

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 24-CR-167-Raw

**JASON JAVON FRANKLIN,
MARIELLE TRAMANIE SMITH,
SHERL DEAN BATISE,
NICHOLES ANDREW KERR, and
WILLIAM CLAYTON BROWN,**

Defendants.

SECOND NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW the United States of America, by and through its attorney, Christopher J. Wilson, United States Attorney, and hereby gives notice pursuant to 18 U.S.C. § 3593(a) that it believes that the circumstances of the offenses charged in Counts Two through Eight and Count Eleven of the Second Superseding Indictment are such that, in the event that defendant **JASON JAVON FRANKLIN** is convicted, a sentence of death is justified under Chapter 228 (Sections 3591 through 3598) of Title 18 of the United States Code, and that the United States will seek a sentence of death. Specifically, the United States will seek a sentence of death for these offenses: Count Two, which charges Conspiracy to Tamper with a Witness and Informant by Killing in violation of 18 U.S.C. § 1512(a)(1)(A), 1512(k), and 1512(j); Counts Three and Four, which charge Use of Interstate Commerce Facilities in the Commission of Murder for Hire in violation of 18 U.S.C. §§ 1958 and 2; Count Five, which charges Murder in Indian Country in violation of 18 U.S.C. §§ 1111(a), 1151, 1152, and 2; Count Six, which charges Murder in Perpetration of Burglary in Indian Country in violation of 18 U.S.C. §§ 1111(a), 1151, 1152, 2 and 13 and 21

O.S.A § 1431; Count Seven, which charges Obstructing Justice by Retaliating Against a Witness or Informant in violation of 18 U.S.C. §§ 1513(a)(1)(B) and 2; Count Eight, which charges Tampering with a Witness or Informant by Killing in violation of 18 U.S.C §§ 1512(a)(1)(A) and 2; and Count Eleven, which charges Causing the Death of a Person in the Course of a Violation of 18 U.S.C. § 924(c), in violation of 18 U.S.C. §§ 924(j)(1) and 2, all of which carry a possible sentence of death.

The United States proposes to prove the following factors as justifying a sentence of death with regards to Counts Two through Eight and Count Eleven of the Second Superseding Indictment:

- A. **JASON JAVON FRANKLIN** was 18 years of age or older at the time of the offense. 18 U.S.C. § 3591(a).
- B. Statutory Threshold Intent Factors Enumerated Under 18 U.S.C. § 3591(a)(2)(A)-(D).
 1. **Intentional Killing.** **JASON JAVON FRANKLIN** intentionally killed the Victim. 18 U.S.C. § 3591(a)(2)(A).
 2. **Intentional Infliction of Serious Bodily Injury.** **JASON JAVON FRANKLIN** intentionally inflicted serious bodily injury that resulted in the death of the Victim. 18 U.S.C. § 3591(a)(2)(B).
 3. **Intentional Participation in an Act Resulting in Death.** **JASON JAVON FRANKLIN** participated in an act, contemplating that the life of a person would be taken and 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. **Intentional Engagement in an Act of Violence, Knowing that the Act Created a**

Grave Risk of Death to a Person. JASON JAVON FRANKLIN 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 the reckless disregard for human life and the Victim died as a direct result of the act. 18 U.S.C. § 3591(a)(2)(D).

C. Statutory Aggravating Factors Enumerated Under 18 U.S.C. § 3592(c).

1. **Previous Conviction of Violent Felony Involving Firearm.** JASON JAVON FRANKLIN has previously been convicted of a State offense punishable by a term of imprisonment of more than 1 year, involving the use and attempted and threatened use of a firearm (as defined in 18 U.S.C. § 921) against another person. 18 U.S.C. § 3592(c)(2).

2. **Pecuniary Gain:** JASON JAVON FRANKLIN committed the offenses charged in Counts Two through Eight and Count Eleven as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. 18 U.S.C. § 3592(c)(8).

3. **Substantial Planning and Premeditation:** JASON JAVON FRANKLIN committed the offenses charged in Counts Two through Eight and Count Eleven after substantial planning and premeditation to cause the death of a person. 18 U.S.C. § 3592(c)(9).

D. Non-Statutory Aggravating Factors Under 18 U.S.C. § 3593(a)(2).

1. **Obstruction of Justice:** JASON JAVON FRANKLIN killed the Victim in an effort to prevent the Victim's testimony in an official proceeding and to prevent the Victim's communication to a law enforcement officer of information relating to the commission of a federal or state offense.

2. **Status of the Victim:** JASON JAVON FRANKLIN killed the Victim, a crime

witness, with the intent to retaliate against the Victim for providing to a law enforcement officer information relating to the commission of a federal or state offense.

3. Future Dangerousness of the Defendant: **JASON JAVON FRANKLIN** represents a continuing danger to the lives and safety of other persons. **JASON JAVON FRANKLIN** is likely to commit criminal acts of violence in the future that would constitute a continuing serious threat to the lives and safety of others, as evidenced by, at least, one or more of the following:

- a. Continuing Pattern of Violence: **JASON JAVON FRANKLIN** has engaged in a continuing pattern of violence, attempted violence, and threatened violence, including, at least, the crimes charged against him in the Second Superseding Indictment and the crime of which he was previously convicted, to wit: Shooting with Intent to Kill, in CF-2006-0208, in the District Court of Carter County, OK.
- b. Lack of Remorse: **JASON JAVON FRANKLIN** has demonstrated a lack of remorse for the capital offenses committed in the case, as indicated by his statements and actions during and following the offenses alleged in the Second Superseding Indictment.
- c. Low Rehabilitative Potential: **JASON JAVON FRANKLIN** has demonstrated a low potential for rehabilitation as evidenced by his longstanding involvement in criminal activities leading up to the capital offenses charged in the Second Superseding Indictment and continuing while he has been incarcerated. Through his words and recidivism, he has demonstrated that the threat of incarceration does not deter his misconduct.
- d. Membership in a Criminal Street Gang: **JASON JAVON FRANKLIN** has

demonstrated an allegiance to and active membership in the Rolling 60s Crips, an organization falling within the definition of a criminal street gang as set forth in 18 U.S.C. § 521(a).

4. Victim Impact. **JASON JAVON FRANKLIN** caused injury, harm, and loss to the family and friends of the Victim. The injury, harm, and loss caused by **JASON JAVON FRANKLIN** with respect to the Victim is evidenced by the Victim's personal characteristics and by the impact of the Victim's death upon the Victim's family, friends, and co-workers.

5. Impact on child witness. **JASON JAVON FRANKLIN** killed the Victim in their home, with knowledge that the victim's six-year-old child was in the residence and would likely discover the Victim's remains.

Respectfully Submitted,


CHRISTOPHER J. WILSON
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