

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA) CRIMINAL NO. 03-836 (JAP)
)
 v.) GOVERNMENT'S NOTICE OF INTENT TO
) SEEK THE DEATH PENALTY AGAINST
 WILLIAM BASKERVILLE) DEFENDANT WILLIAM BASKERVILLE
 _____)

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

The United States of America, pursuant to Title 18, United States Code, Section 3593(a), notifies the Court and defendant WILLIAM BASKERVILLE (the "defendant"), that the government believes the circumstances of the offenses charged in Counts One and Two of the Superseding Indictment are such that, in the event of a conviction, 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 the following offenses: (1) conspiracy to tamper with a witness, resulting in the death of Kemo Deshawn McCray, contrary to Title 18, United States Code, Sections 1512(a)(1)(A) and (a)(3)(A), in violation of Title 18, United States Code, Section 1512(k) [Count One]; and conspiracy to retaliate against an informant, resulting in the death of Kemo Deshawn McCray, contrary to Title 18, United States Code, Sections 1513(a)(1)(B) and (a)(2)(A), in violation of Title 18, United States Code, Section 1513(e), [Count Two], both of which carry 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)-(D)

The following statutory proportionality factors apply to Counts One and Two:

1. **Intentionally Killing the Victim**

The defendant conspired to intentionally kill Kemo Deshawn McCray [Counts One and Two]. 18 U.S.C. § 3591(a)(2)(A).

2. **Intentionally Inflicted Serious Bodily Injury that Resulted in the Death of the Victim**

The defendant conspired to intentionally inflict serious bodily injury that resulted in the death of Kemo Deshawn McCray [Counts One and Two]. 18 U.S.C. § 3591(a)(2)(B).

3. **Intentional Acts to Take Life or Use Lethal Force**

The defendant intentionally participated in an act, specifically a conspiracy to murder Kemo Deshawn McCray, 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 Kemo Deshawn McCray died as a direct result of the act [Counts One and Two]. 18 U.S.C. § 3591(a)(2)(C).

4. **Intentionally and Specifically Engaged in an Act of Violence Creating a Grave Risk of Death**

The defendant intentionally and specifically engaged in an act of violence, specifically, a conspiracy to murder Kemo Deshawn McCray, 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 Kemo Deshawn McCray died as a direct result of the act [Counts One and Two]. 18 U.S.C. § 3591(a)(2)(D).

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

The following statutory aggravating factors apply to Counts One and Two:

1. **Previous Conviction of Violent Felony Involving a Firearm**

The Statute states that this aggravating factor applies if "the defendant has previously been convicted of a Federal or 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 in section 921) against another person." 18 U.S.C. § 3592(c)(2). On April 27, 1987, the defendant pled guilty to First Degree Robbery (robbery armed with a handgun) in violation of N.J.S. 2C:15-1 and related charges. On May 29, 1987, the defendant was sentenced. First Degree Robbery is a felony that is punishable by a term of imprisonment in excess of one year. The armed robbery conviction qualifies as a violent felony offense involving the use, attempted or threatened use of a firearm against another person.

2. Substantial Planning and Premeditation

The circumstances of the murder involved substantial planning and premeditation to cause the death of Kemo Deshawn McCray.

3. Conviction for Two Felony Drug Offenses

The Statute states this factor applies if "[t]he defendant has previously been convicted of 2 or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance." 18 U.S.C. § 3592(c)(10).

On May 18, 1992, the defendant pled guilty to Possession of a Controlled Dangerous Substance With Intent to Distribute in violation of N.J.S. 2C:35-5. On September 22, 1992, the defendant was sentenced.

On May 24, 1996, the defendant pled guilty to Possession of a Controlled Dangerous Substance With Intent to Distribute within 1000 feet of a School Zone in violation of N.J.S. 2C:35-7 and Distributing a Controlled Dangerous Substance within 1000 feet of a School Zone in violation of N.J.S. 2C:35-7. On July 30, 1996, the defendant was sentenced.

Each of the above offenses are punishable by a term of imprisonment of more than one year. Each of the above offenses involved the distribution of controlled substances. Those

offenses were committed on different occasions.

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

The following non-statutory aggravating factors apply to Counts One and Two:

1. **Obstruction of Justice**

The motive for the murder was to eliminate the principal witness against the defendant in the federal narcotics conspiracy charge pending against the defendant. An additional motive was to retaliate against Kemo Deshawn McCray for cooperating with law enforcement in the prosecution.

2. **Future Dangerousness**

Given the nature of the charges, it is likely that the defendant will attempt to retaliate against any individuals who cooperate with the government in connection with the murder charges. The defendant has demonstrated a lack of remorse for the capital offenses committed in this case, as indicated by statements made by the defendant during the course of and following the offenses alleged in the Superseding Indictment and the defendant's actions during the course of and following the offenses alleged in the Superseding Indictment.

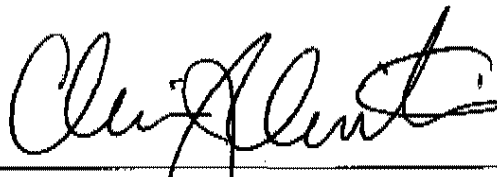
3. **Victim Impact Evidence**

The victim is survived by his mother, his step-father and his 4 year old son. Kemo Deshawn McCray was murdered in front of

his step father.

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 Superseding Indictment as they relate to the background and character of the defendant, WILLIAM BASKERVILLE, his moral culpability, and the nature and circumstances of the offenses charged in the Superseding Indictment.

Respectfully submitted,



CHRISTOPHER J. CHRISTIE
UNITED STATES ATTORNEY

DATE: June 16, 2006