

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**SCOTT D. CHEEVER,**

Defendant.

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Case No. 05-10050-01-MLB

**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, the defendant SCOTT D. CHEEVER, and the defendant's counsel, that in the event this defendant is convicted of the murder of Greenwood County, Kansas Sheriff Matthew Samuels, in violation of Title 18, United States Code § 924(j)(1) and Title 18, United States Code § 924(c)(1) or in violation of Title 18, United States Code § 1512(a)(1)(C), the United States will seek the sentence of death for SCOTT D. CHEEVER.

**I.**

The United States of America believes that the circumstances of the instant offenses of Murder through the use of a Firearm During and in Relation to a Drug Trafficking Crime (Count 6) and Murdering a Witness to Prevent a Communication of Information Relating to Commission or Possible Commission of a Federal Offense (Count 7) are such that, if the defendant, SCOTT D. CHEEVER, is convicted, a sentence of death is justified under Title 18, United States Code, Chapter 228.

**II.**

**Statutory Proportionality Factors Enumerated under Title 18, United States Code § 3591(a)(2).**

The United States will prove, at a hearing held pursuant to Title 18, United States Code § 3593, that:

1. The defendant, SCOTT D. CHEEVER, did intentionally kill Greenwood County Sheriff Matthew Samuels (18 U.S.C. § 3591(a)(2)(A));
2. The defendant, SCOTT D. CHEEVER, did intentionally inflict serious bodily injury that resulted in the death of Greenwood County Sheriff Matthew Samuels (18 U.S.C. § 3591(a)(2)(B));
3. The defendant, SCOTT D. CHEEVER, did intentionally participate 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 Greenwood County Sheriff Matthew Samuels died as a direct result of the act (18 U.S.C. § 3591(a)(2)(C));
4. The defendant, SCOTT D. CHEEVER, did intentionally and specifically participate 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 Greenwood County Sheriff Matthew Samuels died as a direct result of the act (18 U.S.C. § 3591(a)(2)(D)).

**III.**

**Statutory Aggravating Factors Enumerated Under Title 18, United States Code § 3592(c):**

As the basis for the imposition of the death penalty against SCOTT D. CHEEVER, the United States will seek to prove the statutory aggravating factors listed below:

1. **Grave Risk of Death to Additional Persons.** The defendant, in the commission of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense. (18 U.S.C. § 3592(c)(5));
2. **Substantial Planning and Premeditation.** The defendant committed the offense following substantial planning and premeditation to cause the death of a person. (18 U.S.C. § 3592(c)(9)).
3. **Multiple Killings or Attempted Killings.** The defendant attempted to kill other persons subsequent to the murder of Greenwood County Sheriff Matthew Samuels as part of a single criminal episode. (18 U.S.C. § 3592(c)(16)).

#### IV.

**Non-Statutory Aggravating Factors Provided for Under Title 18, United States Code § 3592(c) & § 3593(a):**

The United States will prove the following non-statutory aggravating factors to justify a sentence of death:

1. **Victim Impact.** The defendant's murder of Greenwood County Sheriff Matthew Samuels caused permanent harm to the family of Greenwood County Sheriff Matthew Samuels and to the people of Greenwood County, Kansas, because of the victim'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);
2. **Future Dangerousness.** The defendant represents a continuing danger to the lives and safety of others in the future as is evidenced by the following:
  - A) The defendant has a lack of remorse for the murder of Greenwood County Sheriff Matthew Samuels;
  - B) His past criminal conduct;
  - C) The severity of the instant crimes;

- D) The defendant was in the custody of the Kansas Department of Corrections in parole status at the time these offenses were committed;
  - E) The defendant was a parole absconder at the time these offenses were committed;
  - F) The defendant's threats to others;
  - G) His stated desire to escape from prison;
  - H) His lack of desire and/or failure to comply with prison/jail/detention facility rules and regulations;
  - I) His stated desire to commit a bank robbery;
  - J) His manufacture and use of illegal drugs;
3. **Murder of a Law Enforcement Officer.** At the time of his murder, Matthew Samuels was engaged in the performance of his official duties as Greenwood County Sheriff.
4. **Attempted Murder of Multiple Law Enforcement Officers.** During the instant offenses the defendant attempted to murder multiple law enforcement officers while they were engaged in the performance of their official duties.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 8, 2005, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following: E. Jay Greeno and Ronald E. Wurtz, attorneys for defendant Scott Cheever.

s/ Lanny D. Welch  
LANNY D. WELCH  
Assistant United States Attorney