

Kevin Curran

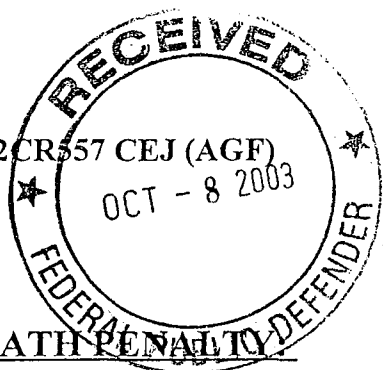
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U. S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) Case No. S1-4:02CR557 CEJ (AGF)
)
ROBERT L. BOLDEN, SR.,)
Defendant.)



NOTICE OF INTENT TO SEEK THE DEATH PENALTY
ROBERT L. BOLDEN, SR.

COMES NOW the United States of America, by and through its attorneys, Raymond W. Gruender, United States Attorney for the Eastern District of Missouri, and Steven E. Holtshouser and Michael A. Reilly, Assistant United States Attorneys for said District, and pursuant to Title 18, United States Code, Sections 3591-3593, notifies this Court and the defendant, Robert L. Bolden, Sr., and his counsel as follows:

I. Introduction

In the event the defendant, Robert L. Bolden, Sr., is convicted of any of the following offenses:

- A. The offense of attempting to take from the person and presence of another by force, violence and intimidation U.S. currency belonging to and in the care, custody, control, management and possession of the Bank of America, the deposits of which were then insured by the Federal Deposit Insurance Corporation, during the commission of which offense Robert L. Bolden, Sr. killed Nathan Ley, in violation of Title 18, United States Code, Sections 2113(a) and (e) and 2, as alleged in Count II of the Superseding Indictment in this case; or

B. The offense of knowingly using, carrying, brandishing and discharging a firearm during and in relation to a crime of violence, to wit: the attempted armed robbery of a bank as charged in Count II of the Superseding Indictment, and that in so doing defendant committed murder as defined in 18 U.S.C. §1111, that is, the unlawful killing of Nathan Ley with malice aforethought, such murder being willful, deliberate, malicious, premeditated and committed in the perpetration of an attempted robbery, in violation of Title 18, United States Code, Sections 924(c)(1), (j)(1) and 2, as alleged in Count III of the Superseding Indictment in this case;

the United States will seek a sentence of death.

The United States believes that the circumstances of the offenses set forth above are such that, if the defendant is convicted, a sentence of death is justified under Chapter 228 of Title 18, United States Code, and, in particular, Title 18, United States Code, Sections 3591 through 3593.

II. Statutory Proportionality Factors Relating to Intent Enumerated Under 18 U.S.C.

§§3591(a)(2)(A) through (D)

The United States of America may prove, at a hearing held pursuant to Title 18, United States Code, Section 3593, that:

A. Robert L. Bolden, Sr., was 18 years of age or older at the time of the offenses;

B. Intentional Killing: The defendant, Robert L. Bolden, Sr., on or about October 7, 2002, did intentionally kill Nathan Ley;

C. Intentional Infliction Of Serious Bodily Injury: The defendant, Robert L. Bolden, Sr., on or about October 7, 2002, did intentionally inflict serious bodily injury that resulted in the death of Nathan Ley;

D. Intentional Act To Take A Life Or Use Lethal Force: The defendant, Robert L. Bolden, Sr., on or about October 7, 2002, did intentionally participate in an act, to wit: shooting Nathan Ley with a firearm, Nathan Ley being a person other than one of the participants in the offense, contemplating that the life of Nathan Ley would be taken and intending that lethal force would be used in connection with Nathan Ley, and Nathan Ley died as a direct result of the act; and

E. Intentional Act Of Violence Which Created A Grave Risk of Death: The defendant, Robert L. Bolden, Sr., on or about October 7, 2002, did intentionally and specifically engage in an act of violence, to wit: shooting Nathan Ley with a firearm, knowing that the act created a grave risk of death to Nathan Ley and Nathan Ley being 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 Nathan Ley died as a direct result of the act.

III. Statutory Aggravating Factors For Homicide Enumerated Under 18 U.S.C. §3592(c)

The United States of America may prove one or all of the following statutory aggravating factors to justify a sentence of death:

A. Pecuniary Gain: (18 U.S.C. §3592(c)(8))

The evidence the United States may present in support of this factor includes, but is not limited to, the following:

The defendant, Robert L. Bolden, Sr., committed the offense as consideration for the receipt, and in the expectation of the receipt, of anything of pecuniary value. The evidence may establish that Robert L. Bolden, Sr. murdered Nathan Ley, because Nathan Ley was the security guard at the Bank of America and resisted Robert L. Bolden, Sr.'s attempt to rob the Bank of America. Robert L.

Bolden, Sr. committed the murder as consideration for the receipt and in the expectation of the receipt of the funds being held at the Bank of America.

B. Conviction For Two Felony Drug Offenses: (18 U.S.C. §3592(c)(10))

The evidence the United States may present in support of this factor includes, but is not limited to, the following:

The defendant, Robert L. Bolden, Sr., has previously been convicted of two (2) State offenses punishable by a term of imprisonment of more than one (1) year, committed on different occasions, involving the distribution of a controlled substance, to wit:

- 1) on or about October 27, 1993, in the Circuit Court of Kent County, Michigan in Cause Number 93-63555-FH, Attempt Possession With Intent to Deliver Cocaine, said offense being documented in Grand Rapids Police Department report number 93-86474; and
- 2) on or about May 30, 1995, in the Circuit Court of Kent County, Michigan in Cause Number 94-1644-FHB, Delivery of Cocaine, Less than 50 Grams, said offense being documented in Michigan State Police report number 7-3574-94.

IV. Other, Non-Statutory Aggravating Factors Pursuant to 18 U.S.C. §3593(a)(2)

The United States of America may prove one or all of the following non-statutory aggravating factors to justify a sentence of death:

A. Future Dangerousness of the Defendant:

The defendant, Robert L. Bolden, Sr., is likely to commit acts of violence in the future which would be a continuing and serious threat to the lives and safety of others and society. Simmons v.

South Carolina, 114 S.Ct. 2187, 2193 (1974).

The evidence the United States may present in support of this factor includes, but is not limited to, the following: In addition to the capital offense(s) charged in the indictment and the statutory and non-statutory aggravating factors alleged in this Notice, the Government may establish that prior and subsequent to the capital offense(s) in this case the defendant:

1. engaged in a continuing pattern of violent conduct;
2. threatened others with violence;
3. demonstrated low rehabilitative potential; and/or
4. demonstrated by his statements and/or actions a lack of sincere remorse for the capital offense(s) committed in this case.

The evidence that the United States may present in support of this factor, in addition to evidence presented during the guilt/innocence phase of the trial, includes, but is not limited to, the following:

1. The resisting and obstructing of a police officer by Robert L. Bolden, Sr., on or about January 15, 1993, in Kent County, Michigan, as more fully set out in Grand Rapids Police Department report 93-4159, and court documents from the Circuit Court of Kent County, Michigan, cause number 93-61231-FH.
2. The possession and attempted possession with intent to deliver cocaine by Robert L. Bolden, Sr., on or about September 9, 1993, in Kent County, Michigan, as more fully set out in Grand Rapids Police Department report number 93-86474, and court documents from the Circuit Court of Kent County, Michigan, cause number 93-63555-FH.

3. The conspiracy to deliver and delivery of cocaine by Robert L. Bolden, Sr., on or about June 8, 1994, in Kent County Michigan, as more fully set out in Michigan State Police report number 7-3574-94, and court documents from the Circuit Court of Kent County, Michigan, cause number 94-1644-FHB.
4. The conspiracy to deliver and delivery of cocaine by Robert L. Bolden, Sr., on or about June 8, 1994, in Kent County Michigan, as more fully set out in Michigan State Police report number 7-3574-94, and court documents from the Circuit Court of Kent County, Michigan, cause number 94-1644-FHB.
5. The assault with a dangerous weapon on Saleem Hamilton by Robert L. Bolden, Sr., on or about June 20, 1997, in Kent County, Michigan, as more fully set out in Grand Rapids Police Department report number 97068083, and in court documents from the 61st Judicial District of Michigan, Kent County, in cause number 97FY1552.
6. The assault of Marquita Decker by Robert L. Bolden, Sr., on or about July 15, 1999, in Hazelwood, Missouri, as more fully set out in Hazelwood Police Department report number 99-4207.
7. The receipt of fraudulent overpayment of unemployment benefits from the Missouri Department of Labor and Industrial Relations, Division of Employment Security, by Robert L. Bolden, Sr., between July and November, 1999, as more fully set out in the records of H & G Sales, Inc., and the Missouri Department of Labor and Industrial Relations, Division of Employment Security.

8. The hindering and opposing, driving while suspended, and reckless driving by Robert L. Bolden, Sr., on or about December 8, 1999, in Wyoming, Michigan.

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9. The deceptive representations made by Robert L. Bolden, Sr., to his employer, H & G, Sales, Inc., and his landlord during the years 2001 and 2002, to obtain United States currency, services, and/or rent, based upon said representations.

B. Obstruction of Justice:

The evidence the United States may present in support of this factor includes, but is not limited to, the following:

The defendant, Robert L. Bolden, Sr., killed and caused the death of the victim, Nathan Ley, in an effort to obstruct justice, that is, to prevent the victim, Nathan Ley, from testifying against Robert L. Bolden, Sr., in any criminal prosecution of Robert L. Bolden, Sr., for a crime or crimes committed by Robert L. Bolden, Sr. The evidence may show that Robert L. Bolden, Sr., to insure the achievement of this obstruction of justice, shot Nathan Ley twice at close range.

C. Other Criminal Activity:

The defendant, Robert L. Bolden, Sr., has committed, attempted to commit, and/or threatened to commit other criminal acts, in addition to the capital offense(s) committed by him in this case and the statutory factors alleged in this Notice, including but not limited to, one or more of the following:

duplex
1. The resisting and obstructing of a police officer by Robert L. Bolden, Sr., on or about January 15, 1993, in Kent County, Michigan, as more fully set out in Grand Rapids Police Department report 93-4159, and court documents from the Circuit Court of Kent County, Michigan, cause number 93-61231-FH.

2. The possession and attempted possession with intent to deliver cocaine by Robert L. Bolden, Sr., on or about September 9, 1993, in Kent County, Michigan, as more fully set out in Grand Rapids Police Department report number 93-86474, and court documents from the Circuit Court of Kent County, Michigan, cause number 93-63555-FH.
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Missouri Department of Labor and Industrial Relations, Division of Employment Security, by Robert L. Bolden, Sr., between July and November, 1999, as more fully set out in the records of H & G Sales, Inc., and the Missouri Department of Labor and Industrial Relations, Division of Employment Security.

8. The hindering and opposing, driving while suspended, and reckless driving by Robert L. Bolden, Sr., on or about December 8, 1999, in Wyoming, Michigan.
9. The deceptive representations made by Robert L. Bolden, Sr., to his employer, H & G, Sales, Inc., and his landlord during the years 2001 and 2002, to obtain United States currency, services, and/or rent, based upon said representations.

D. Victim Impact Evidence:

The evidence the United States may present in support of this factor includes, but is not limited to, the following:

The victim, Nathan Ley, possessed numerous positive personal characteristics and the instant offense(s) have had an adverse effect on Nathan Ley, Nathan Ley's family and Nathan Ley's friends and acquaintances. 18 U.S.C. §3593(a); Payne v. Tennessee, 501 U.S. 808, 825-30(1991). Specifically, the United States of America may show, among other facts, that the commission of the instant offenses caused emotional injury and anguish to Nathan Ley, and emotional injury, anguish, sorrow and loss to his family and friends. Evidence in support of this circumstance will include victim impact statements, testimony of Nathan Ley's family, friends and acquaintances, and physical, photographic and videotape evidence which sets forth the character of Nathan Ley, and the

nature, extent and scope of the injury suffered by Nathan Ley, his family and friends.

1. **Characteristics:** The positive personal characteristics possessed by Nathan Ley,

as an individual human being that may be established by the evidence include, but are not limited to, the following:

a) He was a loving, appreciative and caring grandson, son, brother, nephew, cousin and fiancé;

b) He was a loyal and good friend;

c) He was an intelligent, dedicated, and hard-working law enforcement officer;

d) He was cheerful, happy, kind, courteous,

e) He helped and brought comfort to his family and friends;

f) He was talented and generous with his talents;

g) He was responsible, trustworthy, honest and truthful;

h) He was religious, spiritual, prayerful, attended church and believed in God; and

i) He was ambitious and hopeful about his future.

2. **Impact Of Death:** Nathan Ley's family, friends and acquaintances have suffered injury and loss as a result of his death, including but not limited to one or more of the following:

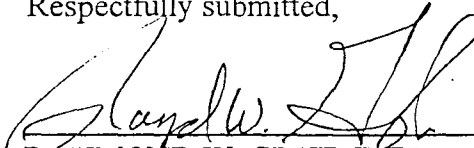
a) Nathan Ley was the loving and caring son of his mother, Linda Ley, and his father, Thomas Ley. Mr. and Mrs. Ley miss Nathan Ley's love and affection and have suffered emotional injury and trauma as a result of his violent death.

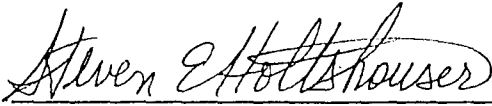
- b) Nathan Ley was the loving and caring brother of Clint Ley. Clint Ley misses the love, affection and companionship of Nathan Ley and has suffered emotional injury and trauma as a result of his violent death.
- c) Nathan Ley was the loving and caring fiancé of Katie Rhodes. Ms. Rhodes misses the love, affection and companionship of Nathan Ley and has suffered emotional injury and trauma as a result of his violent death. Ms. Rhodes hopes and dreams for the future were invested in Nathan Ley.
- d) Nathan Ley was the loving and caring grandson of three (3) living grandparents. Nathan Ley's grandparents miss his love and affection and have suffered emotional injury and trauma as a result of his violent death.
- e) Nathan Ley was the loving and caring nephew of Sgt. Andrew Ley, Missouri Highway Patrol. Sgt. Ley misses Nathan Ley's love and affection and has suffered emotional injury and trauma as a result of his violent death.
- f) Nathan Ley was the loving and caring future son-in-law of Mr. and Mrs. Rhodes. Mr. and Mrs. Rhodes miss Nathan Ley's love and affection and have suffered emotional injury and trauma as a result of his violent death.

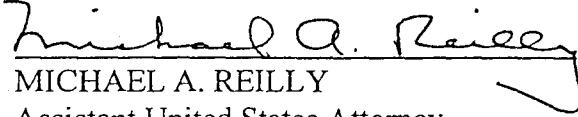
The Government further gives notice that in support of imposition of the death penalty it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the

nature of the offenses alleged in the Indictment as they relate to the background and character of the defendant, Robert L. Bolden, Sr., and his moral culpability.

Respectfully submitted,


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United States Attorney


STEVEN E. HOLTSHOUSER
Assistant United States Attorney


MICHAEL A. REILLY
Assistant United States Attorney

Certificate of Service

A copy of the foregoing mailed to

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this 7th day of October, 2003.



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ASSISTANT UNITED STATES ATTORNEY