

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

NOTICE OF INTENT TO SEEK THE
DEATH PENALTY

Cr. No. 95 - 870(S-4) (NRK)

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

Defendants.

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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 JIAN-WU CHEN, also known as "Wu Jai" and "The Fat Guy," 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 JIAN-WU CHEN, also known as "Wu Jai" and "The Fat Guy":

1. The defendant intentionally killed Ho-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));

4. 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

5. 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 JIAN-WU CHEN, also known as "Wu Jai" and "The Fat Guy":

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

a. On or about October 28, 1994, the defendant JIAN-WU CHEN participated in the kidnapping of a male in the vicinity of 726 42nd Street, Brooklyn, New York;

b. On or about October 28, 1994, the defendant JIAN-WU CHEN participated in the armed robbery of an apartment on 54th Street in Brooklyn, New York, and the kidnapping of one of the occupants of that apartment;

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

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

e. On or about May 25, 1995, the defendant JIAN-WU CHEN participated in the armed robbery of the occupants of an apartment located on East 78th Street, New York, New York;

f. On or about May 26, 1995, the defendant JIAN-WU CHEN participated in the armed robbery and rape of the occupants of an apartment located in the vicinity of 202nd Street, Queens, New York;

g. On or about July 12, 1995, the defendant JIAN-WU CHEN participated in the kidnaping of a female from the vicinity of Hideridge Street, New York, New York;

h. On or about July 29, 1995, the defendant JIAN-WU CHEN participated in the armed robbery of an apartment located in the vicinity of 89th Street, Queens, New York;

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

j. In or about July 1995, the defendant JIAN-WU 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;

k. During the summer of 1995, in South Carolina, the defendant JIAN-WU CHEN planned the kidnaping of unknown Asian individuals;

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

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

n. On or about August 26, 1995, the defendant JIAN-WU CHEN participated in the kidnaping of Xiu Fu Lin from a street in Brooklyn, New York;

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

p. On or about September 1, 1995, the defendant JIAN-WU CHEN participated in the attempted murder of Xiu Fu Lin;

q. On or about August 26, 1995, the defendant JIAN-WU CHEN participated in the kidnaping of Xue Mg Dong from a street in New York County, New York;

r. From in or about August 26, 1995 and September 2, 1995, the defendant JIAN-WU CHEN participated in repeated assaults of Xue Mg Dong;

s. From in or about August 26, 1995 and September 2, 1995, the defendant JIAN-WU CHEN raped and sexually abused Xue Ng Dong; and

t. From in or about August 26, 1995 and September 2, 1995, the defendant JIAN-WU CHEN provided assistance to others who had abducted three individuals in Seattle, Washington.

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

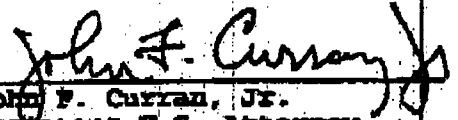
3. Based upon the foregoing continuing pattern of violence and total lack of remorse the defendant JIAN-WU CHEN poses a risk of future dangerousness to the lives and safety of others.

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,

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



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

cc: Gerald Shargel, Esq.