

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA : **CASE NO. 07-550**

v. :

KABONI SAVAGE :

ROBERT MERRITT :

STEVEN NORTINGTON :

_____ :

**GOVERNMENT’S INFORMATIONAL OUTLINE REGARDING PROOF OF
AGGRAVATING FACTORS IN PENALTY PHASE**

The United States of America, by and through its attorneys, Zane David Memeger, United States Attorney for the Eastern District of Pennsylvania, David E. Troyer, and John Gallagher, Assistant U.S. Attorneys for the district, and Steven D. Mellin, Trial Attorney, U.S. Department of Justice, pursuant to this Court’s order, files this information outline regarding its intended proof of aggravating factors at a penalty phase hearing.

The United States reserves the right to supplement this outline and does not intend for this outline to be a complete, exhaustive, nor exclusive list of all information the government will present at the sentencing hearing. It is merely an outline of the types of evidence the United States will rely upon to prove the various statutory and non-statutory aggravating factors in this case. In addition, the government will rely on the testimony of witnesses and evidence already presented at the “guilt phase” of the trial.

I. GATEWAY FACTORS

In order to prove that defendants Savage and Northington were at least 18 years old when the murders were committed, the government will introduce, absent stipulations, physical evidence of birth dates, to include birth certificates, school records, police and court documents, and driver's licenses.

To prove the gateway intent factors, the government will largely rely on the evidence and testimony presented at trial, and the jury's findings of guilt as to each of the murders for which the government is seeking the death penalty.

II. STATUTORY AGGRAVATING FACTORS

Evidence Of Grave Risk Of Death To Others

The government will argue that the murders of Kenneth Lassiter, Barry Parker, Tybius Flowers, and the Coleman family all created grave risks to others, in addition to the victims. The government will argue this factor concerning the Lassiter and Parker murders only as to defendant Savage. The government will argue this factor concerning the Flowers murder as to Savage and Northington. The government will argue this factor concerning the Coleman family victims as to Savage.

As to the Lassiter, Parker, and Flowers murders, these were all committed on public street corners in densely populated residential areas, where the homes are situated adjacent to the sidewalks, and where the opportunity for someone (indoors or outdoors) to be hit by a stray bullet was great. In the case of Lassiter and Parker, there were people standing within a few feet of the victims when they were shot. As to the Coleman family, they were killed in a firebombing of their row home, which home was connected to another occupied dwelling, in a residential

area. The firefighters who responded to the scene had to rescue a wheelchair-bound next-door neighbor who was being overcome by smoke, soot, and heat. The government will rely on the evidence already presented at trial, and may call the next-door neighbors who were rescued.

The government will not argue this factor as to the Abdullah murder (as he was shot while inside a car, in a less congested area), the Brown murder (as the closest houses were further from the shooting, and the closest bystander was at a considerable distance across the street in a park, walking his dog), and the Toliver murder (as this was a single-shot close-range murder that occurred indoors, while Eugene Coleman was at the threshold of the next room).

Heinous, Cruel Or Depraved Manner Of Committing The Offense

As to defendant Savage, the government contends that the Coleman arson murders were committed in an especially heinous, cruel, and depraved manner. The government will rely on the testimony presented at trial, but reserves the right to call Dr. Ian Hood to present further testimony as to the effect of the fire on the victims. The government will also offer into evidence additional photographs of the victims of the arson murders, which may include photographs of the crime scene and autopsy photographs.

Procurement Of Offense By Payment

As to defendant Savage, the government contends that Savage procured the murders of the Coleman family by payment to Lamont Lewis and, derivatively, to Robert Merritt, through his co-defendant and intermediary, Kidada Savage. The government further contends that Savage procured the murder of Carlton Brown by payment to Lamont Lewis. As to both murders, the government will rely on the testimony and evidence presented thus far at trial.

Pecuniary Gain

As to defendant Savage, the government alleges that Savage committed and ordered the murders of Mansur Abdullah and Tyrone Toliver for pecuniary gain. The government will rely on the testimony presented at trial.

Substantial Planning And Premeditation

As to both defendants Savage and Northington, the government will largely rely on the evidence and testimony elicited during trial, to prove the aggravating factor of substantial planning and premeditation. This factor applies to all of the murders. The government will rely on the testimony presented at trial.

Previous Convictions For Two Or More Controlled Substances Offenses

As to defendant Northington, the government relies on records of Northington's prior convictions to establish that he was convicted of two or more controlled substances offenses. The fact of these convictions was previously provided in discovery, and is a matter of public record.

Vulnerability Of Victims

The government alleges that the Coleman children, due to their youth, were vulnerable victims. Their vulnerability was enhanced by the fact that they were murdered while asleep, at approximately 5:00 a.m., upstairs in their home. The government will rely on the evidence already presented at trial to prove this aggravating factor, and may supplement that evidence with testimony of family members who can attest to their vulnerability and, particularly as to 15-month-old Damir Jenkins, the inability to escape from the Coleman house at the time of those arson murders.

Prior Federal Felony Drug Conviction

As to both defendants Savage and Northington, the government relies on their records of prior convictions to prove that they were both convicted of violating Title II or III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, for which a sentence of five or more years may be imposed. The fact of these convictions has been provided in discovery and is a matter of public record.

Multiple Victims In A Single Criminal Episode

As to defendant Savage, the government will rely on the evidence presented at trial to prove that, as to the Coleman family arson murders, the defendant killed more than one person in a single criminal episode.

III. NON-STATUTORY AGGRAVATING FACTORS

A. Victim Impact Evidence

As to defendant Savage, the government has already provided approximately fifteen victim impact statements, all concerning the Coleman family. The government also expects to call Regina Nash, who can testify to the lives, attributes, and characteristics of Marcella Coleman, Tameka Nash, Sean Anthony Rodriguez, Khadijah Nash, Tajh Porchea, and Damir Jenkins, and how the loss of their lives has affected their family. The government may also call Ida Mae Anthony, Danielle Anthony, Navarro Fischer, and Gloria Bush for the same purpose.

As to defendants Savage and Northington, the government may also call, and/or present victim impact statements from: Andrea Flowers, regarding the Tybius Flowers murder; Blossom Demonie and Bernis Parker, regarding the Barry Parker murder; and Shavonne Britt,

regarding the Kenneth Lassiter murder. Each would testify to the lives, attributes, and characteristics of the respective victims, and how the loss of their lives has affected their families. As of the filing of this pleading, the government has not yet received victim impact statements from these witnesses.

B. Evidence Of Future Dangerousness

The government will argue the non-statutory aggravating circumstance of “future dangerousness” as to both Savage and Northington. The government will mostly rely on the vast evidence presented at trial of the crimes committed by the defendants, coupled with their considerable criminal records.

As to defendant Northington, the government will refer to his state court conviction for the murder of Barry Parker. The government will also present evidence of his threats to do harm to other witnesses and inmates, particularly those inmates who have cooperated with law enforcement. These threats include, but are not limited to, the threats against Robert Wilks and Bienvenido Morales, both of which were elicited at trial. The government will also reference Northington’s prior misconduct while in the state and federal prison system, which resulted in Northington serving his entire ten-year sentence (without parole or early release), and serving the vast majority of that time in a secured housing setting. Special Agent Kevin Lewis may also relate Northington’s courtroom conduct during the pendency of this case, as well as Northington’s statement / question to Special Agent Lewis during the 2005 case, asking how “Twin’s family” was doing.

As to Kaboni Savage, the government will address Savage’s behavior since his incarceration in 2004, including the Flowers murder and Coleman arson murders, as well as his

many threats to other witnesses and their family members (as well as to Crystal Copeland), all of which has been elicited at trial through witness testimony and many recordings. The government may also reference Savage's poor behavior in refusing to conform to the SAMs restrictions, including the MCC-NY mattress writings, the abuse of "legal line" telephone privileges and legal mail privileges, and the possession of contraband items in his cell. Witnesses who will support this include FBI Special Agents Kevin Lewis and Vicki Humphries, and BOP Lt. Letitia Parish. The government may also present evidence of Savage's poor courtroom behavior during trial and hearings in this case.

The government will reference defendant Savage's actions taken against witnesses and potential witnesses while incarcerated, including the testimony presented at trial. The government may also call Corey Williams regarding the Lassiter murder, and the stabbing incident.

The government intends to introduce and play recordings from the various court-authorized interceptions, through Special Agent Lewis, and will provide a list of such recordings to defense counsel and the Court. These recordings were supplied in discovery, and were included in the Starks submission.

IV. NOTICE OF EXPERTS

As to both defendants, the government will rely on the testimony of expert witnesses it called at trial. That testimony, and the opinions, discovery, and Jencks material concerning that testimony, has already been provided to counsel.

As to defendant Savage, the government has been informed that Savage may present expert testimony concerning USP-Florence (ADMAX) and solitary confinement. If that

occurs, the government may rebut that testimony by calling D. Scott Dodrill as an expert witness to testify as to those matters.

As to defendant Northington, the government anticipates that certain the defense will elicit testimony regarding Northington's mental health and intellectual capacity. Defense counsel have recently indicated that they have retained new experts (not previously disclosed in the Atkins hearing), but have not yet provided the government with the names, curriculum vitae, opinions, and reports of these witnesses. The government anticipates presenting the testimony of Dr. Robert Denney, whom the government called in the Atkins hearing, and whose curriculum vitae, opinions and reports have already been disclosed to defense counsel. If the defense discloses areas or opinions that were not previously disclosed to the government, then the government reserves the right to supplement its presentation with the testimony of other witnesses.

Respectfully submitted,

ZANE DAVID MEMEGER
United States Attorney

/s/ David E. Troyer
David E. Troyer
John Gallagher
Assistant United States Attorneys

Steven D. Mellin
Trial Attorney

CERTIFICATE OF SERVICE

I hereby certify that this pleading was electronically filed, and was thus served on
this the 15th day of May, 2013, upon defense counsel:

Christian J. Hoey, Esquire
50 Darby Road
Paoli, PA 19301-1416
Attorney for Kaboni Savage

Thomas C. Egan, III Esquire
621 Swede Street
Norristown, PA 19401
Attorney for Steven Northington

William B. Purpura, Esquire
8 E. Mulberry Street
Baltimore, MD 21202
Attorney for Kaboni Savage

William L. Bowe, Esquire
1420 Walnut Street, Suite 1400
Philadelphia, PA 19102
Attorney for Steven Northington

/s/ David E. Troyer
David E. Troyer
Assistant United States Attorney