

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

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UNITED STATES OF AMERICA, )  
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 Plaintiff, )  
 )  
 v. ) No. 4:97CR141 ERW (TCM)  
 )  
 NORRIS G. HOLDER and )  
 BILLIE JEROME ALLEN, )  
 )  
 Defendants. )

**GOVERNMENT'S NOTICE OF INTENT TO SEEK THE  
DEATH PENALTY AGAINST DEFENDANT ALLEN**

COMES NOW the United States of America, by and through its attorneys, Edward L. Dowd, Jr., United States Attorney for the Eastern District of Missouri, and Joseph M. Landolt, Assistant United States Attorney for said District, and pursuant to 18 U.S.C. § 3593(a) notifies the Court and Defendant Allen that the Government believes that the circumstances of the offenses charged in the indictment are such that, in the event of a conviction, a sentence of death is justified under Chapter 228 (Sections 3591-3598) of Title 18 of the United States Code, and that the Government will seek the sentence of death for the offenses of: Count I, bank robbery resulting in the death of Richard Heflin, in violation of 18 U.S.C. §§ 2, 2113(a) and (e), which carries a possible sentence of death, and; Count II, use of a firearm during and in relation to a federal crime of violence resulting in the murder of Richard Heflin, in violation of 18 U.S.C. §§ 2, 924(c)(1) and (j)(1), which carries a possible sentence of death.

The Government proposes to prove the following factors as justifying a sentence of death:

A. Statutory Proportionality Factors Enumerated Under 18 U.S.C. § 3591(a)(2)(A) through (D)

1. **Intentional Killing.** The Defendant intentionally killed Richard Heflin. Section 3591(a)(2)(A). ✓

2. **Intentional Infliction of Serious Bodily Injury.** The Defendant intentionally inflicted serious bodily injury that resulted in the death of Richard Heflin. Section 3591(a)(2)(B). ✓

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

4. **Intentional Act of Violence Which Created a Grave Risk of Death.** 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 Richard Heflin 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)

1. **Grave Risk of Death to Additional Persons.** The Defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense. Section 3592(c)(5).

2. **Heinous, Cruel, or Depraved Manner of Committing Offense.** The Defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to Richard Heflin. Section 3592(c)(6).

3. **Commission of the Offense for Pecuniary Gain.** The Defendant committed the

3. **Commission of the Offense for Pecuniary Gain.** The Defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. Section 3592(c)(8).

4. **Substantial Planning and Premeditation.** The Defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism. Section 3592(c)(9).

5. **Multiple Killings or Attempted Killings.** The Defendant intentionally killed or attempted to kill more than one person in a single criminal episode. Section 3592(c)(16).

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

1. **Vileness of the Crime.** The Defendant's conduct in committing the offenses was substantially greater in degree than that described in the definition of the crimes, apart from the statutory aggravating factors. Smith v. Commonwealth, 248 S.E.2d 135 (1978), cert. denied, 441 U.S. 961 (1979).<sup>1</sup>

2. **Future Dangerousness of the Defendant.** The Defendant is likely to commit criminal acts of violence in the future which would be a continuing and serious threat to society. Simmons v. South Carolina, 114 S. Ct. 2187, 2193 (1994).

a) **Specific Threats of Violence.** The Defendant has threatened to commit other acts of violence, in addition to the capital offenses committed in this case and the statutory factors alleged in this Notice. The Government will provide Defendant with specific information regarding these threats of violence.

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<sup>1</sup> This factor will only be submitted to the jury in the alternative to the statutory aggravating factor set forth in paragraph B(2), "heinous, cruel, or depraved manner of committing the offense," pursuant to 18 U.S.C. § 3592(c)(6), or in the event that the § 3592(c)(6) statutory aggravating factor is not submitted to the jury.

b) Low Rehabilitative Potential. Efforts to rehabilitate and/or deter the Defendant from criminal conduct have failed, as evidenced by, among other things, the fact that Defendant was being supervised by the Missouri Board of Probation and Parole for a previous offense at the time of Defendant's commission of the capital offenses in this case.

c) Lack of Remorse. The Defendant has demonstrated a lack of remorse for the capital offenses committed in this case, by statements and/or actions.

3. **Other Criminal Activity**. The Defendant has committed, attempted to commit, and/or threatened to commit other criminal acts, in addition to the capital offenses committed in this case and the statutory factors alleged in this Notice, including but not limited to one or more of the following:

a) The Defendant committed the felony of tampering in the first degree on or about the 10th day of April 1995, in the City of St. Louis, as set out more fully in St. Louis Metropolitan Police Department Complaint No. 95-050849 and the records of the Circuit Court for the City of St. Louis, Missouri, in the matter of State of Missouri v. Billie J. Allen, Cause No. 951-0001280.

b) The Defendant committed the felony crime of tampering in the first degree on or about October 2, 1995, as more fully described in St. Louis Metropolitan Police Department Complaint No. 95-14694.

4. **Victim Impact Evidence**. Richard Heflin's personal characteristics as an individual human being and/or the impact of the death of Richard Heflin upon his family. Payne v. Tennessee, 111 S. Ct. 2597, 2608-09 (1991).

a) Characteristics. Mr. Heflin's personal characteristics as an individual human being include but are not limited to one or more of the following:

i) Mr. Heflin was a decorated veteran of the Vietnam War.

ii) Mr. Heflin was former member of the Caseyville, Illinois Police Department.

iii) Mr. Heflin was a loyal and valued employee of Lindell Bank & Trust Company.

iv) Mr. Heflin had a lively sense of humor, was a well-liked friend and coworker and was a valuable member of society.

b) Impact of Death. Mr. Heflin's family has suffered injury and loss, as a result of his death, including but not limited to one or more of the following:

i) Mr. Heflin was the loving and caring father of three children: Jason Heflin, 22 years of age; Richard Heflin, III, 17 years of age; and Justin Heflin, 14 years of age. Each of Mr. Heflin's children miss his love, affection, guidance, companionship, and support.

ii) Mr. Heflin was the loving and caring husband of Dana Heflin whom he married in 1996. Dana Heflin misses his love, affection, companionship, and support.

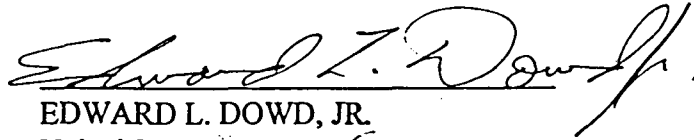
iii) Richard Heflin provided financial support for his former wife, Susan Heflin, who is now without that support.

iv) Richard Heflin was the loving and caring son of Mr. and Mrs. Richard Heflin, Sr. Mr. Heflin's parents miss his love, affection, and companionship.

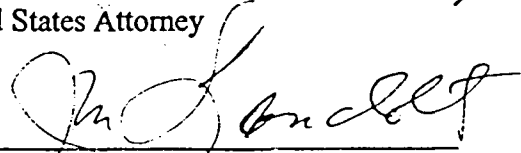
v) Mr. Heflin was the loving and caring brother of Gina Heflin, Sherry Holmes,

Donna Hawks, Michael Heflin, and Glen Heflin. Mr. Heflin's siblings miss his love, affection, and companionship.

Respectfully submitted,



EDWARD L. DOWD, JR.  
United States Attorney



JOSEPH M. LANDOLT (#6484)  
Assistant United States Attorney

8/8/97  
Date

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the above and foregoing was mailed this 8th day of August 1997, postage prepaid United States Mail first class to:

Richard Sindel  
Attorney for Defendant Allen  
8008 Carondelet, Suite 301  
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and

Charles M. Shaw  
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222 S. Meramec  
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ASSISTANT UNITED STATES ATTORNEY