

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. No. 24-1284-DHU-1

ZACHARY BABITZ,

Defendant.

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY
PURSUANT TO TITLE 18 UNITED STATES CODE SECTION 3593**

The United States of America, by Ryan Ellison, Acting United States Attorney for the District of New Mexico, and Maria Elena Stiteler and Natasha Moghadam, Assistant United States Attorneys, notifies this Court and Defendant and his counsel, pursuant to Title 18, United States Code, Section 3593(a), that the government believes that the circumstances of the offense charged in Counts Six and Seven of the Indictment are such that, in the event of a conviction, a sentence of death is justified under Chapter 228 (Sections 3591 through 3598) of Title 18 United States Code, and the government will seek the sentence of death for these offenses: Carjacking Resulting in Death and Using and Carrying a Firearm During and in Relation to a Crime of Violence, and Possessing a Firearm in Furtherance of Such Crime; Discharging Said Firearm; and Causing Death Through Use and Possession of a Firearm, all of which carry a possible sentence of death.

The government proposes to prove the following factors as justifying a sentence of death with regard to Counts Six and Seven:

- A. ZACHARY BABITZ was 18 years of age or older at the time of the offenses.
- B. Statutory Threshold Factors Enumerated under 18 U.S.C. § 3591(a)(2)(A) – (D).

1. **Intentional Killing.** ZACHARY BABITZ intentionally killed John Doe 3 (Counts Six and Seven). 18 U.S.C. § 3591(a)(2)(A).
 2. **Intentional Infliction of Serious Bodily Injury.** ZACHARY BABITZ intentionally inflicted serious bodily injury that resulted in the death of John Doe 3 (Counts Six and Seven). 18 U.S.C. § 3591(a)(2)(B).
 3. **Intentional Participation in Acts Resulting in Death.** ZACHARY BABITZ intentionally participated in an act contemplating that the life of a person or persons would be taken and intending that lethal force would be used in connection with a person or person, other than one of the participants in the offense, and John Doe 3 (Counts Six and Seven) died as a result of the act. 18 U.S.C. § 3591(a)(2)(C).
 4. **Intentional Engagement in Acts of Violence, Knowing that the Acts Created a Grave Risk of Death to a Person.** ZACHARY BABITZ intentionally and specifically engaged in acts of violence, knowing that the acts created a grave risk of death to a person or persons, other than one of the participants in the offense, such that the participation in the acts constituted a reckless disregard for human life, and John Doe 3 (Counts Six and Seven) died as a direct result of the acts. 18 U.S.C. § 3592(a)(2)(D).
- C. Statutory Aggravating Factors Enumerated under 18 U.S.C. § 3592(c).

With respect to Counts Six and Seven:

1. **Death During Commission of Another Crime.** The death, and injury resulting in death, occurred during the commission, or attempted commission of, or during immediate flight from the commission of an offense under 18 U.S.C. § 2119. 18 U.S.C. § 3592(c)(1).
2. **Previous Conviction of a Violent Felony Involving Firearm.** ZACHARY BABITZ has previously been convicted of a violent felony involving a firearm which is

- punishable by a term of imprisonment of more than one year. 18 U.S.C. § 3592(c)(2).
3. **Grave Risk of Death to Additional Persons.** ZACHARY BABITZ, in the commission of the offense, or in escaping apprehension from the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to John Doe 3. 18 U.S.C. § 3592(c)(5).
 4. **Commission of the offense for Pecuniary Gain.** ZACHARY BABITZ committed the offenses (Counts Six and Seven) as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. 18 U.S.C. § 3592(c)(8).
 5. **Vulnerability of the Victim.** The victim was particularly vulnerable due to old age. 18 U.S.C. § 3592(c)(11).
- D. Non-Statutory Aggravating Factors Identified under 18 U.S.C. § 3593(a)(2).

With respect to Counts Six and Seven:

1. **Future Dangerousness.** The violent nature of the crime spree committed by the defendant, ZACHARY BABITZ, which he embarked upon despite his supervised release status, and his high-speed flight from the police to evade capture indicates that he presents a future danger.

The government further gives notice that in support of imposition of the death penalty on Counts Six and Seven, it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the offenses of conviction as described in the Indictment as they relate to the background and character of ZACHARY BABITZ, his moral culpability, and the nature and circumstances of the offenses charged in the Indictment and thereby informs the weight of the aggravating factors alleged here.

Respectfully submitted,

RYAN ELLISON
Acting United States Attorney

A handwritten signature in black ink, appearing to read 'Maria Elena Stiteler', with a stylized flourish at the end.

MARIA ELENA STITELER
NATASHA MOGHADAM
Assistant United States Attorneys
201 Third Street NW, Suite 900
Albuquerque, New Mexico 87102

I HEREBY CERTIFY that on October 22, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification to defense counsel and probation.

Filed Electronically on October 22, 2025.
MARIA ELENA STITELER
Assistant United States Attorney