

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
V.	)	NO. 4:06CR00041 GTE
	)	
ANTOINE DEMETRIS BAKER	)	
a/k/a B.A.	)	

**NOTICE OF INTENT TO SEEK THE DEATH PENALTY**

\_\_\_\_\_ Comes now, the United States of America, by and through the United States Attorney for the Eastern District of Arkansas, and pursuant to Title 18, United States Code, Section 3593(a), files this Notice of Intent to Seek the Death Penalty, notifying the Court, Defendant, Antoine Demetris Baker, and Defendant’s counsel that in the event the Defendant is convicted of any of the capital offenses relating to the death of Jerry Otis, as alleged in Counts 7, 8, 9 and 10 of the Third Superseding Indictment (“the Indictment”) of this case, the United States asserts that a sentence of death is justified, and the United States will seek a sentence of death under Counts 7, 8, 9 and 10.

If the Defendant is convicted, the United States intends to prove the following aggravating factors as the basis for imposition of the death penalty under Counts 7, 8, 9 and 10.

A. Statutory Factors Enumerated Pursuant to Title 18, United States Code, Section 3591(a)(2)

1. Antoine Demetris Baker a/k/a B.A. was 18 years of age or older at the time of the offense. (18 U.S.C. § 3591(a));

2. Antoine Demetris Baker a/k/a B.A. intentionally participated in an act, contemplating that the life of Jerry Otis would be taken or intending that lethal force would be used in connection with Jerry Otis, a person other than a participant in the offense, and Jerry Otis died as a direct result of the act. (18 U.S.C. § 3591(a)(2)(C)).

3. Antoine Demetris Baker a/k/a B.A. intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to Jerry Otis, a person other than a participant in the offense, such that participation in the act constituted a reckless disregard for human life, and Jerry Otis died as a direct result of the act. (18 U.S.C. § 3591 (D)).

B. Statutory Aggravating Factors Enumerated Pursuant to Title 18, United States Code, Section 3592(c)

1. Antoine Demetris Baker a/k/a B.A. has previously been convicted of a State offense punishable by a term of imprisonment of more than one (1) year involving the use or attempted or threatened use of a firearm, as defined in 18 U.S.C. § 921, against another person, namely on or about November 2, 2006, Antoine Demetris Baker a/k/a B.A. was convicted in Pulaski County Circuit Court of first degree murder. (18 U.S.C. § 3592(c)(2));

2. Antoine Demetris Baker a/k/a B.A. committed the offense described in Counts 7, 8, 9 and 10 of the Indictment after substantial planning and premeditation to cause the death of Jerry Otis. (18 U.S.C. § 3592(c)(9)).

C. Non-statutory Aggravating Factor Enumerated Pursuant to Title 18, United States Code, Section 3593(a)

1. OBSTRUCTION OF JUSTICE

Antoine Demetris Baker a/k/a B.A. killed Jerry Otis in an effort to tamper with a witness.

2. FUTURE DANGEROUSNESS

Antoine Demetris Baker a/k/a B.A. is likely to commit criminal acts of violence in the future that would constitute a continuing and 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

Antoine Demetris Baker a/k/a B.A. has engaged in a continuing pattern of violence, attempted violence, and threatened violence, including, at least, the crimes alleged against the defendant in the Indictment and the crime of which the defendant was previously convicted, as described in ¶B.1 of this Notice;

b. Low Rehabilitative Potential

Antoine Demetris Baker a/k/a B.A. has demonstrated a low potential for rehabilitation, as demonstrated, at least, by his ability to orchestrate Jerry Otis's murder while in state custody, as alleged in Counts 7, 8, 9, and 10 of the Indictment, and his attempt to obstruct and influence an official proceeding, as alleged in Count 11 of the Indictment while in federal custody; and

c. Specific Threats of Violence

Antoine Demetris Baker a/k/a B.A. used threats in an attempt to prevent the testimony of a person known to the Grand Jury, while in federal custody, as alleged in Count 12 of the Indictment, and the defendant threatened physical force against a law enforcement officer in this case while in federal custody, as alleged in Count 13 of the Indictment.

The United States further gives notice that, in support of imposition of the death penalty, 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 Third Superseding Indictment as they relate to the background and character of the defendant, Antoine Demetris Baker a/k/a B.A., his moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

Respectfully submitted,

JANE W. DUKE  
Acting United States Attorney

/s/ Patrick C. Harris  
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**CERTIFICATE OF SERVICE**

I certify that on this 8<sup>th</sup> day of August, 2007, I have served electronically to the Clerk of the Court and to Defendant's Attorneys of record, Jack Kearney and John Hall, using the CM/ECF, a copy of this Notice of Intent to Seek the Death Penalty.

/s/ Patrick C. Harris  
PATRICK C. HARRIS