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UNITED STATES OF AMERICA

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

FEB 12 1999  
at 10 o'clock and 30 min  
WALTER A. Y. H. CHINN, CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. NO. 98-00416 ACK
	)	
Plaintiff,	)	NOTICE OF INTENT TO SEEK
	)	A SENTENCE OF DEATH;
vs.	)	DECLARATION OF COUNSEL;
	)	CERTIFICATE OF SERVICE
	)	
RICHARD LEE TUCK CHONG,	)	
a/k/a "CHINA",	)	
	)	
Defendant.	)	
	)	

NOTICE OF INTENT TO SEEK A SENTENCE OF DEATH

COMES NOW, the United States of America, pursuant to Title 18, United States Code, Sections 3591(a)(2) and 3593(a), by and through its undersigned counsel, Steven S. Alm, United States Attorney, and Larry Butrick and Kenneth M. Sorenson, Assistant

United States Attorneys, and hereby notifies the Court and the defendant RICHARD LEE TUCK CHONG, a/k/a "China", and his counsel, that in the event of the defendant's conviction of Count Three of the Indictment, wherein the defendant is charged with killing William Noa while committing the offense of conspiracy to possess with intent to distribute crystal methamphetamine, a Schedule II controlled substance in violation of Title 21, United States Code, Section 846, and of causing the death of William Noa through the use of a firearm during and in relation to a violation of Title 18, United States Code, Section 924(c), in violation of Title 18, United States Code, Section 924(j)(1), the Government will seek the sentence of death, in that the circumstances of the offenses are such that a sentence of death is justified.

I. AGGRAVATING FACTORS AS TO COUNT THREE

The Government will seek to prove the following aggravating factors as the basis for the imposition of the death penalty in relation to Count Three of the Indictment for the killing of William Noa during and in relation to a drug trafficking crime: to wit, conspiracy to distribute and possess with intent to distribute crystal methamphetamine in violation of Title 21, United States Code, Section 846:

A. Threshold Findings Required by 18 U.S.C. § 3591(a)(2)

1. The defendant, RICHARD LEE TUCK CHONG, a/k/a "China", intentionally killed the victim, William Noa. Section 3591(a)(2)(A).

2. The defendant, RICHARD LEE TUCK CHONG, a/k/a "China", intentionally inflicted serious bodily injury that resulted in the death of the victim, William Noa. Section 3591(a)(2)(B).

3. The defendant, RICHARD LEE TUCK CHONG, a/k/a "China", 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 the victim, William Noa, died as a direct result of the act. Section 3591(a)(2)(C).

4. The defendant, RICHARD LEE TUCK CHONG, a/k/a "China", 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 the victim, William Noa, 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) through (16)**

1. The defendant, RICHARD LEE TUCK CHONG, a/k/a "China", was previously convicted of a state offense punishable by a term of imprisonment of more than 1 year which involved the use or threatened use of a firearm against another person as follows: on November 30, 1987, RICHARD LEE TUCK CHONG, a/k/a "China", entered the residence of 82 year-old Hallie Smith and her 56 year-old daughter-in-law armed with a double-barreled shotgun, ordered them to the ground, and robbed them by taking their personal jewelry from their persons. Based on this conduct, RICHARD LEE TUCK CHONG, a/k/a "China", was convicted on March 17, 1989, of Robbery in the First Degree (two counts); Kidnaping (two counts); Burglary in the First Degree. On October 4, 1988, RICHARD LEE TUCK CHONG, a/k/a "China" was convicted of Prohibited Possession of a Firearm. Section 3592(c)(2).

2. The defendant, RICHARD LEE TUCK CHONG, a/k/a "China", has previously been convicted of two other serious offenses involving the infliction of, or attempted infliction of, serious bodily injury upon another person. Section 3592(c)(4).

a. On April 20, 1972, RICHARD LEE TUCK CHONG, a/k/a "China", escaped from the State of Hawaii Adult Furlough Center,

and forced his way into the apartment of 48-year-old Agnes Isa. When CHONG entered Isa's apartment, he was armed with a pipe and demanded money and a gun. CHONG forced Isa into the apartment bedroom, and while on the way, picked up a pair of scissors, put them to her throat and told her if she did not stop screaming, he would stab her. CHONG then tied Isa to her bed, and sexually assaulted her. CHONG took approximately \$300, jewelry, and Agnes Isa's husband's clothing from the apartment. Based on this conduct, RICHARD LEE TUCK CHONG, a/k/a "China", was charged with robbery in the first degree but convicted of robbery in the second degree on October 12, 1972, and sentenced to 20 years of imprisonment.

b. On May 5, 1982, CHONG approached Jill Kosnik, who was exiting her car in the parking garage of her apartment. CHONG ordered Kosnik into the back seat of her car. As CHONG entered Kosnik's vehicle, she screamed for help, and CHONG put his hand across her throat, and pressed one finger into her eye until she promised to be quiet. CHONG displayed a knife to Kosnik and told her he would use it if he had to. CHONG held Kosnik captive as she drove her vehicle from San Mateo, California to San Leandro, California. While driving, CHONG continued to threaten Kosnik telling her that, if she went to the police, he would come after

her. When CHONG stopped at a gas station in San Leandro, Kosnik was able to escape. On December 29, 1982, CHONG was convicted of Kidnaping and Use of Deadly Weapon, and sentenced to seven years imprisonment.

3. The defendant, RICHARD LEE TUCK CHONG, a/k/a "China", committed the murder of William Noa after substantial planning and premeditation. Section 3592 (c)(9).

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

1. The defendant RICHARD LEE TUCK CHONG, a/k/a "China", engaged in a pattern of juvenile criminal activity as shown by one or more of the following predicate acts and adjudications, including but not limited to the following:

a. On or about May 5, 1961, CHONG was charged and later adjudicated as a juvenile on a charge of Malicious Injury.

b. On or about May 5, 1961, CHONG was charged and later adjudicated as a juvenile on a charge of Larceny, 2nd degree.

c. On or about July 17, 1961, CHONG was charged and adjudicated as a juvenile on a charge of Burglary in the 2nd degree.

d. On or about November 5, 1962, CHONG was charged and adjudicated as a juvenile on a charge of Larceny in the 1st degree.

e. On or about December 21, 1962, CHONG was charged and later adjudicated as a juvenile on a charge of Burglary in the 2nd degree.

f. On or about October 23, 1963, CHONG was charged and later adjudicated as a juvenile on a charge of Larceny.

g. On or about January 9, 1964, CHONG was charged and later adjudicated as a juvenile on a charge of malicious conversion.

h. On or about April 14, 1964, CHONG was charged and later adjudicated as a juvenile on a charge of malicious conversion

i. On or about July 6, 1964, CHONG was charged and later adjudicated as a juvenile on a charge of Burglary in the second degree.

j. On or about September 2, 1966, CHONG was charged and later adjudicated as a juvenile on a charge of Escape.

k. On or about September 6, 1966, CHONG was charged and later adjudicated as a juvenile on a charge of Malicious Conversion.

l. On or about September 7 1966, CHONG was charged and later adjudicated as a juvenile on a charge of Larceny in the Second Degree.

m. On or about August 8, 1967, CHONG was charged and later adjudicated as a juvenile on a charge of Robbery in the First Degree.

n. On or about September 27, 1967, CHONG was charged and later adjudicated as a juvenile on a charge of Malicious Conversion.

o. On or about October 3, 1967, CHONG was charged and later adjudicated as a juvenile on a charge of Burglary in the Second Degree.

p. On or about January 9, 1968, CHONG was charged and later adjudicated as a juvenile on a charge of possession of a switchblade.

q. On or about January 25, 1968, CHONG was charged and later adjudicated as a juvenile on a charge of Burglary in the First Degree.

r. On or about January 26, 1968, CHONG was charged and later adjudicated as a juvenile on a charge of Malicious Conversion.

s. On or about May 29, 1968, CHONG was charged and later adjudicated as a juvenile on a charge of Burglary in the First Degree.



t. On or about May 30, 1968, CHONG was charged and later adjudicated as a juvenile on a charge of possession of marijuana.

2. The defendant RICHARD LEE TUCK CHONG, a/k/a "China", has been convicted as an adult of numerous criminal offenses, as shown by one or more of the following:

a. On or about May 24, 1968, CHONG was convicted of Burglary in the First Degree.

b. On or about April 23, 1972, CHONG was convicted of Robbery in the Second Degree.

c. On or about March 13, 1974, CHONG was convicted of Escape.

d. On or about September 13, 1974, CHONG was convicted of Escape from the United States Marshal's Service while being transported to the United States Prison in Marion, Illinois.

e. On or about January 5, 1988, CHONG was convicted of criminal contempt of court.

f. On or about July 25, 1988, CHONG was convicted of possession of a firearm by a prohibited person.

3. While on parole with the State of Hawaii, the defendant RICHARD LEE TUCK CHONG, a/k/a "China", committed acts in violation of parole, including but not limited to one or more of the following:

a. CHONG engaged in drug trafficking shortly after his release on parole by the State of Hawaii on June 5, 1997.

b. On or about September 24, 1997, CHONG, a convicted felon, possessed a firearm in violation of the terms of his parole and in violation of federal firearms statutes.

c. CHONG committed the murder of William Noa while on parole and less than four (4) months after his release from prison on June 5, 1997.

d. On or about between June 1997 and August 1997, CHONG, while under the supervision of the Hawaii state parole authority, threatened and stalked personnel and staff members of Worknet, a program to which he had been assigned which is devoted to assisting recent parolees in obtaining employment. CHONG was discharged from the Worknet program because of threats, abusive language and harassment.

4. The defendant RICHARD LEE TUCK CHONG, a/k/a "China", attempted to obstruct justice after murdering William Noa in order to conceal his role in the murder as evidenced by, but not limited to, one or more of the following:

a. CHONG, immediately after intentionally shooting and killing William Noa, told eyewitness Carmen Anduha to "keep her mouth shut;"

b. CHONG, or persons acting at his direction, disposed of the murder weapon and remaining ammunition following the murder of William Noa.

5. Defendant RICHARD LEE TUCK CHONG, a/k/a "China", poses a future danger to society in that he is likely to engage in acts of violence against others if ever released back into society.

6. The defendant RICHARD LEE TUCK CHONG, a/k/a "China", poses a future danger to society in that he is likely to attempt to escape from any correctional institution in which he may be housed, as evidenced by one or more of the following escapes from both state and federal custody:

a. On or about November 10, 1972, CHONG escaped from a Hawaii state prison and was apprehended after attempting to flee in a stolen car and causing a traffic accident.

c. On or about March 13, 1974, CHONG escaped from the United States Marshals Service while being transferred to a federal maximum security prison.

7. The defendant RICHARD LEE TUCK CHONG, a/k/a "China", poses a future danger to inmates, correctional officers, social service personnel, visiting attorneys, medical and nursing personnel, and any person with whom he comes into contact with in a penal institutional setting in that he is likely to engage in acts of violence against others, as evidenced by, but not limited to, one or more of the following acts of violent and threatening misconduct while in custody:

a. On or about January 18, 1969, CHONG threatened to kill a state of Hawaii prison guard by stating, "You fucking punk, when I get out of here I'm going to kill you, you no good bastard, come in here now and I will kill you."

b. On or about May 1, 1969, CHONG assaulted another inmate while in the custody of the State of Hawaii.

c. On or about September 4, 1969, CHONG, during a search of a prison dormitory, barricaded a gate and threatened corrections staff who were attempting to conduct the search.

d. On or about September 12, 1969, during a boxing exhibition being held in a recreational hall, CHONG jumped into the ring and attacked civilian boxer during the match.

e. On or about October 24, 1970, CHONG, after being reprimanded for possessing contraband, called a correctional officer a "fucking cock sucker" and told the officer if he ever came to his cell block he would, "get him."

f. On or about October 5, 1970, when a correctional officer opened a door to a hospital corridor, CHONG burst past the guard and yelled, "kill." When the officer put CHONG on report CHONG later told him: "I like punch your face ... get the fuck out of here ... stay the fuck out of here."

h. On or about February 5, 1971, during a prison workshop, CHONG was caught sniffing glue. At a later adjustment hearing, CHONG approached a prison superintendent in a threatening manner and was verbally belligerent. Correction officers had to intervene.

i. On or about March 10, 1971, CHONG climbed onto a prison roof and challenged a tower guard to a fight yelling, "I hear when you were younger you use to take it in the spine (inmate slang for the act of sodomy). I get out, I like give it to you in the spine. For one pack smoke, I like give it to you now."

j. On or about December 22, 1972, CHONG confronted a guard and said, "Don't get smart with me or I will flush you. You will be drinking your beer from the hospital."

k. On or about June 21, 1973, CHONG assaulted a corrections officer.

l. On or about June 26, 1973, CHONG charged into a guard, while being transported in an effort to knock the guard down.

m. On or about December 15, 1973, CHONG assaulted a guard.

n. On or about January 1, 1974, CHONG participated in a take-over of a maximum security section of the prison. CHONG and four other inmates overpowered guards and took over the second floor of the maximum security unit, and held a correctional officer hostage. When CHONG refused to relinquish control of the unit, correctional officers were required to use riot gear and forcibly retake the unit.

o. On or about June 26, 1976, CHONG forcibly raped another inmate by holding an icepick at the inmate's throat and committing an act of sodomy upon him. CHONG also forced the inmate to perform oral sex upon him.

p. On or about February 9, 1977, CHONG committed an assault on another inmate.

q. On or about November 2, 1977, CHONG set a fire in the prison and attempted to assault a correctional officer.

r. On or about February 2, 1978, CHONG set fire to his cell.

s. On or about February 4, 1978, CHONG threw a cup of urine at a correctional officer and threatened to kill him.

t. On or about March 29, 1978, CHONG set three separate fires in front of three separate cells.

u. On or about June 23, 1980, CHONG threatened a staff member at the United States Prison in Marion, Illinois.

v. On or about January 15, 1983, CHONG assaulted and verbally cursed at a female dental assistant when she refused to kiss him.

w. On or about September 25, 1983, CHONG assaulted another inmate.

x. On or about July 18, 1984, CHONG, after being caught stealing food, told a correctional officer, "I got \$55 at the canteen if you let me hit you in the mouth I will give it all to you."

y. On or about October 15, 1985, CHONG threatened a correctional officer in a prison cafeteria line by placing his fork 1-2 inches from the guard's face and in a threatening manner stating: "You can't disrespect me like that. I'll get your ass."

z. On or about November 12, 1985, CHONG assaulted a correctional officer by throwing a cup and hitting the officer in the face. CHONG then stated: "You think that's assault? I'll show you assault mother fucker."

aa. On or about March 23, 1986, CHONG threatened prison staff personnel.

bb. On or about January 21, 1988, CHONG refused to obey a correctional officer and threatened to "hang" him.

cc. On or about February 1, 1988, CHONG assaulted another inmate.

dd. On or about June 13, 1990, CHONG and two other inmates assaulted and "mobbed" another inmate sending him to the hospital.

ee. On or about December 22, 1998, while in federal custody on the indictment in this case, CHONG assaulted a fellow inmate by biting him severely on the arm.



The Government further gives notice that in support of imposition of the death penalty it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the offenses of conviction as described in the Indictment as they relate to the background and character of the defendant RICHARD LEE TUCK CHONG, a/k/a "China", his moral culpability, his future dangerousness, and the nature and circumstances of the offense charged in Count Three of the Indictment.

DATED: Feb. 12, 1999, Honolulu, Hawaii.

STEVEN S. ALM  
United States Attorney  
District of Hawaii

By *Kenneth M. Sorenson*  
KENNETH M. SORENSON  
Assistant U.S. Attorney

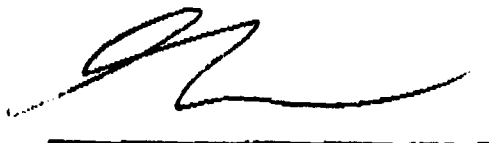
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing will  
be delivered to the following:

Mr. Michael Weight, Esq.  
Federal Public Defender  
300 Ala Moana Blvd., Room 7-104  
Honolulu, Hawaii 96850

Attorney for Defendant  
RICHARD LEE TUCK CHONG, a/k/a "China",

DATED: 5-13-99, Honolulu, Hawaii.

  
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 RICHARD LEE TUCK CHONG, )  
 a/k/a "CHINA", )  
 )  
 Defendant. )  
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CR. NO. 98-00416 ACK

DECLARATION OF COUNSEL

DECLARATION OF KENNETH M. SORENSON

I, KENNETH M. SORENSON, declare under penalty of perjury that the following is true and correct to the best of my knowledge and belief:

1. I am an Assistant United States Attorney assigned to the above-captioned case.

2. The facts as set forth in the appended NOTICE OF INTENT TO SEEK A SENTENCE OF DEATH are true and correct to the best of my present knowledge and belief.

DATED: Feb. 12, 1999, at Honolulu, Hawaii

  
\_\_\_\_\_  
KENNETH M. SORENSON