

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Ruhnke & Barrett 7/24/96
Attorneys at Law
20 Northfield Avenue, West Orange, NJ 07052

David and Kevin

Aggs in Chen.

David

UNITED STATES OF AMERICA

- against -

FU-XIN CHEN, also known as "Ah
Kon" and "The Driver,"
JIAN-WU CHEN, also known as
"Wu Jai" and "The Fat
Guy",
YOU-ZHONG PENG, also known as
"The Guy with Glasses"
and
MING-SHUN HU,

Defendants.

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JUL 22 1996

RUHNKE & BARRETT
ATTORNEYS AT LAW

PLEASE TAKE NOTICE that the circumstances of the offense charged in Count Four of the Superseding Indictment in the above-captioned case are such that, if the defendant FU-XIN CHEN, also known as "Ah Kon" and "The Driver," is convicted of that count, the United States will seek the sentence of death for the defendant pursuant to the provisions of Title 18, United States Code, Sections 3591 et seq.; and

PLEASE TAKE FURTHER NOTICE that the government will seek to prove the following aggravating factors as the basis for imposition of the death penalty against the defendant FU-XIN CHEN, also known as "Ah Kon" and "The Driver":

1. The defendant intentionally killed Ko-Lai Zhang (18 U.S.C. § 3591(a)(2)(a));
2. The death occurred during the commission of an offense under section 1203 of Title 18, United States Code (18 U.S.C. § 3592(c)(1));

3. The offense was committed in an especially heinous, cruel and depraved manner, in that it involved torture and serious physical abuse to the victim (18 U.S.C. § 3592(c)(6));

3. The defendant committed the kidnapping that resulted in death in expectation of the receipt of pecuniary gain (18 U.S.C. § 3592(c)(8)); and

4. The defendant committed the offense after substantial planning and premeditation to cause the death of Ko-Lai Zhang (18 U.S.C. § 3592(c)(9)); and

PLEASE TAKE FURTHER NOTICE that pursuant to Title 18, United States Code, Section 3592, in addition to the statutory aggravating factors, the government will rely on the following non-statutory aggravating factors as the basis for imposition of the death penalty against the defendant FU-XIN CHEN, also known as "Ah Kon" and "The Driver":

1. The defendant FU-XIN CHEN engaged in a continuing pattern of violence as follows:

a. On or about February 21, 1995, the defendant FU-XIN CHEN participated in the kidnapping of two females, Jane Doe #1 and Jane Doe #2, from an apartment located on 28th Street, New York, New York;

b. From in or about February 21, 1995 through March 2, 1995, the defendant FU-XIN CHEN assaulted, raped and sexually abused Jane Doe #1;

c. From in or about February 21, 1995 through March 6, 1995, the defendant FU-XIN CHEN assaulted, raped and sexually abused Jane Doe #2;

d. On or about March 25, 1995, the defendant FU-XIN CHEN participated in an armed robbery of the occupant of an apartment located at 766 45th Street, Brooklyn, New York;

e. On or about March 25, 1995, the defendant FU-XIN CHEN participated in the kidnapping of the female occupant of the apartment located at 766 45th Street, Brooklyn, New York;

f. In or about April 1995, the defendant FU-XIN CHEN participated in an armed robbery of the occupants of an apartment located in the vicinity of Elizabeth Street in New York County, New York;

g. In or about April 1995, in the vicinity of 46th Street, New York County, New York, the defendant FU-XIN CHEN threatened to kidnap an unidentified Asian male if the individual did not pay a debt to FU-XIN CHEN;

h. In or about May 1995, the defendant FU-XIN CHEN participated in a knife point robbery of one male and two females in an apartment located in Brooklyn, New York;

i. On or about July 12, 1995, the defendant FU-XIN CHEN participated in the kidnapping of a female from the vicinity of Eldridge Street, New York, New York;

j. In or about July 1995, the defendant FU-XIN CHEN participated in an armed robbery of the occupants of an apartment located in Queens, New York;

k. In or about July 1995, the defendant FU-XIN CHEN participated in an armed robbery of the occupants of an apartment located in the vicinity of 45th Street and 8th Avenue, Brooklyn, New York;

l. During the summer of 1995, in South Carolina, the defendant FU-XIN CHEN planned the kidnapping of unknown Asian individuals;

m. In or about July 1995, the defendant FU-XIN CHEN participated in an armed robbery of the occupants of a house of prostitution located in Atlanta, Georgia;

n. During the summer of 1995, the defendant FU-XIN CHEN planned the armed robbery of the occupants of an apartment located on 28th Street, New York, New York;

o. On or about August 26, 1995, the defendant FU-XIN CHEN participated in the kidnapping of Xiu Fu Lin from a street in Brooklyn, New York;

p. From in or about and between August 26, 1995 and September 1, 1995, the defendant FU-XIN CHEN participated in repeated assaults of Xiu Fu Lin;

q. On or about September 1, 1995, the defendant FU-XIN CHEN participated in the attempted murder of Xiu Fu Lin;

r. On or about August 26, 1995, the defendant FU-XIN CHEN participated in the kidnapping of Xue Ng Dong from a street in New York County, New York;

s. From in or about August 26, 1995 and September 2, 1995, the defendant FU-XIN CHEN participated in repeated assaults of Xue Ng Dong;

t. From in or about August 26, 1995 and September 2, 1995, the defendant FU-XIN CHEN raped and sexually abused Xue Ng Dong; and

u. From in or about August 26, 1995 and September 2, 1995, the defendant FU-XIN CHEN provided advice to others who had abducted three individuals in Seattle, Washington to beat and to sever the fingers of their victims in order to obtain compliance with their ransom demands.

2. The defendant FU-XIN CHEN has displayed a total lack of remorse for the killing of Ko-Lai Zhang.

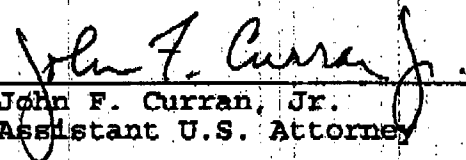
3. Based upon the foregoing continuing pattern of violence and total lack of remorse the defendant FU-XIN CHEN poses a risk of future dangerousness to the lives and safety of others.

4. Victim impact, as evidenced by the impact of the murder upon Ko-Lai Zhang's family.

Dated: July 19, 1996
Brooklyn, New York

Respectfully submitted,

ZACHARY W. CARTER
United States Attorney
Eastern District of New York



By: John F. Curran, Jr.
Assistant U.S. Attorney

cc: Richard Ware Levitt, Esq.
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