

**ORIGINAL**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

FILED IN CLERK  
U.S. DISTRICT COURT

AUG 2 1995

LUTHER B. ...  
BY: *[Signature]*

UNITED STATES OF AMERICA,

v.

ANTHONY GEORGE BATTLE,

Defendant

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\*  
\*  
\*  
\*  
\*

CRIMINAL NO. 1:95-CR-528

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW the United States of America, by and through Kent B. Alexander, United States Attorney, and Katherine B. Monahan, Assistant United States Attorney, pursuant to 18 U.S.C. § 3593(a), and notifies the Court, the defendant ANTHONY GEORGE BATTLE, and the defendant's counsel, that in the event that this defendant is convicted of the murder of D'Antonio Washington, in violation of 18 U.S.C. § 1118, the Government will seek the sentence of death for ANTHONY GEORGE BATTLE.

As the basis for the imposition of the death penalty against ANTHONY GEORGE BATTLE, the United States will seek to prove one or more of the aggravating factors listed below.

I. Aggravating Factors Enumerated Under 18 U.S.C. § 3591(a):

1. The defendant intentionally killed the victim (18 U.S.C. § 3591(a)(2)(A));

2. The defendant intentionally inflicted serious bodily injury which resulted in the death of the victim (18 U.S.C. § 3591 (a)(2)(B));

3. The defendant intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be employed against the victim, which resulted in the death of the victim (18 U.S.C. § 3591(a)(2)(C));

4. The defendant intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, such that the act constituted a reckless disregard for human life and that resulted in the death of the victim (18 U.S.C. § 3591(a)(2)(D));

## II. Aggravating Factors Enumerated under 18 U.S.C.

### §3592(c)(1):

1. The defendant committed the offense while serving a life sentence in a federal penal institution (18 U.S.C. §1118).

2. The defendant killed a federal correctional officer (18 U.S.C. §1114).

## III. Other Aggravating Factors Identified under 18 U.S.C. §

### 3592(c):

1. The defendant committed the offense of murder after previously having been convicted of another offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute (18 U.S.C. §3592(c)(3)).

2. The defendant committed the offense in an especially heinous, cruel or depraved manner in that it involved serious physical abuse to the victim. (18 U.S.C. §3592(c)(6)).

3. The defendant murdered an employee of a United States penal or correctional institution while the employee was engaged in the performance of his duties; (18 U.S.C. § 3592(c)(14)(D)(I)); and because of the performance of his duties. (18 U.S.C. § 3592(c)(14)(D)(ii)).

IV. Non-Statutory Aggravating Factors:

1. The defendant has a low potential for rehabilitation, and therefore has the potential for future dangerousness to the lives and safety of other persons, as evidenced by one or more of the following:

a. The defendant has a lack of remorse for his participation in this murder, as demonstrated by a continued pattern of escalating violent criminal behavior, and the defendant's own statements.

b. The Government will present information that defendant Battle engaged in other assaultive behavior while in the custody of the Bureau of Prisons. For example, on or about August 5, 1989, the defendant, Battle, while in custody at FCI-Butner, assaulted another inmate with a metal walking cane by hitting the inmate over the head and shoulders with the cane, resulting in injury. Further, on or about April 24, 1995, while in custody at FCI-Talladega, defendant Battle assaulted a staff member with a homemade weapon, a combination of a wire and an eating utensil, by

striking the staff member about the head and shoulder with the implement, causing injury. The attack was unprovoked. Also, on or about April 29, 1995, while in custody at FCI-Talladega, the defendant Battle assaulted two staff officers by throwing hot coffee on them while Battle was being served breakfast. The attack was unprovoked.

c. The defendant caused harm to the family of victim D'Antonio Washington as a result of the impact of the killing.

Respectfully submitted, this 26th day of July, 1996.



KENT B. ALEXANDER  
UNITED STATES ATTORNEY



KATHERINE B. MONAHAN  
ASSISTANT UNITED STATES ATTORNEY

75 Spring Street  
1800 United States Courthouse  
Atlanta, Georgia 30335  
(404) 581-6049

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

John R. Martin  
Martin Brothers, P.C.  
500 The Grant Building  
44 Broad Street, S.W.  
Atlanta, GA 30303

Stephanie Kearns  
Federal Defender Program, Inc.  
Suite 3512, 101 Marietta Tower  
Atlanta, GA 30303

This 26th day of July, 1996.

  
KATHERINE B. MONAHAN  
ASSISTANT UNITED STATES ATTORNEY

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA :  
 :  
 v. : CRIMINAL ACTION  
 : NO. 1:95-CR-528  
 :  
 ANTHONY GEORGE BATTLE :

AMENDMENT TO NOTICE OF INTENTION  
TO SEEK DEATH PENALTY

Comes now the United States by and through counsel Kent Alexander, United States Attorney, and Janice K. Jenkins and William L. McKinnon, Jr., Assistant United States Attorneys, for the Northern District of Georgia, and hereby submits the following Amendment to its Notice of Intention to Seek Death Penalty.

Section IV.(1)(b) is hereby amended to include the following examples of assaultive behavior engaged in by defendant: on or about December 30, 1996, the defendant assaulted a jailer at the Paulding County Jail by attempting to stab him with a sharpened pencil; on or about April 25, 1995, the defendnat possessed a sharpened instrument, that is a toothbrush handle that had been fashioned into a point, at FCI-Talladega; in 1986 at various times the defendnat engaged in fights at "shot houses" in Edgecombe County, North Carolina and assaulted unnamed individuals with some sort of iron tool or bar; on or about December 31, 1986, the defendant assaulted Bernard Pittman; on or about December 31, 1986,

defendant threatened members of Minnie Foreman's family by beating the door to their residence with an iron chair and by attempting to locate a shotgun; on or about March 7, 1987, the defendant did assault Minnie Foreman and others by threatening them with a shotgun, discharging the shotgun, and fighting with Minnie Foreman and Ralph Foreman.

Respectfully submitted,

KENT B. ALEXANDER  
UNITED STATES ATTORNEY

JANICE K. JENKINS  
ASSISTANT UNITED STATES ATTORNEY

*William L. McKinnon, Jr.*

WILLIAM L. MCKINNON, JR.  
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Atlanta, Georgia 30335  
404/581-6046  
Georgia Bar No. 495812

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

MAR 20 1997

LUTHER D. THOMAS, CLERK

By:

Deputy Clerk

UNITED STATES OF AMERICA :  
vs. : CRIMINAL ACTION  
ANTHONY GEORGE BATTLE : NO. 1:95-CR-528-ODE  
:

SPECIAL FINDINGS

INITIAL FINDING

Does the jury unanimously find beyond a reasonable doubt that at least one of the following applies in this case?

(A) The Defendant, Anthony George Battle, intentionally killed the victim, D'Antonio Washington

(B) The Defendant intentionally inflicted serious bodily injury that resulted in the death of the victim

(C) The Defendant intentionally and specifically engaged in conduct intending that the life of a person would be taken or that lethal force would be used, and the victim died as a result of the act.

Yes  No

**NOTE: IF YOUR ANSWER IS "NO," PROCEED NO FURTHER. GO TO THE END OF THE FORM AND SIGN IT. IF YOUR ANSWER IS "YES," GO ON TO THE NEXT SECTION.**



**FINDINGS WITH RESPECT TO AGGRAVATING AND MITIGATING FACTORS**

**Aggravating Factors**

1. Does the jury unanimously find beyond a reasonable doubt that the Defendant was previously convicted of another federal or state offense resulting in the death of a person, for which either a sentence of life imprisonment or a sentence of death was authorized?

Yes ✓ No       

2. Does the jury unanimously find beyond a reasonable doubt that the Defendant committed the instant offense in an especially heinous, cruel or depraved manner in that it involved serious physical abuse to the victim?

Yes ✓ No       

3. Does the jury unanimously find beyond a reasonable doubt that the Defendant murdered an employee of a United States penal or correctional institution while the employee was engaged in the performance of his duties?

Yes ✓ No       

**NOTE: IF YOU HAVE ANSWERED "NO" TO ALL OF QUESTIONS 1, 2 AND 3 ON THIS PAGE, PROCEED NO FURTHER. GO TO THE END OF THE FORM AND SIGN IT. IF ANY OR ALL OF QUESTIONS 1, 2 AND 3 HAVE BEEN ANSWERED "YES," GO TO THE NEXT QUESTION.**

4. Does the jury unanimously find beyond a reasonable doubt that the Defendant has a low potential for rehabilitation and that he is a danger to the lives and safety of other persons?

Yes ✓ No       

5. Does the jury unanimously find beyond a reasonable doubt that the Defendant caused harm to the family of D'Antonio Washington as a result of the killing?

Yes ✓ No

**Mitigating Factors**

1. Do one or more members of the jury find by a preponderance of the evidence that the Defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, even though not so impaired as to constitute a defense to the charge?

Yes  No

2. Do one or more members of the jury find by a preponderance of the evidence that the Defendant committed the offense under severe mental or emotional disturbance?

Yes  No

3. Do one or more members of the jury find by a preponderance of the evidence that the Defendant was under unusual or substantial duress, even though not of such a degree as to constitute a defense to the charge?

Yes  No

4. Do one or more members of the jury find by a preponderance of the evidence that there are factors in the Defendant's background, record, or character that weigh against imposition of the death penalty?

Yes  No

5. Do one or more members of the jury find by a preponderance of the evidence that any circumstance of the offense not previously mentioned weighs against imposition of the death penalty?

Yes  No

If yes, specify such circumstance(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. Do one or more members of the jury find by a preponderance of the evidence that there is/are any mitigating circumstance(s) not specifically set forth?

Yes \_\_\_\_\_ No ✓

If yes, specify any such factor(s) \_\_\_\_\_

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UNDERSTANDING

We understand that we are to consider whether the aggravating factors unanimously found by us to exist sufficiently outweigh any mitigating factor or factors found to exist to justify a sentence of death, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. We also understand that a finding with respect to a mitigating factor may be made by any one or more of the members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of his or her weighing of the aggravating factors and mitigating factors regardless of the number of jurors who concur that the factor has been established. We also understand that a jury is never required to impose a death sentence and that a sentence of death cannot be imposed except by unanimous vote.

SENTENCING DETERMINATION

We the jury have unanimously determined that the death penalty should be imposed. (Note that if any members of the jury do not find that the death penalty should be imposed, you would check "No" and a nonparoleable life sentence would be imposed.)

YES

NO

Jennifer Citta  
FOREPERSON  
Alvin F. Belcher  
Debra D. Hunt  
Linda Weldon  
Jawanya Collins  
Kurtis Scofield

Bertie Day  
Kenneth A. Fields  
Jan  
Julia L. McQueen  
Nichelle Spin  
Barbara L. Jones

CERTIFICATE

By signing below, each of us individually hereby certifies that consideration of the race, color, religious beliefs, national origin or sex of Defendant Anthony George Battle and of the victim D'Antonio Washington were not involved in reaching our respective individual decisions. Each of us further individually certifies that the same determination regarding the sentence for the crime in question would have been made no matter what the race, color, religious beliefs, national origin or sex of Defendant Anthony George Battle and of D'Antonio Washington.

Jennifer Citta  
FOREPERSON  
Alvin F. Belcher  
Debra D. Hunt  
Linda Weldon  
Jawanya Collins  
Kurtis Scofield

Bertie Day  
Kenneth A. Fields  
Jan  
Julia L. McQueen  
Nichelle Spin  
Barbara L. Jones

DATE March 20, 1997