

WHG:db 2-27-98

FILED
U.S. DISTRICT COURT
MIDDLE DISTRICT OF TENN.
FEB 27 1998
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IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
v.) No. 3:96-00004
DONALD THOMAS CABLE,)
Defendant.)

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW the United States of America, pursuant to 18 U.S.C. § 3593(a), by and through its undersigned counsel, and notifies the Court and the defendant in the above-captioned case that the Government believes the circumstances of the offenses charged in Counts One through Five of the Second 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 these offenses, each of which carries a possible sentence of death. Counts One and Two: conspiracy to commit murder for hire and interstate travel with intent to commit murder for hire, resulting in the death of Denise Rogers, in violation of 18 U.S.C. § 1958(a);

Count Three and Alternative Counts Four and Five: premeditated murder of Denise Rogers to prevent her from attending and testifying in official proceedings and to prevent her from communicating information to a law enforcement officer, in violation of 18 U.S.C. § 1512(a)(1)(A)&(C).

The Government proposes to prove the following factors as justifying a sentence of death for each and all of the specified capital offenses.

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

1. **Intentional Killing.** The defendant intentionally killed Denise Rogers. 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 Denise Rogers. 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 Denise Rogers died as a direct result of the act. Section 3591(a)(2)(C).

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

1. **Pecuniary Gain.** The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value. Section 3592(c)(8).

2. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism. Section 3592(c)(12).

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

1. **Vileness of the Crime.** The defendant's conduct in committing the offense, apart from the other aggravating factors, was substantially greater in degree than that described in the definition of the crime.

- a. Denise Rogers was stabbed nine times and shot twice during a violent struggle for her life.
- b. The defendant forcibly entered Denise Rogers' house at night while she was alone in her home.

2. **Victim Impact Evidence.** The victim's personal characteristics as an individual human being and the impact of the death upon the victim's family. Payne v. Tennessee, 111

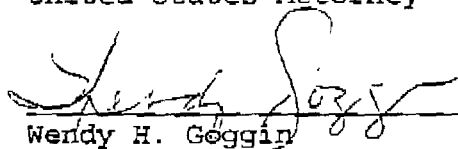
S.Ct. 2597, 2608-09 (1991). The family of the victim has suffered injury and loss, as a result of the victim's death, including but not limited to one or more of the following:

- a. Denise Rogers' six year-old daughter has suffered injury and loss because of the brutal murder of her mother.
- b. Denise Rogers' mother has suffered injury and loss because of the brutal murder of her daughter.
- c. Denise Rogers' siblings have suffered injury and loss because of the brutal murder of their sister.

Respectfully submitted,

John M. Roberts
United States Attorney

By:



Wendy H. Goggin
Assistant United States Attorney



Hilliard H. Hester, III
Assistant United States Attorney

Dated: Feb 27, 1998

03/02/98

10:14

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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of Feb, 1998, a true and correct copy of the foregoing notice of intent to seek the death penalty was mailed via first-class mail, postage prepaid thereon, to the following attorneys of record:

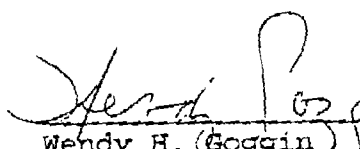
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