

UNITED STATES DISTRICT COURT

JUL 15 2003

FOR THE WESTERN DISTRICT OF VIRGINIA

JOHN F. CONNORAN, CLE
BY: *[Signature]*
DEPUTY CLERK

CHARLOTTESVILLE DIVISION

UNITED STATES OF AMERICA :
 :
 : Criminal No. 3:03cr00013
v. :
 :
 : The Honorable Samuel G. Wilson
MICHAEL ANTHONY CARPENTER :

NOTICE OF INTENT TO SEEK THE DEATH PENALTY

COMES NOW the United States of America, pursuant to Title 18 U.S.C. § 3593(a), by and through its undersigned counsel, John L. Brownlee, United States Attorney, and notifies the Court and the defendant, Michael Anthony Carpenter, in the above-captioned case that the government believes the circumstances of the capital offenses charged in Counts Four, Five and Six, of the Indictment are such that, in the event of the defendant's conviction on any one of those counts, 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: a) Count Four – use of a firearm resulting in the death of Kevin Lee Hester, during and in relation to the violation of 21 U.S.C. § 846 as set forth in Count One of the indictment, in violation of 18 U.S.C. § 924(j), which carries a possible sentence of death; b) Count Five, use of a firearm resulting in the death of Kevin Lee Hester, during and in relation to the violation of 18 U.S.C. §§ 1952 and 2 as set forth in Count Two of the indictment, in violation of 18 U.S.C. § 924(j), which carries a possible sentence of death; and c) Count Six, use of a firearm resulting in the death of Kevin Lee Hester, during and in relation to the violation of 18 U.S.C. §§ 2261A and 2 as set forth in Count Three of the indictment, in violation of 18 U.S.C. § 924(j), which carries a possible sentence of

death.

The Government proposes to prove the following factors as justifying a sentence of death:

COUNT FOUR

**USE OF FIREARM IN COURSE OF DRUG CONSPIRACY
RESULTING IN DEATH OF KEVIN LEE HESTER**

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

1. **Intentional Killing.** The defendant intentionally killed Kevin Lee Hester. 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 Kevin Lee Hester. 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 Kevin Lee Hester 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 Kevin Lee Hester 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. **Especially Heinous and Cruel.** The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse

to the victim. Section 3592(c)(6).

2. **Procurement of the Offense by Payment.** The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value. Section 3592(c)(7).

3. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

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

1. **Participation in Other Criminal Conduct on August 8 and 9, 2002.**

In addition to the capital offense charged in Count Four of the Indictment, the defendant engaged in a series of other criminal offenses in the hours before and after the murder of Kevin Lee Hester. That pattern of criminal conduct includes the specific criminal offenses set forth in the Indictment, including conspiring to distribute and possess with intent to distribute illegal drugs (Count One), traveling in interstate commerce with intent to commit the crimes of robbery and conspiracy (Count Two), and traveling in interstate commerce with the intent to kill, injure, harass and intimidate Kevin Lee Hester (Count Three). That pattern also includes the following specific acts, each of which serves as a non-statutory aggravating factor in the event of the defendant's conviction for the murder of Kevin Lee Hester.

a. **Conspiracy to Commit Robbery:** On or about August 8 and 9, 2002, in Washington, D.C. and the Commonwealth of Virginia, the defendant, Michael Anthony Carpenter, and co-conspirators agreed to travel to Charlottesville, Virginia and rob individuals with whom the defendant and his co-conspirators were acquainted of money, illegal drugs and other personal property.

b. **Possession of Prohibited Weapons:** On or about August 8 and 9, 2002, in Washington, D.C. and the Commonwealth of Virginia, the defendant, Michael Anthony Carpenter, and co-conspirators armed themselves with two firearms and a knife and concealed those weapons, without having a license to carry or conceal any of those weapons, in violation of local and federal law.

c. **Robbery of Unknown Individual:** On or about August 8 and 9, 2002, in the Commonwealth of Virginia, the defendant Michael Anthony Carpenter, and co-conspirators, while armed with firearms, robbed an unknown individual of currency and other personal property with the intent to permanently deprive them thereof.

d. **Assault and Robbery of Tammy T. Brown and Steven D. Oakes:** On or about August 9, 2002, in the Commonwealth of Virginia, the defendant, Michael Anthony Carpenter, and co-conspirators, while armed with firearms, assaulted Tammy T. Brown and Steven D. Oakes by hitting them with unknown objects, causing serious bodily injury to Tammy T. Brown and Steven D. Oakes, and robbed Tammy T. Brown and Steven D. Oakes of money and other personal property with the intent to permanently deprive them thereof.

e. **Obstruction of Justice:** On or about August 8 and 9, 2002, in the District of Columbia and the Commonwealth of Virginia, the defendant, Michael Anthony Carpenter, and co-conspirators disposed of weapons, clothing, personal property, and other evidence of their commission of the robbery and murder of Kevin Lee Hester.

2. **Other Criminal Conduct.**

In addition to his criminal conduct on August 8 and 9, 2002, the defendant has committed numerous other criminal offenses. Those offenses include the following, each of which serves as

a non-statutory aggravating factor in the event of the defendant's conviction for the murder of Kevin Lee Hester.

a. **Narcotics Trafficking.**

From on or about sometime in 1995 until August of 2002, the defendant, Michael Anthony Carpenter, in concert with other persons, willfully and knowingly combined, conspired, confederated, and agreed together, with each other, and with diverse other persons to distribute and to possess with intent to distribute quantities of powder cocaine, cocaine base, also known as crack cocaine, and marijuana. Defendant Carpenter obtained quantities of powder cocaine, cocaine base, and marijuana from various sources in and around the District of Columbia and redistributed that powder cocaine, cocaine base, and marijuana to retail and wholesale purchasers in and around the District of Columbia. Defendant Carpenter's involvement in narcotics trafficking includes his October 26, 1995 arrest for possessing marijuana and cocaine in the District of Columbia, offenses of which he was ultimately convicted in the Superior Court of the District of Columbia.

b. **Possession of Prohibited Weapons.**

From on or about sometime in 1995 and continuing until August of 2002, the defendant, Michael Anthony Carpenter obtained, possessed, and distributed numerous firearms, knives, and other dangerous weapons, in the District of Columbia, and elsewhere.

c. **Receipt of Stolen Goods, July 21, 1995.**

On or about July 21, 1995, in the District of Columbia, Michael Anthony Carpenter possessed a motor vehicle which had been stolen from its owner and used that motor vehicle without the permission or consent of the owner, resulting in his conviction in the Superior Court of the District of Columbia.

d. **Receipt of Stolen Goods, March 18, 1996.**

On or about March 18, 1996, in the District of Columbia, Michael Anthony Carpenter possessed a motor vehicle which had previously been stolen from its owner and used that motor vehicle without the permission or consent of the owner, resulting in his conviction in the Superior Court of the District of Columbia.

e. **Escape from Institution, December 18, 1998.**

On or about December 18, 1998, in the District of Columbia, Michael Anthony Carpenter escaped from a correctional institution where he had been ordered detained by a judge of the Superior Court of the District of Columbia, resulting in his conviction in the Superior Court of the District of Columbia.

f. **Petit Larceny, April 30, 2001.**

On or about April 30, 2001, in the Commonwealth of Virginia, Michael Anthony Carpenter deprived an unidentified person of his or her personal property, resulting in his conviction for petit larceny in the Circuit Court of Fairfax County, Virginia.

3. **Future Dangerousness.**

The defendant, Michael Anthony Carpenter, 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, including, but not limited to, inmates and correctional officers resident in an institutional correctional setting as evidenced by the offenses charged in the Indictment, and the aforementioned statutory and non-statutory aggravating factors alleged in this Notice. See Simmons v. South Carolina, 512 U.S. 154, 162 (1994). In addition to the offenses charged in the Indictment and the statutory and non-statutory aggravating factors alleged in this Notice, the circumstances which demonstrate his future

dangerousness include: the defendant's long-term pattern of violent criminal conduct; incidents of assaultive conduct within the correctional setting; his demonstrated low rehabilitative potential; and his lack of remorse for his criminal activities which have caused significant damage to the community and numerous victims and their families.

4. Victim Impact.

The defendant caused injury, harm, and loss to the friends and family of Kevin Lee Hester because of Kevin Lee Hester's personal characteristics as an individual human being and the impact of his death upon those persons. See Payne v. Tennessee, 501 U.S. 808, 825-27 (1991). The government will present information concerning the effect of the offense on Kevin Lee Hester and his family, scope of the injury and loss suffered by Kevin Lee Hester and his family, and any other relevant information.

COUNT FIVE

**USE OF FIREARM IN COURSE OF INTERSTATE TRAVEL TO COMMIT ROBBERY,
RESULTING IN DEATH OF KEVIN LEE HESTER**

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

1. **Intentional Killing.** The defendant intentionally killed Kevin Lee Hester. 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 Kevin Lee Hester. 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 Kevin Lee Hester 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 Kevin Lee Hester 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. **Especially Heinous and Cruel.** The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. Section 3592(c)(6).

2. **Procurement of the Offense by Payment.** The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value. Section 3592(c)(7).

3. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

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

1. **Participation in Other Criminal Conduct on August 8 and 9, 2002.**

In addition to the capital offense charged in Count Five of the Indictment, the defendant engaged in a series of other criminal offenses in the hours before and after the murder of Kevin Lee Hester. That pattern of criminal conduct includes the specific criminal offenses set forth in the Indictment, including conspiring to distribute and possess with intent to distribute illegal drugs (Count One), traveling in interstate commerce with intent to commit the crimes of robbery and

conspiracy (Count Two), and traveling in interstate commerce with the intent to kill, injure, harass and intimidate Kevin Lee Hester (Count Three). That pattern also includes the following specific acts, each of which serves as a non-statutory aggravating factor in the event of the defendant's conviction for the murder of Kevin Lee Hester.

a. **Conspiracy to Commit Robbery:** On or about August 8 and 9, 2002, in Washington, D.C. and the Commonwealth of Virginia, the defendant, Michael Anthony Carpenter, and co-conspirators agreed to travel to Charlottesville, Virginia and rob individuals with whom the defendant and his co-conspirators were acquainted of money, illegal drugs and other personal property.

b. **Possession of Prohibited Weapons:** On or about August 8 and 9, 2002, in Washington, D.C. and the Commonwealth of Virginia, the defendant, Michael Anthony Carpenter, and co-conspirators armed themselves with two firearms and a knife and concealed those weapons, without having a license to carry or conceal any of those weapons, in violation of local and federal law.

c. **Robbery of Unknown Individual:** On or about August 8 and 9, 2002, in the Commonwealth of Virginia, the defendant Michael Anthony Carpenter, and co-conspirators, while armed with firearms, robbed an unknown individual of currency and other personal property with the intent to permanently deprive them thereof.

d. **Assault and Robbery of Tammy T. Brown and Steven D. Oakes:** On or about August 9, 2002, in the Commonwealth of Virginia, the defendant, Michael Anthony Carpenter, and co-conspirators, while armed with firearms, assaulted Tammy T. Brown and Steven D. Oakes by hitting them with unknown objects, causing serious bodily injury to Tammy T. Brown and Steven

D. Oakes, and robbed Tammy T. Brown and Steven D. Oakes of money and other personal property with the intent to permanently deprive them thereof.

e. **Obstruction of Justice:** On or about August 8 and 9, 2002, in the District of Columbia and the Commonwealth of Virginia, the defendant, Michael Anthony Carpenter, and co-conspirators disposed of weapons, clothing, personal property, and other evidence of their commission of the robbery and murder of Kevin Lee Hester.

2. **Other Criminal Conduct.**

In addition to his criminal conduct on August 8 and 9, 2002, the defendant has committed numerous other criminal offenses. Those offenses include the following, each of which serves as a non-statutory aggravating factor in the event of the defendant's conviction for the murder of Kevin Lee Hester.

a. **Narcotics Trafficking.**

From on or about sometime in 1995 until August of 2002, the defendant, Michael Anthony Carpenter, in concert with other persons, willfully and knowingly combined, conspired, confederated, and agreed together, with each other, and with diverse other persons to distribute and to possess with intent to distribute quantities of powder cocaine, cocaine base, also known as crack cocaine, and marijuana. Defendant Carpenter obtained quantities of powder cocaine, cocaine base, and marijuana from various sources in and around the District of Columbia and redistributed that powder cocaine, cocaine base, and marijuana to retail and wholesale purchasers in and around the District of Columbia. Defendant Carpenter's involvement in narcotics trafficking includes his October 26, 1995 arrest for possessing marijuana and cocaine in the District of Columbia, offenses of which he was ultimately convicted in the Superior Court of the District of Columbia.

b. **Possession of Prohibited Weapons.**

From on or about sometime in 1995 and continuing until August of 2002, the defendant, Michael Anthony Carpenter obtained, possessed, and distributed numerous firearms, knives, and other dangerous weapons, in the District of Columbia, and elsewhere.

c. **Receipt of Stolen Goods, July 21, 1995.**

On or about July 21, 1995, in the District of Columbia, Michael Anthony Carpenter possessed a motor vehicle which had been stolen from its owner and used that motor vehicle without the permission or consent of the owner, resulting in his conviction in the Superior Court of the District of Columbia.

d. **Receipt of Stolen Goods, March 18, 1996.**

On or about March 18, 1996, in the District of Columbia, Michael Anthony Carpenter possessed a motor vehicle which had previously been stolen from its owner and used that motor vehicle without the permission or consent of the owner, resulting in his conviction in the Superior Court of the District of Columbia.

e. **Escape from Institution, December 18, 1998.**

On or about December 18, 1998, in the District of Columbia, Michael Anthony Carpenter escaped from a correctional institution where he had been ordered detained by a judge of the Superior Court of the District of Columbia, resulting in his conviction in the Superior Court of the District of Columbia.

f. **Petit Larceny, April 30, 2001.**

On or about April 30, 2001, in the Commonwealth of Virginia, Michael Anthony Carpenter deprived an unidentified person of his or her personal property, resulting in his conviction for petit

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larceny in the Circuit Court of Fairfax County, Virginia.

3. Future Dangerousness.

The defendant, Michael Anthony Carpenter, 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, including, but not limited to, inmates and correctional officers resident in an institutional correctional setting as evidenced by the offenses charged in the Indictment, and the aforementioned statutory and non-statutory aggravating factors alleged in this Notice. See Simmons v. South Carolina, 512 U.S. 154, 162 (1994). In addition to the offenses charged in the Indictment and the statutory and non-statutory aggravating factors alleged in this Notice, the circumstances which demonstrate his future dangerousness include: the defendant's long-term pattern of violent criminal conduct; incidents of assaultive conduct within the correctional setting; his demonstrated low rehabilitative potential; and his lack of remorse for his criminal activities which have caused significant damage to the community and numerous victims and their families.

4. Victim Impact.

The defendant caused injury, harm, and loss to the friends and family of Kevin Lee Hester because of Kevin Lee Hester's personal characteristics as an individual human being and the impact of his death upon those persons. See Payne v. Tennessee, 501 U.S. 808, 825-27 (1991). The government will present information concerning the effect of the offense on Kevin Lee Hester and his family, scope of the injury and loss suffered by Kevin Lee Hester and his family, and any other relevant information.

COUNT SIX

USE OF FIREARM IN COURSE OF INTERSTATE TRAVEL TO INTIMIDATE,
RESULTING IN DEATH OF KEVIN LEE HESTER

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

1. **Intentional Killing.** The defendant intentionally killed Kevin Lee Hester. 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 Kevin Lee Hester. 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 Kevin Lee Hester 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 Kevin Lee Hester 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. **Especially Heinous and Cruel.** The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim. Section 3592(c)(6).

2. **Procurement of the Offense by Payment.** The defendant procured the commission

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of the offense by payment, or promise of payment, of anything of pecuniary value. Section 3592(c)(7).

3. **Substantial Planning and Premeditation.** The defendant committed the offense after substantial planning and premeditation to cause the death of a person. Section 3592(c)(9).

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

1. **Participation in Other Criminal Conduct on August 8 and 9, 2002.**

In addition to the capital offense charged in Count Six of the Indictment, the defendant engaged in a series of other criminal offenses in the hours before and after the murder of Kevin Lee Hester. That pattern of criminal conduct includes the specific criminal offenses set forth in the Indictment, including conspiring to distribute and possess with intent to distribute illegal drugs (Count One), traveling in interstate commerce with intent to commit the crimes of robbery and conspiracy (Count Two), and traveling in interstate commerce with the intent to kill, injure, harass and intimidate Kevin Lee Hester (Count Three). That pattern also includes the following specific acts, each of which serves as a non-statutory aggravating factor in the event of the defendant's conviction for the murder of Kevin Lee Hester.

a. **Conspiracy to Commit Robbery:** On or about August 8 and 9, 2002, in Washington, D.C. and the Commonwealth of Virginia, the defendant, Michael Anthony Carpenter, and co-conspirators agreed to travel to Charlottesville, Virginia and rob individuals with whom the defendant and his co-conspirators were acquainted of money, illegal drugs and other personal property.

b. **Possession of Prohibited Weapons:** On or about August 8 and 9, 2002, in Washington, D.C. and the Commonwealth of Virginia, the defendant, Michael Anthony Carpenter,

and co-conspirators armed themselves with two firearms and a knife and concealed those weapons, without having a license to carry or conceal any of those weapons, in violation of local and federal law.

c. **Robbery of Unknown Individual:** On or about August 8 and 9, 2002, in the Commonwealth of Virginia, the defendant Michael Anthony Carpenter, and co-conspirators, while armed with firearms, robbed an unknown individual of currency and other personal property with the intent to permanently deprive them thereof.

d. **Assault and Robbery of Tammy T. Brown and Steven D. Oakes:** On or about August 9, 2002, in the Commonwealth of Virginia, the defendant, Michael Anthony Carpenter, and co-conspirators, while armed with firearms, assaulted Tammy T. Brown and Steven D. Oakes by hitting them with unknown objects, causing serious bodily injury to Tammy T. Brown and Steven D. Oakes, and robbed Tammy T. Brown and Steven D. Oakes of money and other personal property with the intent to permanently deprive them thereof.

e. **Obstruction of Justice:** On or about August 8 and 9, 2002, in the District of Columbia and the Commonwealth of Virginia, the defendant, Michael Anthony Carpenter, and co-conspirators disposed of weapons, clothing, personal property, and other evidence of their commission of the robbery and murder of Kevin Lee Hester.

2. **Other Criminal Conduct.**

In addition to his criminal conduct on August 8 and 9, 2002, the defendant has committed numerous other criminal offenses. Those offenses include the following, each of which serves as a non-statutory aggravating factor in the event of the defendant's conviction for the murder of Kevin Lee Hester.

a. **Narcotics Trafficking.**

From on or about sometime in 1995 until August of 2002, the defendant, Michael Anthony Carpenter, in concert with other persons, willfully and knowingly combined, conspired, confederated, and agreed together, with each other, and with diverse other persons to distribute and to possess with intent to distribute quantities of powder cocaine, cocaine base, also known as crack cocaine, and marijuana. Defendant Carpenter obtained quantities of powder cocaine, cocaine base, and marijuana from various sources in and around the District of Columbia and redistributed that powder cocaine, cocaine base, and marijuana to retail and wholesale purchasers in and around the District of Columbia. Defendant Carpenter's involvement in narcotics trafficking includes his October 26, 1995 arrest for possessing marijuana and cocaine in the District of Columbia, offenses of which he was ultimately convicted in the Superior Court of the District of Columbia.

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c. **Receipt of Stolen Goods, July 21, 1995.**

On or about July 21, 1995, in the District of Columbia, Michael Anthony Carpenter possessed a motor vehicle which had been stolen from its owner and used that motor vehicle without the permission or consent of the owner, resulting in his conviction in the Superior Court of the District of Columbia.

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possessed a motor vehicle which had previously been stolen from its owner and used that motor vehicle without the permission or consent of the owner, resulting in his conviction in the Superior Court of the District of Columbia.

e. **Escape from Institution, December 18, 1998.**

On or about December 18, 1998, in the District of Columbia, Michael Anthony Carpenter escaped from a correctional institution where he had been ordered detained by a judge of the Superior Court of the District of Columbia, resulting in his conviction in the Superior Court of the District of Columbia.

f. **Petit Larceny, April 30, 2001.**

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3. **Future Dangerousness.**

The defendant, Michael Anthony Carpenter, 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, including, but not limited to, inmates and correctional officers resident in an institutional correctional setting as evidenced by the offenses charged in the Indictment, and the aforementioned statutory and non-statutory aggravating factors alleged in this Notice. See Simmons v. South Carolina, 512 U.S. 154, 162 (1994). In addition to the offenses charged in the Indictment and the statutory and non-statutory aggravating factors alleged in this Notice, the circumstances which demonstrate his future dangerousness include: the defendant's long-term pattern of violent criminal conduct; incidents of assaultive conduct within the correctional setting; his demonstrated low rehabilitative potential; and

his lack of remorse for his criminal activities which have caused significant damage to the community and numerous victims and their families.

4. **Victim Impact.**

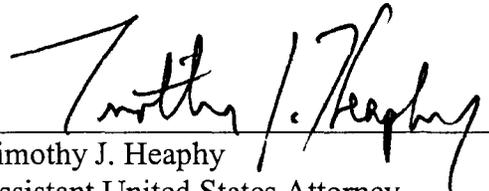
The defendant caused injury, harm, and loss to the friends and family of Kevin Lee Hester because of Kevin Lee Hester's personal characteristics as an individual human being and the impact of his death upon those persons. See Payne v. Tennessee, 501 U.S. 808, 825-27 (1991). The government will present information concerning the effect of the offense on Kevin Lee Hester and his family, scope of the injury and loss suffered by Kevin Lee Hester and his family, and any other relevant information.

Respectfully submitted,

JOHN L. BROWNLEE
United States Attorney



William F. Gould
Assistant United States Attorney

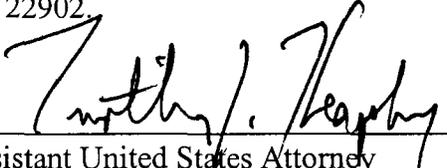


Timothy J. Heaphy
Assistant United States Attorney

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CERTIFICATE

I hereby certify that a true and correct copy of the foregoing has been sent to counsel for all four defendants, Denise Lunsford, Steven Rosenfield, Richard Davis, Lloyd Snook, David Heilberg, and Pamela Johnson, by telecopy on July 15, 2003. In addition, a copy has been mailed on the same date to Ms. Lunsford at 700 East High Street, Charlottesville, Virginia, 22902; Mr. Rosenfield at 913 East Jefferson Street, Charlottesville, Virginia, 22902; Mr. Davis at Post Officer Box 2487, Charlottesville, Virginia, 22902; Mr. Snook at Post Office Box 2486, Charlottesville, Virginia, 22902; Mr. Heilberg at 246 East High Street, Charlottesville, Virginia, 22902; and Ms. Johnson at 202 Third Street, N.E., Charlottesville, Virginia, 22902.


Assistant United States Attorney