

COUNT TEN

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

1. **Intentional Killing.** The defendant intentionally killed Dontrell Wilcher. 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 Dontrell Wilcher. Section 3591(a) (2) (B).

3. **Intentional Acts 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 Dontrell Wilcher died as a direct result of the act. Section 3591(a) (2) (C).

4. **Intentional Acts 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 Dontrell Wilcher 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. **Death During Commission of Another Crime.**

Not applicable.

2. **Previous Conviction of Violent Felony Involving**

Firearm. The defendant plead guilty to Criminal Reckless, a Class D Felony, which involved the use a firearm in State of Indiana v. Jason Best, cause number 45G01-9509-00198. The offense involved the defendant admitting he used a firearm.

3. **Previous Conviction of Offense for Which a**

Sentence of Death or Life Imprisonment was Authorized. Not applicable.

4. **Previous Conviction of Other Serious Offenses.** The

defendant was convicted of Possession of Cocaine, a Class C Felony, in State of Indiana vs. Jason Best, cause number 45G03-9412-CF-00314 in Lake County, Indiana.

5. **Grave Risk of Death to Additional Persons.** Not

applicable.

6. **Heinous, Cruel, or Depraved Manner of Committing**

Offense. Not applicable.

7. **Procurement of Offense by Payment.** The defendant

paid an accomplice to lure the victim to the murder scene.

8. **Pecuniary Gain.** Not applicable.

9. **Substantial Planning and Premeditation.** The

defendant solicited others over a period of time to commit the murder.

10. Conviction for Two Felony Drug Offenses. Not applicable.
11. Vulnerability of Victim. Not applicable.
12. Conviction for Serious Federal Drug Offenses. Not applicable.
13. Continuing Criminal Enterprise Involving Drug Sales to Minors. Not applicable.
14. High Public Officials. Not applicable.
15. Prior Conviction of Sexual Assault or Child Molestation. Not applicable.
16. Multiple Killings or Attempted Killings. Not applicable.

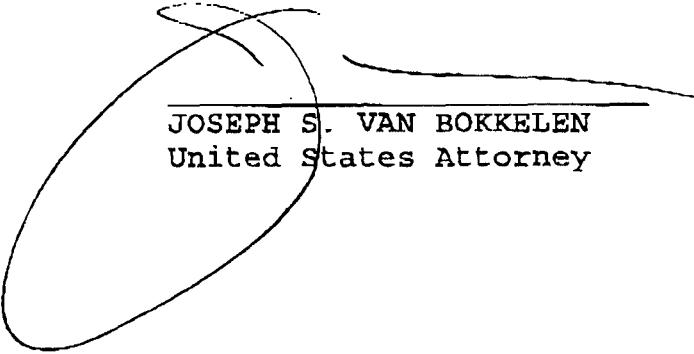
C. Other, Non-Statutory, Aggravating Factors Identified under 18 U.S.C. § 3593(a)(2).

1. 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 the lives and safety of others. Simmons v. South Carolina, 114 S.Ct. 2187, 2193 (1994).
2. Vileness of the Crime. Not applicable.
3. Victim Impact Evidence. Dontrell Wilcher was the

father and supporter of four minor children. Linda Wilcher, mother of Dontrell Wilcher, continues to be extremely distraught over the death of her son.

4. **Obstruction of Justice.** Not applicable.

Respectfully submitted,



JOSEPH S. VAN BOKKELEN
United States Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA)
)
 V.) CAUSE NO. 2:00 CR 171
)
JASON B. BEST)

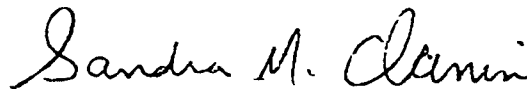
CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that they are an employee in the Office of the United States Attorney for the Northern District of Indiana and are a person of such age and discretion as to be competent to serve papers. That on October 10, 2001 a copy was served of the attached **NOTICE OF INTENT TO SEEK THE DEATH PENALTY** by placing said copy in a postpaid envelope addressed to the person(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last known address(es), and by depositing said envelope and contents in the United States Mail:

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