

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

**UNITED STATES OF AMERICA**

\*

v.

\*

**MELVIN GILBERT**

\* **CRIMINAL NO. JFM-06-0309**

\*

**Defendant.**

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

COMES NOW the United States of America, pursuant to 18 U.S.C. § 3593(a), by and through its undersigned counsel, and notifies the Court and the defendant Melvin Gilbert in the above-captioned case that the Government believes the circumstances of the offenses charged in Counts Seven, Nine, Fourteen and Sixteen of the Fourth Superseding Indictment are such that, in the event of the defendant's conviction of one or more of these offenses, a sentence of death is justified under Chapter 228 (Sections 3591 through 3598) of Title 18 of the United States Code, and that the Government will seek the sentence of death for these offenses: Counts Seven and Fourteen charge witness tampering by homicide (violations of Title 18, United States Code, Sections 1512(a)(1)(A) and 1512(a)(1)(C)) in connection with the murders of Shannon Jemmison and John Dowery, which each carry a possible sentence of death, and Counts Nine and Sixteen charge causing the death of a person through the use of a firearm by murder (violations of Title 18 United States Code, Section 924(j)) in connection with the murders of Shannon Jemmison and John Dowery, which each carry a possible sentence of death.

of death:

**COUNTS FOURTEEN AND SIXTEEN: THE MURDER OF JOHN DOWERY**

**A. Eligibility Factors Applicable To Counts Fourteen and Sixteen**

**1. Statutory Proportionality Factors Enumerated  
Under 18 U.S.C. § 3591(a)(2)(A)-(D) Applicable to Counts Fourteen and  
Sixteen.**

a. **Intentional Killing.** The defendant intentionally killed John Dowery. Section 3591(a)(2)(A).

b. **Intentional Infliction of Serious Bodily Injury.** The defendant intentionally inflicted serious bodily injury that resulted in the death John Dowery. Section 3591(a)(2)(B).

c. **Intentional Act to Take Life or Use Lethal Force.** The defendant intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and John Dowery died as a direct result of the act. Section 3591(a)(2)(C).

d. **Intentional Act in Reckless Disregard for Life.** The defendant 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 a reckless disregard for human life and John Dowery died as a direct result of the act. Section 3591(a)(2)(D).

**B. Statutory Aggravating Factors Enumerated  
Under 18 U.S.C. § 3592(c) Applicable to Counts Fourteen and Sixteen.**

1. **Grave Risk of Death to Additional Persons.** During the commission of the charged offenses resulting in the death of John Dowery, the defendant created a grave risk of

death to an person who was seated near the victim at the time of his shooting. Section 3592(c)(5).

3. **Substantial Planning and Premeditation.** The defendant committed the charged offenses resulting in the death of John Dowery after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

**C. Statutory Aggravating Factors Enumerated  
Under 18 U.S.C. § 3592(c) Applicable to Count Fourteen.**

1. **Previous Conviction of Violent Felony Involving a Firearm.** The defendant has previously been convicted of a state offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm (as defined by 18 U.S.C. § 921) against another person, including at least the following: a 1992 conviction for robbery with a dangerous and deadly weapon and use of a handgun in a crime of violence for which he was sentenced to 12 years. Section 3592(c)(2).

**D. Other, Non-Statutory, Aggravating Factors Identified  
Under 18 U.S.C. § 3593(a)(2) Applicable to Counts Fourteen and Sixteen.**

1. **Victim Impact Evidence.** As evidenced by the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family and friends, the defendant caused injury, harm and loss to the victim and the victim's family and friends.

2. **Obstruction of Justice.** The victim, John Dowery, was killed in an effort by the defendant to obstruct justice, tamper with a witness, or in retaliation for cooperating with authorities. John Dowery was killed to prevent Dowery's testimony in the federal prosecution of Gilbert's drug organization.

3. **Pattern of Prior Convictions For Serious and Violent Offenses.** The defendant has engaged in a continuing pattern of serious and violent criminality including, at least, the crimes of which the defendant was previously convicted: an April 17, 2000 conviction

for handgun wear/carry for which he was sentenced to 3 years with 2 years, 9 months suspended and placed on 3 years probation; an August 28, 1992 conviction for robbery with dangerous and deadly weapon and use of handgun in crime of violence, for which he was sentenced to 12 years; and a November 12, 1991 conviction for theft for which he was sentenced to 2 years, with 1 year, 11 months suspended and placed on 2 years probation.

4. **Contemporaneous Convictions.** The defendant faces contemporaneous convictions for multiple murders and other serious offenses.

5. **Lack of Remorse.** The defendant has demonstrated a lack of remorse for his victims, including by making statements in which he proudly described his commission of murders and attempted murders and spoke callously about his victims.

### **COUNTS SEVEN AND NINE: THE MURDER OF SHANNON JEMMISON**

#### **A. Eligibility Factors Applicable To Counts Seven and Nine**

1. **Statutory Proportionality Factors Enumerated Under 18 U.S.C. § 3591(a)(2)(A)-(D) Applicable to Counts Seven and Nine.**

a. **Intentional Act to Take Life or Use Lethal Force.** The defendant intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and Shannon Jemmison died as a direct result of the act. Section 3591(a)(2)(C).

b. **Intentional Act in Reckless Disregard for Life.** The defendant 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 a reckless disregard for human life and Shannon Jemmison died as a direct result of the act. Section 3591(a)(2)(D).

**2. Statutory Aggravating Factors Enumerated Under 18 U.S.C. § 3592(c) Applicable to Counts Seven and Nine.**

a. **Grave Risk of Death to Additional Persons.** During the commission of the charged offense resulting in the death of Shannon Jemmison, the defendant created a grave risk of death to several people who were seated near the victim at the time of his shooting. Section 3592(c)(5).

b. **Procurement of Offense By Payment.** The defendant procured the commission of the offense resulting in the death of Shannon Jemmison, by payment, or promise of payment, of anything of pecuniary value. Section 3592(c)(7).

c. **Substantial Planning and Premeditation.** The defendant committed the charged offenses resulting in the death of Shannon Jemmison after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

**3. Statutory Aggravating Factors Enumerated Under 18 U.S.C. § 3592(c) Applicable to Count Seven.**

a. **Previous Conviction of Violent Felony Involving a Firearm.** The defendant has previously been convicted of a state offense punishable by a term of imprisonment of more than 1 year, involving the use or attempted or threatened use of a firearm (as defined by 18 U.S.C. § 921) against another person, including at least the following: a 1992 conviction for robbery with a dangerous and deadly weapon and use of a handgun in a crime of violence for which he was sentenced to 12 years. Section 3592(c)(2).

**4. Other, Non-Statutory, Aggravating Factors Identified Under 18 U.S.C. § 3593(a)(2) Applicable to Counts Seven and Nine.**

a. **Victim Impact Evidence.** As evidenced by the victim's personal characteristics as an individual human being and the impact of the death upon the victim's family and friends,

the defendant caused injury, harm and loss to the victim and the victim's family and friends.

b. **Pattern of Prior Convictions For Serious and Violent Offenses.** The defendant has engaged in a continuing pattern of serious and violent criminality including, at least, the crimes of which the defendant was previously convicted: an April 17, 2000 conviction for handgun wear/carry for which he was sentenced to 3 years with 2 years, 9 months suspended and placed on 3 years probation; an August 28, 1992 conviction for robbery with dangerous and deadly weapon and use of handgun in crime of violence, for which he was sentenced to 12 years; and a November 12, 1991 conviction for theft for which he was sentenced to 2 years, with 1 year, 11 months suspended and placed on 2 years probation.

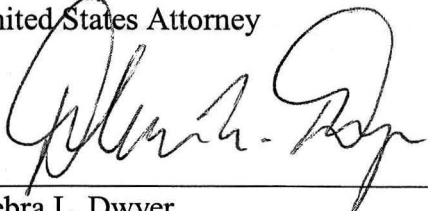
c. **Contemporaneous Convictions.** The defendant faces contemporaneous convictions for multiple murders and other serious offenses.

d. **Lack of Remorse.** The defendant has demonstrated a lack of remorse for his victims, including by making statements in which he proudly described his commission of murders and attempted murders and spoke callously about his victims.

Respectfully submitted,

Rod J. Rosenstein  
United States Attorney

By:

  
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Dated: January 25, 2008