

LAW OFFICES OF  
STEVE WOLFE

AUG 30 2005

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 UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

13	UNITED STATES OF AMERICA,	)	No. SACR 02-938-DOC
14	Plaintiff,	)	
15	v.	)	<u>GOVERNMENT'S SUPPLEMENTAL</u>
16	TYLER DAVIS BINGHAM,	)	<u>NOTICE OF INTENT TO SEEK THE</u>
17	Defendant.	)	<u>DEATH PENALTY AGAINST</u>
		)	<u>DEFENDANT BINGHAM</u>

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

19 The United States of America, pursuant to 18 U.S.C.  
 20 § 3593(a), notifies the Court and defendant TYLER DAVIS BINGHAM  
 21 ("defendant") that the Government believes the circumstances of  
 22 the offenses charged in Counts Six and Seven of the First  
 23 Superseding Indictment are such that, in the event of a  
 24 conviction, a sentence of death is justified under Chapter 228  
 25 (Sections 3591 through 3598) of Title 18 of the United States  
 26 Code, and that the Government will seek the sentence of death for  
 27 the following offenses: (1) commission of a violent crime in aid  
 28

1 of racketeering activity, to wit, the murder of Frank Joyner, in  
2 violation of Title 18, United States Code, Section 1959(a)(1)  
3 [Count Six]; and (2) commission of a violent crime in aid of  
4 racketeering activity, to wit, the murder of Abdul Salaam, in  
5 violation of Title 18, United States Code, Section 1959(a)(1)  
6 [Count Seven], each of which carries a possible sentence of  
7 death.

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

10 A. Statutory Proportionality Factors Enumerated under 18  
11 U.S.C. § 3591(a)(2)

12 The following statutory proportionality factors apply to  
13 each of Counts Six and Seven.

14 1. **Intentional Acts to Take Life or Use Lethal Force**

15 The defendant intentionally participated in an act, contemplating  
16 that the life of a person would be taken or intending that lethal  
17 force would be used in connection with a person, other than one  
18 of the participants in the offense, and Frank Joyner [Count Six]  
19 and Abdul Salaam [Count Seven] died as a direct result of the  
20 act. 18 U.S.C. § 3591(a)(2)(C).

21 2. **Intentional Acts of Violence Creating Grave Risk of**  
22 **Death**

23 The defendant intentionally and specifically engaged in an act of  
24 violence knowing that the act created a grave risk of death to a  
25 person, other than one of the participants in the offense, such  
26 that participation in the act constituted a reckless disregard  
27 for human life, and Frank Joyner [Count Six] and Abdul Salaam

1 [Count Seven] died as a direct result of the act. 18 U.S.C. §  
2 3591(a)(2)(D).

3 B. Statutory Aggravating Factors Enumerated under 18  
4 U.S.C. § 3592(c)

5 The following statutory aggravating factors apply to each of  
6 Counts Six and Seven.

7 1. **Previous Conviction of Violent Felony Involving**  
8 **Firearm**

9 The defendant committed the offense charged after having been  
10 previously convicted of a Federal or State offense punishable by  
11 a term of imprisonment of more than one year, involving the use  
12 or attempted or threatened use of a firearm (as defined in 18  
13 U.S.C. § 921) against another person, to wit, convictions for  
14 first degree robbery and for assault with a deadly weapon in  
15 California Superior Court, San Luis Obispo County, on November 4,  
16 1968 in Case No. 6064; conviction for armed bank robbery in  
17 United States District Court for the Eastern District of  
18 California on December 30, 1976, in Case No. F-76-209-CR; and  
19 convictions for armed bank robbery, and for carrying a firearm  
20 during the commission of a crime of violence in United States  
21 District Court for the Western District of Texas on August 20,  
22 1985, in Case No. MO-85-CR-16(01). 18 U.S.C. § 3592(c)(2).

23 2. **Grave Risk of Death to Additional Persons**

24 The defendant, in the commission of the offense, and in escaping  
25 apprehension for the violation of the offense, knowingly created  
26 a grave risk of death to one or more persons in addition to the  
27 victim of the offense. 18 U.S.C. § 3592(c)(5).

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1            3.     **Substantial Planning and Premeditation**

2 The defendant committed the offense after substantial planning  
3 and premeditation to cause the death of a person. 18 U.S.C. §  
4 3592(c)(9).

5            4.     **Multiple Killings or Attempted Killings**

6 The defendant intentionally killed or attempted to kill more than  
7 one person in a single criminal episode. 18 U.S.C. §  
8 3592(c)(16).

9            C.     Other, Non-Statutory, Aggravating Factors Identified  
10                        under 18 U.S.C. § 3593(a)(2)

11            The following non-statutory aggravating factors apply to  
12 each of Counts Six and Seven.

13                        1.     **Future Dangerousness of the Defendant**

14 The defendant is likely to commit criminal acts of violence in  
15 the future that would constitute a continuing and serious threat  
16 to the lives and safety of others, as evidenced by, at least, one  
17 or more of the following:

18                        a.     Continuing Pattern of Violence

19 The defendant has engaged in a continuing pattern of violence,  
20 attempted violence, and threatened violence, including, at least,  
21 the crimes alleged against defendant in the First Superseding  
22 Indictment, the crime of assault with intent to commit murder of  
23 which defendant was convicted in the United States District Court  
24 for the Central District of California on June 24, 1988 in Case  
25 No. CR 87-629-RSWL, and the crimes of which the defendant was  
26 previously convicted, as described in ¶ B.1. of this Notice.

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1                   b.    Escape Risk and Institutional Misconduct

2   The defendant poses a future danger to the lives and safety of  
3   other persons, as demonstrated by his escape risk and  
4   institutional misconduct, including, at least, defendant's escape  
5   from the Contra Costa County Jail on July 1, 1978, for which  
6   defendant was convicted of escape on October 4, 1978 in  
7   California Superior Court, Contra Costa County, in Case No.  
8   22035, and repeated acts of institutional misconduct while in the  
9   custody of the California Department of Corrections, United  
10  States Bureau of Prisons, United States Marshals Service, or  
11  other law enforcement agencies.

12                   2.   **Contemporaneous Convictions**

13   The defendant faces contemporaneous convictions for multiple  
14  murders, attempted murders, and other serious acts of violence.

15                   3.   **Racial Animosity Was a Motive for the Murders**

16   The defendant committed the crimes charged in part from racial  
17  animosity against the victims of the crimes.

18           The Government further gives notice that in support of  
19  imposition of the death penalty it intends to rely upon all the  
20  evidence admitted by the Court at the guilt phase of the trial  
21  and the offenses of conviction as described in the First  
22  Superseding Indictment as they relate to the background and  
23  character of the defendant, TYLER DAVIS BINGHAM, his moral  
24  culpability, and the nature and circumstances of the offenses

25  //

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1 | charged in the First Superseding Indictment.

2 | DATE: August 26, 2005 Respectfully submitted,

3 | DEBRA WONG YANG  
4 | United States Attorney

5 | THOMAS P. O'BRIEN  
6 | Assistant United States Attorney  
7 | Chief, Criminal Division

8 | 

9 | GREGORY W. JESSNER  
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12 | Assistant United States Attorneys  
13 | Organized Crime and Terrorism Section

14 | Attorneys for Plaintiff  
15 | United States of America

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CERTIFICATE OF SERVICE

I, CAREY P. CRONIN; declare:

That I am a citizen of the United States and resident or employed in Los Angeles County, California; that my business address is the Office of United States Attorney, United States Courthouse, 312 North Spring Street, Los Angeles, California 90012; that I am over the age of eighteen years, and am not a party to the above-entitled action;

That I am employed by the United States Attorney for the Central District of California who is a member of the Bar of the United States District Court for the Central District of California, at whose direction I served a copy of:

GOVERNMENT'S SUPPLEMENTAL NOTICE OF INTENT TO SEEK THE DEATH PENALTY AGAINST DEFENDANT BINGHAM

service was:

Placed in a closed envelope, for collection and interoffice delivery addressed as follows:

Placed in a sealed envelope for collection and mailing via United States Mail, addressed as follows:

By hand delivery addressed as follows:

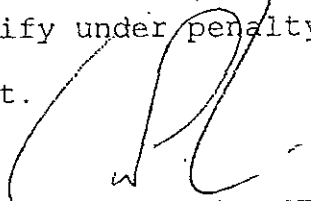
By facsimile as follows:

By messenger as follows:

By federal express as follows:

SEE ATTACHMENT

This Certificate is executed on 8/29/05, at Los Angeles, California. I certify under penalty of perjury that the foregoing is true and correct.

  
\_\_\_\_\_  
CAREY P. CRONIN