

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

UNITED STATES OF AMERICA *
*
V. * NO. 1:07-CR- 142
* Judge Heartfield
MICHAEL BACOTE *

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 Texas, and pursuant to Title 18, United States Code, Section 3593(a), and files this Notice of Intent to Seek the Death Penalty, notifying the Court and the Defendant, **MICHAEL BACOTE**, that in the event the Defendant is convicted of the offense of murder as alleged in Count 1 of the Indictment in this case, the Government believes a sentence of death is justified, and the Government will seek a sentence of death under Count 1.

If the Defendant is convicted, the Government intends to prove the following aggravating factors as the basis for imposition of the death penalty under Count 1.

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

1. **MICHAEL BACOTE** was 18 years of age or older at the time of the offense. (18 U.S.C. § 3591(a));

2. **MICHAEL BACOTE** intentionally participated in an act, contemplating that the life of Keith Barnes would be taken or intending that lethal force would be used in connection with Keith Barnes, a person other than a participant in the offense, and Keith Barnes died as a direct result of the act (18 U.S.C. § 3591(a)(2)(C)).

3. **MICHAEL BACOTE** intentionally and specifically engaged in an act of violence that **MICHAEL BACOTE** knew would create a grave risk of death to Keith Barnes, a person other than a participant in the offense, such that **MICHAEL BACOTE's** participation in the act constituted a reckless disregard for human life, and Keith Barnes 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. **MICHAEL BACOTE** has previously been convicted of a Federal or 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 March 23, 1995, **MICHAEL BACOTE** was convicted in the Superior Court of the District of Columbia of: three counts of Armed Robbery and three counts of Possession of a Firearm during a Crime of Violence or Dangerous Offense. (18 U.S.C. § 3592(c)(2));

2. **MICHAEL BACOTE** committed the offense described in Count 1 of the Indictment after substantial planning and premeditation to cause the death of a person. (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**

MICHAEL BACOTE's motive for killing Keith Barnes and committing the offense described in Count 1 of the Indictment was Barnes' past cooperation and testimony in the prosecution of Barnes' co-defendants; and

2. FUTURE DANGEROUSNESS

MICHAEL BACOTE 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

MICHAEL BACOTE has engaged in a continuing pattern of violence, attempted violence, and threatened violence, including, at least, the crimes alleged against defendant in the Indictment and the crimes of which the defendant was previously convicted, as described in ¶B.1 of this Notice; and

b. Institutional Misconduct

MICHAEL BACOTE poses a future danger to the lives and safety of other persons, as demonstrated by his repeated acts of institutional misconduct while in the custody of various state and local correction or detention agencies, the United States Bureau of Prisons, or United States Marshal's Service.

The Government 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 Indictment as they relate to the background and character of the defendant, **MICHAEL BACOTE**, his moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

Respectfully submitted,

JOHN L. RATCLIFFE
UNITED STATES ATTORNEY

/s/
JOSEPH R. BATTE
ASSISTANT U. S. ATTORNEY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been furnished to Gerald Bourque and David Cunningham, Attorneys for Defendant Michael Bacote, via electronic transmission on this the 11th day of September, 2007.

/s/
Joseph R. Batte
Assistant U.S. Attorney