, and _____, Assistant United States Attorneys, all for
the Eastern District of Texas, pursuant to Title 18, United States Code, Sections 3593(a), and
notifies the Court and the Defendant, _____, that the Government believes the
circumstances of the offenses charged in Counts One, Two and Three of the Indictment are such
that, in the event of the Defendant s conviction of one or more of these offenses, a sentence of
death is justified under Chapter 228 (Sections 3591 through 3598) of Title 18 of the United
States Code, and that the Government will seek the sentence of death for these offenses: Count
One, bank robbery resulting in the death of _____, in violation of 18 U.S.C./2113(e),
Count Two, the firearm murder of _____, during and in relation to a crime of
violence, in violation of 18 U.S.C. 924(j), and Count Three, bank robbery resulting in the death of
_____, in violation of 18 U.S.C./2113(e), all of which carry a possible sentence of
death.

The Government proposes to prove the following factors as justifying a sentence of death.

I. Count One - 18 U.S.C. § 2113(a),(d) and (e)- Death of _____

A. Statutory Proportionality Factors Enumerated Pursuant to Title 18, United States Code, Sections 3591(a)(2)(A) through (D) _____

1. Intentional Killing. The defendant, _____, intentionally killed the victim, _____. 18 U.S.C. § 3591(a)(2)(A).

2. Intentional Infliction of Serious Bodily Injury. The defendant, _____, intentionally inflicted serious bodily injury that resulted in the death of the victim, _____. 18 U.S.C. § 3591(a)(2)(B).

3. Intentional Acts to Take a Life or Use Lethal Force. The defendant, _____, 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, _____, died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

4. Reckless Disregard of Life. The defendant, _____, 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, _____, died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

B. Statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Sections 3592(c)(1) through (16) _____

1. Heinous, Cruel, or Depraved Manner of Committing Offense. The defendant, _____, committed the offense in an especially heinous, cruel, and depraved manner in that it involved torture or serious physical abuse to the victim, _____. 18 U.S.C. § 3592(c)(6).

2. Pecuniary Gain. The defendant, _____, committed the offense as consideration for the receipt, and in the expectation of the receipt of something of pecuniary value, specifically money. 18 U.S.C. § 3592(c)(8).

C. Non-Statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Sections 3593(a)

1. Participation in Multiple Killings. The defendant, _____, participated in killing more than one person, in that he participated in the killings of _____ and _____ in addition to killing _____.

2. Obstruction of Justice. The defendant, _____, committed the offense in an effort to insure that the victim, _____, would not be able to assist in the investigation or prosecution of him for his criminal activities.

3. Victim Impact Evidence. The defendant, _____, caused injury, loss and harm to the family of _____ because of _____ s personal characteristics as an individual human being and the impact of _____ s death upon his family.

4. Future Dangerousness of the Defendant. The defendant, _____, is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. In addition to the capital offenses charged in the Indictment and the statutory and non-statutory aggravating factors alleged in this Notice,

evidence of the defendant s future dangerousness includes, but is not limited to, one or more of the following:

- (a) [Defendant] displayed a lack of remorse for his role in the killings of _____, _____, and _____.
- (b) [Defendant] has demonstrated a low rehabilitative potential in that prior efforts to rehabilitate and/or deter him from criminal conduct have failed.
- (c) [Defendant s] conduct in the instant offense is part of a pattern of continuing and escalating criminal behavior.
- (d) The defendant, _____, committed a violation of 18 U.S.C. § 2113(a) and (d) as described in Count One, a violation of 18 U.S.C. §1951(a) as described in Count Two, and a violation of 18 U.S.C. § 2113(a) and (d) as described in Count Three, after substantial planning and premeditation.

II. Count Two - 18 U.S.C. § 924(j) and 18 U.S.C. § 1951(a) - Murder of _____

A. Statutory Proportionality Factors Enumerated Pursuant to Title 18, United States Code, Sections 3591(a)(2)(A) through (D)

1. Intentional Killing. The defendant, _____, intentionally killed the victim, _____ . 18 U.S.C. § 3591(a)(2)(A).

2. Intentional Infliction of Serious Bodily Injury. The defendant, _____, intentionally inflicted serious bodily injury that resulted in the death of the victim, _____. 18 U.S.C. § 3591(a)(2)(B).

3. Intentional Acts to Take a Life or Use Lethal Force. The defendant, _____, 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, _____, died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

4. **Reckless Disregard of Life.** The defendant, _____, 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, _____, died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

B. Statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Sections 3592(c)(1) through (16) _____

1. **Pecuniary Gain.** The defendant, _____, committed the offense as consideration for the receipt, and in the expectation of the receipt of something of pecuniary value, specifically money. 18 U.S.C. § 3592(c)(8).

C. Non-Statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Sections 3593(a) _____

1. **Participation in Multiple Killings.** The defendant, _____, participated in killing more than one person, in that he participated in the killings of _____ and _____ in addition to killing _____.

2. **Victim Impact Evidence.** The defendant, _____, caused injury, loss and harm to the family of _____ because of _____ s personal characteristics as an individual human being and the impact of _____ s death upon his family.

3. **Future Dangerousness of the Defendant.** The defendant, _____, is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. In addition to the capital offenses charged in the Indictment and the statutory and non-statutory aggravating factors alleged in this Notice,

evidence of the defendant s future dangerousness includes, but it not limited to, one or more of the following:

- (a) [Defendant] displayed a lack of remorse for his role in the killings of _____, _____, and _____.
- (b) [Defendant] has demonstrated a low rehabilitative potential in that prior efforts to rehabilitate and/or deter him from criminal conduct have failed.
- (c) [Defendant s] conduct in the instant offense is part of a pattern of continuing and escalating criminal behavior.
- (d) The defendant, _____, committed a violation of 18 U.S.C. § 2113(a) and (d) as described in Count One, a violation of 18 U.S.C. §1951(a) as described in Count Two, and a violation of 18 U.S.C. § 2113(a) and (d) as described in Count Three, after substantial planning and premeditation.

III. Count Three - 18 U.S.C. § 2113(a)(d) and (e) - Death of _____

A. Statutory Proportionality Factors Enumerated Pursuant to Title 18, United States Code, Sections 3591(a)(2)(A) through (D) _____

1. Intentional Acts to Take a Life or Use Lethal Force. The defendant, _____, 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, _____, died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(C).

2. Reckless Disregard of Life. The defendant, _____, 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, _____, died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

B. Statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Sections 3592(c)(1) through (16)

1. Grave Risk of Death to Additional Persons. The defendant, _____, in the commission of the offense, and in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim _____. 18 U.S.C. § 3592(c)(5).

2. Pecuniary Gain. The defendant, _____, committed the offense as consideration for the receipt, and in the expectation of the receipt of something of pecuniary value, specifically money. 18 U.S.C. § 3592(c)(8).

3. Substantial Planning and Premeditation. The defendant, _____, committed the offense after substantial planning and premeditation to cause the death of a person. 18 U.S.C. § 3592(c)(9).

4. Multiple Attempted Killings. The defendant, _____, intended that more than one person be killed in a single criminal episode. 18 U.S.C. § 3592(c)(16).

C. Non-Statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Sections 3593(a)

1. Participation in Multiple Killings. The defendant, _____, participated in killing more than one person, in that he participated in the killing of _____ in addition to killing _____ and _____.

2. Obstruction of Justice. The defendant, _____, committed the offense in an effort to insure that the victim would not be able to assist in the investigation or prosecution of him for his criminal activities.

3. Victim Impact Evidence. The defendant, _____, caused injury, loss and harm to the family of _____ because of _____ s personal characteristics as an individual human being and the impact of _____ s death upon her family.

4. Future Dangerousness of the Defendant. The defendant, _____, is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to the lives and safety of others. In addition to the capital offenses charged in the Indictment and the statutory and non-statutory aggravating factors alleged in this Notice, evidence of the defendant s future dangerousness includes, but is not limited to, one or more of the following:

- (a) [Defendant] displayed a lack of remorse for his role in the killings of _____, _____, and _____.
- (b) [Defendant] has demonstrated a low rehabilitative potential in that prior efforts to rehabilitate and/or deter him from criminal conduct have failed.
- (c) [Defendant s] conduct in the instant offense is part of a pattern of continuing and escalating criminal behavior.
- (d) The defendant, _____, committed a violation of 18 U.S.C. § 2113(a) and (d) as described in Count One, a violation of 18 U.S.C. §1951(a) as described in Count Two, and a violation of 18 U.S.C. § 2113(a) and (d) as described in Count Three, after substantial planning and premeditation.

WHEREFORE, the United States of America, requests that the Court and Defendant take notice of the above and for such other and further relief as is just and proper.

Respectfully submitted,

UNITED STATES ATTORNEY

Assistant United States Attorney